

Second Issue of the Chinese Journal of Transnational Law for 2025

The second issue of the *Chinese Journal of Transnational Law* for 2025 was just published. It contains a special issue on “Private International Law and Sustainable Development in Asia” with Ralf Michaels, Verónica Ruiz Abou-Nigm, Hans van Loon as guest editors. It builds on *The Private Side of Transforming our World – UN Sustainable Development Goals 2030 and the Role of Private International Law*.

Ralf Michaels, Verónica Ruiz Abou-Nigm, Hans van Loon, “Private International Law and Sustainable Development in Asia”

Since the publication of ‘The Private Side of Transforming our World – UN Sustainable Development Goals 2030 and the Role of Private International Law’ in 2021, the importance of private international law for sustainable development is increasingly being recognised. The article describes the background to that project and surveys its subsequent reception and further development in scholarly literature. Moreover, it traces the need for, and trend towards, regionalization of the relevant research, including in Latin America, Africa and Asia-Pacific. It can thus serve as introduction to the special issue on private international law and sustainable development in Asia.

Jiabao Zhou, “Private International Law as Foreign Relations Law? Orienting Chinese Private International Law Towards Sustainable Development”

The Chinese Foreign Relations Law (‘the FRL’) – a collection of rules legalizing China’s foreign policies – was enacted in 2023. While technically a set of policy goals and public law rules, it provides an opportunity to orient Chinese private international law (‘PIL’) towards sustainable development. Notably, the FRL connects Chinese PIL with sustainable development for the first time and revisits the conceptions of what is being understood as ‘domestic’ versus ‘foreign’, and ‘public’ versus ‘private’. This article explores how PIL can leverage this shift to accommodate sustainability as a normative value, foster positive interactions with foreign laws and courts, and develop a robust and tailored regulatory function. By

doing so, Chinese PIL, as a form of foreign relations law, can expand its function beyond conflict resolution and develop a role in China's foreign policy and global sustainability governance.

Ke Mu, "The Role of State-Owned Enterprises in the Pursuit of the Sustainable Development Goals"

Business conduct and enterprises' commitment to social responsibility have a far-reaching impact on corporate shareholders and external stakeholders, but they are not effectively aligned with the globally recognized agenda of Sustainable Development Goals (SDGs). The necessity and difficulty of studying state-owned enterprises' (SOEs) roles in corporate governance and the SDGs agenda stem from their unique position at the intersection of various legal sectors and their underrated status within the SDGs schemes and relevant studies. In particular, the issue of characterizing SOEs from the perspective of private international law is emblematic, raising doubts about whether to treat SOEs as private or state entities in international dispute resolution and how such categorization may affect their performance of sustainability obligations. A sovereign function test is routinely invoked for deciding whether state immunity applies to SOEs. This test proposes four criteria: (a) state ownership and control, (b) nature of the activities at issue, (c) principal purposes of the entities, and (d) specific purposes of the activities at issue. However, given the limitations of this test, an additional criterion can be added consisting in examining whether the SOEs could have carried out the same act - or could have seized the same property - without relying on state power.

Zihao Fan, "Promoting Cities' Sustainable Development vis Access to Justice: Observations on the Jurisdiction of Chinese Mainland"

This article explores how transnational jurisdiction influences cities' sustainable development in view of providing access to justice in SDG 16. While cities are often regarded as administrative units within a State, effective jurisdictional designs can promote transnational access to justice on city-level, providing efficiency, transparency and predictability, which in turn attracts people, capital and technology required to advance the sustainability objectives embodied in SDG 11. By analysing China's jurisdictional framework, this article examines both general jurisdictional rules and special jurisdictional arrangements that impact cities. The revised monistic approach of the 2023 Civil Procedure Law indirectly affects cities by determining how foreign-related cases are allocated, while special jurisdictional arrangements, such as China International Commercial Courts and local International Commercial Courts, directly strengthen selected

cities' dispute resolution capabilities. Additionally, the evolution of China's centralised jurisdiction system demonstrates the importance of adapting jurisdictional strategies to economic development and judicial expertise.

Adeline Chong and Stefanie Schacherer, "Extra-territorial Liability and Enforcement: Finding Ways to Tackle Haze Pollution in Southeast Asia"

Periodic transboundary haze pollution resulting from land fires in Southeast Asia poses significant sustainability challenges for the region. The majority of transboundary haze is attributed to peatland fires in Indonesia, with winds bringing haze pollution to other countries in the region. Attempts have been made to tackle this problem. At the public international law level, the Association of Southeast Asian Nations (ASEAN) concluded the ASEAN Transboundary Haze Agreement which entered into force in 2003. However, the lack of sanctions for breach and the adoption of the principle of non-interference between ASEAN member states meant that this agreement and other policy-oriented measures have had limited effect. In the hopes of ameliorating the problem, Singapore enacted the Transboundary Haze Pollution Act in 2014. This act, which is extraterritorial in scope, imposes criminal and civil liability on entities responsible for haze pollution which causes damage in Singapore. Nevertheless, practical issues still remain. This paper examines regional efforts to deal with the transboundary haze pollution problem. In particular, it assesses the Singapore Act from a private international law viewpoint, by considering jurisdictional, choice of law, and judgement enforcement issues. Lastly, suggestions are made as to concrete steps forward.

Bùi Thị Quỳnh Trang and Nguyễn Thị Hằng Trinh, "Exploring the Potential for Climate Change Litigation in Vietnam: A Forward-Looking Assessment"

Climate change litigation is increasingly recognized not just as a strategic tool but also as an effective method for advocating more robust climate change mitigation and adaptation targets and ensuring the enforcement of environmental laws by governments and private actors alike. In several developed countries, climate change litigation emerged, with typical cases setting precedents in other jurisdictions. In the context of Vietnam, a developing country with a unique communist legal system, climate change litigation presents a novel area of inquiry; thus, this study explores the nascent field of climate litigation, assessing its viability in Vietnamese judicial practices. Notably, the study suggests that in Vietnam's typical jurisdiction, the vertical climate actions are less likely to materialize compared to horizontal cases. Furthermore, in these international horizontal litigations, the choice of law rules primarily mandate the application of local law.

Anselmo Reyes, "The Impartial Judge, Climate Change and the Conflict of Laws"

The article reflects on how an impartial judge might approach disputes involving environmental, social and governance (ESG) issues, especially climate change. Section II expresses doubts about the efficacy of a purely private international law analysis in dealing with climate change litigation and suggests ways of addressing such concerns. Section III focuses on Asia and comments on the extent to which the observations in section II are applicable to the Asian context. Section IV offers tentative thoughts, in light of sections II and III, on how judges can and should conduct themselves in ESG disputes relating to climate change.

Zixuan Yang, "Providing Legal Identity for All: A Comparative Study of the Cross-Border Recognition of Personal Status in the European Union and Asian Regionalization"

In this paper, I argue that the civil registration and its distance from the private international law (PIL) pose peculiar challenges for achieving the goal of 'Providing Legal Identity for All' among the Asian intra-regional circular migrants. Civil registration of personal and family status combines public administration with private law. More public registration of personal status means more involvement of local public order and interest. Therefore, registration regulations are less attentive than PIL to the potential foreign-related legal situations. Hence, will greater public involvement in registration raise a conflict between the defence of ordre public and individuals' aspirations to maintain their personal status? The territorial limits of administrative act have so far foreclosed the possibility of transnational civil registration. When it comes to the identity that does not fit into the domestic categories, questions arise whether and how to recognize them in the domestic legal system. This poses special burdens and additional costs for intra-regional circular migrants if their legal identity cannot be well defined and recognized in the several jurisdictions concerned, which is essentially contrary to the presumed erga omnes effect of individuals' identity rights.

Stellina Jolly and Prakriti Malla, "International Child Abduction Jurisprudence in India and Nepal: An Evaluation of Gender Consideration in the Attainment of SDG

Despite the growing incidence of child abduction facilitated by the mobility and prevalence of non-resident marriages involving Indian and Nepalese citizens with foreign nationals, both India and Nepal have refrained from acceding to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The Indian executive has vocally supported criticisms against the Abduction Convention, advocating for the inclusion of domestic violence as a basis for exception under the Abduction Convention and proposed domestic legislation. In contrast, the official position of Nepal remains undisclosed, with recent case law offering limited insight into its engagement with the Abduction Convention. Against this backdrop, the article scrutinizes the recognition of gender perspectives in statutory provisions and case law in India and Nepal concerning international child abduction. It should be noted that Sustainable Development Goal (SDG) 5, which calls for the elimination of all forms of violence against women and girls in the public and private spheres – including trafficking, sexual and other types of exploitation – also includes addressing domestic violence in family spheres. This article, therefore, considers the inclusion of gender considerations within the realm of child abduction as a core consideration in the attainment of SDG 5.

Rong-Chwan Chen, “Taiwan’s Path Toward Sustainable Development Goal 5 in Private International Law”

Sustainable Development Goal 5 (SDG 5) has different implications for countries. This paper explores Taiwan’s path toward SDG 5 and examines the legal environment surrounding this path. Taiwan’s unilateral implementation of UN conventions effectively bridges certain gaps between itself and the international community. Reforms in private international law and the legalization of same-sex marriage have further promoted gender equality from a conflict-of-laws perspective. The recognition of the exceptional validity of polygamous marriages illustrates the pursuit of justice in cross-border legal conflicts. It is observed that alternative applicable laws, ordre public, and overriding mandatory provisions serve as effective tools for states to advance SDG 5. Taiwan’s traditional rules on ancestor worship associations collide not only with modern legislation on estate succession but also with foreign laws when the membership disputes involve

foreign elements. This paper argues that the nature of rules on estate succession should be distinguished from that of ancestor worship or family lineage, and that SDG 5 is helpful in modernizing the local customary rules on ancestor worship associations. It further suggests that the provisions on legal persons in the Choice of Law Act 2010 may be applied by analogy to determine the governing law for the membership of unincorporated ancestor worship associations.