

# Contents

<b>1</b>	<b>Introduction.....</b>	<b>1</b>
1.1	Major Arguments and Backgrounds of the Study .....	7
1.2	Chinese Contemporary Research on Lawmaking .....	13
1.3	Structure of the Book .....	15
<b>2</b>	<b>Chinese Contemporary Lawmaking: Reality and Problems .....</b>	<b>17</b>
2.1	Introduction .....	17
2.2	Chinese Contemporary Lawmaking.....	18
2.3	Marcor-Economic Policy .....	22
2.4	Efficient Lawmaking .....	33
2.5	Bureaucratic Lawmaking .....	41
2.6	Conclusion.....	46
<b>3</b>	<b>The Legitimation of Chinese Lawmaking (I) .....</b>	<b>49</b>
3.1	Introduction .....	49
3.2	Confucian Lawmaking .....	50
3.3	Chinese Marxism .....	55
3.4	The Hidden Rule of Lawmaking.....	58
3.5	Conclusion.....	63
<b>4</b>	<b>The Legitimation of Chinese Lawmaking (II): Chinese Legalism .....</b>	<b>65</b>
4.1	Introduction .....	65
4.2	Chinese Legalism .....	66
4.3	Connections with Other Pre-Qin Schools .....	68
4.4	A Review of Lord Shang's Reform.....	70
4.5	Characteristics and Propositions of Chinese Legalism .....	75
4.6	Chinese Legalism and Western Legalism.....	81
4.7	Conclusion.....	85
<b>5</b>	<b>Lawmaking in Jurisprudence (I).....</b>	<b>89</b>
5.1	Introduction .....	89
5.2	Benthamism and Chinese Utilitarianism.....	90

5.3	Hayekian Liberal Legislation .....	100
5.4	Disagreements of Majority Decisions.....	110
5.5	Conclusion.....	117
<b>6</b>	<b>Lawmaking in Jurisprudence (II) .....</b>	<b>119</b>
6.1	Introduction .....	119
6.2	Legisprudence .....	120
6.3	<i>Promissory Estoppel</i> in the Social Contract.....	123
6.4	Conceptual Freedom and Concrete Freedom.....	125
6.5	Values of/Behind Freedom.....	128
6.6	Limits of Freedom and Limited Freedom .....	133
6.7	The Opposite of Freedom.....	135
6.8	A Chinese Case .....	137
6.9	Conclusion.....	139
<b>7</b>	<b>Communicative Lawmaking in China .....</b>	<b>141</b>
7.1	Introduction .....	141
7.2	Necessity of Communicative Lawmaking .....	142
7.3	Communication Under Communitarianism .....	143
7.4	Social Contract in Communitarianism .....	146
7.5	Freedom, Liberty and Law .....	149
7.6	Conclusion.....	156
<b>8</b>	<b>Retrospect and Prospect .....</b>	<b>157</b>
	<b>Appendix 1 .....</b>	<b>171</b>
	<b>Appendix 2 .....</b>	<b>173</b>
	<b>Bibliography .....</b>	<b>175</b>
	<b>Other Resources Include .....</b>	<b>185</b>