

Chinese legal culture and business activity: is there a bridge, or just two worlds apart?

Descrição

The understanding of chinese legal culture demands, first, recognizing the meaning and importance of the traditional philosophical concepts of Fa ?, in Legalism, and Li? in Confucianism.

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While Fa ?relates to Law, Li?relates to rites. The privilege granted to harmony, benevolence, and conciliation in chinese society and social relations reflects the utmost relevance of respecting and observing Li? in every aspect of daily life. Therefore, dispute resolution is preferably solved through mediation, renegotiation, and reconciliation so that both parts can reach the so-desirable win-win situation. Hence, appealing to courts to solve a dispute may be seen by overall society as a non-desirable last resource solution as, ultimately, it may expose both parts inabilities to reach consensus. This inability and the consequent judicial intervention, for instance, in commercial disputes may still mean that mediation can take place in court. However, Fa ? is seen as the ultima ratio resource whereas mediation is the privileged path to reach a solution when dispute occurs. Accordingly, understanding the importance of mediation is of the uttermost gravity when doing business involves chinese-western cultural exchange ambience. Recognizing, respecting, and understanding the differences between different cultures is the obvious first step to business success. Nevertheless, being open and available to the possibility of accepting mediation as the prime solution if a future dispute occurs, is something that western businessmen should bear in mind when negotiating in chinese culture. Overall, not even during the Covid-19 pandemic did the primary role of mediation in dispute resolution fade away. Quite recently, Qiao Lu also highlighted the relevance of mediation in civil and commercial disputes throughout the Covid-19 pandemic and “[...] the emphasis placed on consensual solutions (by way of mediation and renegotiation), and the flexibility and relatively guidance afforded to lower courts in their adjudication of disputes arising in connection with COVID-19.” 1. At a first glance, one may frown when considering chinese legal culture and business activity wondering that they are just two worlds apart but, actually, they are just standing on the same bridge.

1 QIAO, Liu (2020) – COVID-19 in Civil or Commercial Disputes: First Responses from Chinese Courts. The Chinese Journal of Comparative Law. [Online]. 8:2 (2020) 485–501. [Consult. 1 Oct. 2020]. Available at WWW: <URL: <https://doi.org/10.1093/cjcl/cxaa023>>. EISSN 2050-4810.

APARTADOSTEMATICOXEOGRAFICOS

China e o mundo chinês

ETIQUETAS

China Portugal Galicia

IDIOMA

Inglés

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