Law and Society in East Asia

Fall Quarter 2013

Prof. Tom Ginsburg

M-W-Th: 2:45-3:50 pm  
Room F

v. 1.4

This course will cover the East Asian legal tradition, primarily but not exclusively focusing on China and Japan. East Asia is well-known for its remarkable economic development in recent decades, but has also been the home of a long tradition of thinking about law in a way that differs from the assumptions of Western liberal democracy. The course begins by exploring this tradition, and then traces the history of legal institutions in the region, focusing on the encounter with Western legal systems beginning in the 19th century. We will then analyze the major institutions of criminal, civil and administrative law in postwar East Asia and their recent transformations. The focus of this course is not on particular areas of doctrine, but on the ideas and institutions that make East Asia distinctive. Grading will be on the basis of a short research paper (20 pages) or take-home exam. The paper can be used for the Law School’s writing requirement, though a SRP designation will require at least 25 pages. I expect you to participate actively in class, and reserve the right to include class participation in grading decisions.

September 30: Course Introduction


Hong Kong University summary on Lord Shang, at http://www.hku.hk/philodep/ch/Lord%20Shang.htm

October 2: Imperial Chinese Legal Thought

Derk Bodde and Clarence Morris, LAW IN IMPERIAL CHINA 1-35; 39-51 (1967).

October 3 Law and Society in Imperial China


October 7 China’s Hundred Years of Revolution

Sun Yat-sen’s Three Principles of the People (Sanminzhuyi), available at http://acc6.its.brooklyn.cuny.edu/~phalsall/texts/sunyat.html


October 8 12:30 [MAKEUP, Room I] Lunch talk by Jun Zhao, Zhejiang University

“China and the International Rule of Law”

October 9 Chinese Legal Reform Today


October 10 Chinese Legal Reform: Public Law


October 14: Chinese Legal Reform: Lawyers & Courts


Carl Minzner, CHINA’S TURN AGAINST LAW, in the AMERICAN JOURNAL OF COMPARATIVE LAW (2011) 935-40, 949-64

The Li Zhuang Case [file on Chalk]
October 16


6:30 Evening: MAKEUP: Film: The Ballad of Qiu Ju

October 17 Japanese Legal History and Social Change


October 21 Lawyers and Judges in Postwar Japan


October 23 Criminal Justice in Japan

Milhaupt, et al. *The Japanese Legal System* 402-18 (to Sec III); 431-56

Possible Makeup October 23 Film: *I Just Didn’t Do It* (2007).

October 24 The Constitution


Excerpt from Beate Sirota, *The ONLY WOMAN IN THE ROOM*

October 25 1:30-4:30 pm  MAKEUP:  

Workshop on Making People: *Constitutional Origins in Korea and Japan*

Chapters 1 and 4.

October 31 Dispute Resolution in Japan
November 4 NO CLASS

November 6 Recent Reform of the Japanese Legal System

Table of Contents and Introduction from Final Report, Justice System Reform Council, June 2001, available also at

Milhaupt, et al. THE JAPANESE LEGAL SYSTEM 72-80

November 7 TBA

November 11 The Korean Political Tradition and Law


November 13 Cases from the Korean Constitutional Court

Case on Impeachment

Case on Capital City Location


November 14 Southeast Asia: The Remarkable Case of Singapore and the Rule of Law


November 18-21 NO CLASS

December 2 Asia, the Rule of Law and Economic Development

John Ohnesorge, Developing Development Theory: Law and Development Orthodoxies and Northeast Asian Experience, 220-31; 290-308
December 4 Asia and International Law


December 5 TBA