Prof. Dr. Alexander Trunk

Vorlesung / Course
Introduction to Comparative Law
Einführung in die Rechtsvergleichung

Winter term 2019-2020

http://www.eastlaw.uni-kiel.de
23.10.2019: Basic questions and structures of comparative law
30.10.2019 Structures of comparative law (continued)
06.11.2019: Methods of comparative law: postponed
13.11.2019: Methods of comparative law
20.11.2019: Legal families (overview). German (or Germanic) legal family (deutscher Rechtskreis)
27.11.2019: French legal family
04.12.2019: Anglo-American legal family
11.12.2019: The legal systems in Northern and Eastern Europe
18.12.2019: Legal systems in Asia
08.01.2020: Religious laws, in particular Islamic law
15.01.2020: Contract law I (Vertragsrecht)
22.01.2020: Contract law II
29.01.2020: Torts law (Deliktsrecht)
05.02.2020: Property law (Sachenrecht)
12.02.2020: Civil procedure
Legal families (Rechtskreise)

Common elements – „internal“ differences
• German legal family
• French (Romanic) legal family
• Anglo-American legal family
• Nordic legal family
• Legal systems in Eastern Europe
• Legal systems in Asia
• Religious laws
• „mixed jurisdictions“

-- Critique of legal family approach?
Classification of legal systems according to regional criteria

- „Europe as a whole“
- Western Europe
- Southern Europe
- Northern Europe
- Eastern Europe
- Asia
- Africa
- Latin America
- Australia
- Others (Micronesia, Melanesia, …)
Law in Asia
Legal systems in Asia

Law in Asia is undergoing rapid change and modernisation, especially given the economic growth in China and India. Asian countries share a substantial heritage with European law, while

History

Ancient China and ancient India had historically independent schools of legal theory and practice such as the Laws of Manu or the Arthashastra in India and traditional Chinese law in China. Because Germany was 19th century, and codified civil law is more ‘exportable’ than large bodies of common law jurisprudence, the German Civil Code has been highly influential for most oriental legal systems, and forms the basis of civil law in Korea. In China, the German Civil Code was introduced in the later years of the Qing Dynasty and formed the basis of the law of the Republic of China, which remains in force in Taiwan. The legal infrastructure in the People's Republic of China reflects influences from the German-based civil law, English-based common law in Hong Kong, Soviet-influenced Socialist law, United States-style banking and security law, and Chinese law. In India, and other previous members of the Commonwealth, English common law forms the basis of private law.

Countries

- Law of Afghanistan
- Law of Armenia
- Law of Azerbaijan
- Law of Bahrain
- Law of Bangladesh
- Law of Bhutan
- Law of Brunei
- Law of Cambodia
- Law of China
- Law of the People's Republic of China
- Law of Hong Kong
- Law of Macau
- Law of the People's Republic of China (Taiwan)
- Law of Cyprus
- Law of East Timor
- Law of Georgia
- Law of India
- Law of Indonesia
- Law of Iran
- Law of Iraq
- Law of Israel
- Law of the Palestinian territories
- Law of Japan
- Law of Jordan
- Law of Kazakhstan
- Law of North Korea
- Law of South Korea
- Law of Kuwait
- Law of Kyrgyzstan
- Law of Laos
- Law of Lebanon
- Law of Malaysia
- Law of Maldives
- Law of Mongolia
- Law of Myanmar
- Law of Nepal
- Law of Oman
- Law of Pakistan
- Law of the Philippines
- Law of Qatar
- Law of Russia
- Law of Saudi Arabia
- Law of Singapore
- Law of Sri Lanka
- Law of Syria
- Law of Tajikistan
- Law of Thailand
- Law of Turkey
- Law of Turkmenistan
- Law of United Arab Emirates
- Law of Uzbekistan
- Law of Vietnam
- Law of Yemen

See also

- Legal systems of the world

Law of Africa

Law of North America
Law in Asia - Subregions

- Eastern Asia: Japan, China, North and South Korea, Vietnam, others
- Southern Asia: India, Pakistan, Philippines, others
- Central Asia: part of post-Soviet space
- Caucasus?
- Western Asia: Turkey (?), Iran, Arabian Peninsula, Israel, Lebanon, Syria, Iraq …
Laws in Asia - some characteristics

- **Groups of countries**: socialist states, economies in transition, states with „Western“ orientation, Islamic states, customary traditions. „India“ – „China“ as traditional „big players“

- **China**: Confucian background + Communism + modified continental European approach
- **India**: Common Law background
- **South East Asia**: partly French law background
- **Central Asia**: Russian or Soviet background
- **Islamic countries**: e.g. Iran, Saudi Arabia …
• **Common elements:**
  • “Modernization“ by using Western examples
  • In most cases: colonial heritage
  • Partly: Socialism? (China, North Korea, Vietnam, …)
  • Religious background: Buddhism, Hinduism, Islam …: e.g. individual and society?

• **Differences:**
  • Political systems
  • Language
  • British, French, Portuguese/Dutch *colonialism*, independence preserved (Japan, Thailand…)
  • Socialism: Chinese model, post-Soviet space, North Korea
Fora of Cooperation

- **ASEAN** (*Association of Southeast Asian Nations*), since 1967: Indonesia, Cambodia, Myanmar, Philippines, Vietnam ...

- **SAARC** (*South Asian Association for Regional Cooperation*), since 1985: Bangladesh, India, Pakistan, Sri Lanka, Afghanistan ...

- **Shanghai Cooperation Organization**, *since 2001*: China, Russia, Kazakhstan, Kyrgyzstan, India, Pakistan, Tajikistan, Uzbekistan

- **Eurasian Economic Union**, *since 2015*

- **ASEM** (*Asia-Europe Meeting*), *since 1996*

- **UNESCAP** (*UN Economic and Social Commission for Asia and the Pacific*), *since 1947*

- **Organisation of Islamic Cooperation**, *since 1969*
The SCO 2018 Marathon’s results summed up

Finnish Foreign Ministry’s state secretary visits SCO headquarters
2018 / 12 / 13

Yangzhou hosts China and Central Asia Cooperation Forum
2018 / 12 / 12

SCO Secretary-General meets with Saudi Ambassador to China
2018 / 12 / 11

SCO pavilion at the International Horticultural Exhibition 2019 to have D-Light Technology plasma screens
2018 / 12 / 07
This council meets at the SCO summits, which are held each year in one of the member states' capital cities. The...
Laws in Asia - specific countries

- India: English tradition and role of Hinduism
- Japan: Continental European tradition with specific cultural imprint: Shintoism, Buddhism
- People’s Republic of China: economic opening and political socialism – Hong Kong/Macao, Taiwan, Singapore
- North and South Korea
- Islamic states in Asia: broad spectrum from Central Asia through Turkey to Saudi Arabia and Iran
- Israel
Law in Asia - legal research

- Universities and research institutes, e.g. in UK, U.S., Australia (Asian Law Centers etc.). In Germany: Univ. Göttingen and Freiburg i.Br., Max-Planck-Institutes


- Books

- Internet

- Associations, Law firms, etc. Example GIZ.
Asian Legal Information Institute

Free access to Asian Law

News & Database Additions
Last updated 19 December 2018

- Law via the Internet Conference 2018, Florence, Italy, 11-12 October 2018 - Call for papers
- All India Reporter - Oudh 1907-1948 (AsianLII)
- All India Reporter - Calcutta 1869-1930 (AsianLII)
- All India Reporter - Madras 1860-1950 (AsianLII)
- All India Reporter - Nagpur 1910-1950 (AsianLII)
- All India Reporter - Allahabad 1910-1931 (AsianLII)
- All India Reporter - Sind 1913-1948 (AsianLII)
- The Burna Code 1893-1931 (AsianLII)
- Myanmar Laws (AsianLII)
- All India Reporter - Lower Burma 1907-1922 (AsianLII)
- All India Reporter - Rangoon 1913-1941 (AsianLII)
- All India Reporter - Upper Burma 1913-1921 (AsianLII)
- Burna Law Reports 1947-1969 (AsianLII)

- Past additions...

APEC | ASEAN | SAARC | International Decisions | Treaties |

Constitutions | Final Appeal Courts | Law Journals | Law Reform |

*A* indicates no databases as yet - Catalog only

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Einführung


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Aktivitäten

01/12/2016
Trainingskurs Verwaltungsrecht mit dem Justizministerium der Volksrepublik China
A view on the law of some Asian countries

Examples:
- India
- China
- Japan
- Israel
Indian Law

• (Legal) history: Hinduism („caste system“), Buddhism, „Vedas“ (2000 – 1000 BC), shastras, Mogul Empire (since ca 1500 CE). Since 1600 Dutch, then English colonialism, 1947 independence

• Common law system with some „broad“ statutes, e.g. Indian Contracts Act.

• In family and succession matters religious laws apply, in particular Hindu and Muslim law. Partly modified by the State (e.g. Hindu Marriage Act and Hindu Widows‘ Remarriage Act). In case of „mixed marriages“ or secular orientation alternative legislation, e.g. Marriage Registration Act.
Constitution of India (1949)
Japanese Law

• (Legal) history: monarchy since ca. 500 CE, Shintoism. 1650 – 1858 Tokugawa regime. 1858 opening to Western contacts, Meiji reform, Asian colonialism. 1946 new Constitution, constitutional monarchy.

Japan – Supreme Court
Chinese Law

• **(Legal) history:** Confucianism (since 500 BC: rites/li, loyalty, merits), Buddhism. Legists, eg Tang Code (ca. 600 CE). Since 17th century diverse colonies of limited size, 19th century colonialism expanded (Hong Kong, opium war etc.). Republic (1912). People‘s Republic (1949). Mao Zedong – Deng Xiaoping.

• Constitution 1949, now 1982: unitary state with different regional autonomies and 5 special administrative zones (e.g. Shenzhen)

P.R. China – National People's Congress
Guanghua Law School of Zhejiang University, partner university of Kiel University. One of the leading law schools in China. Offers LLM program for foreign students and summer course in Chinese law (in English)
Belt and Road Initiative since 2013
„Mixed“ legal systems in Asia

- Philippines
- Indonesia
- Israel
- India
- Pakistan
- Malaysia
- Myanmar
- Cambodia
- Vietnam
- China
- Japan
- …
The law of Israel

- Existence of the State of Israel since 1948 (declaration of independence)

„Mixed“ jurisdiction:
- elements of Anglo-American law: British tradition in particular in procedural law, US influences partly in public law
- elements of Continental European law, in particular in civil law (project of a Civil Code)
- Family law matters governed by religious law and administered partly by religious courts.
 Israeli Law Guide

By Ruth Lewish, Published on November 24, 2007

Updated November 2007. The viewpoints contained in this guide are those of the author and are not to be attributed to the Law Library of Congress.

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The Israel Law Review is the oldest and most acclaimed Israeli law journal published in English. Since its establishment in 1966 by the Law Faculty at the Hebrew University of Jerusalem, the Israel Law Review has served as a leading source of legal scholarship on Israeli law and on issues relevant to Israeli society.

As of 2009, the Israel Law Review is published under the auspices and management of the Hebrew University's Minerva Center for Human Rights. Under this new stewardship, it focuses on scholarship in the fields of human rights, public law and international law and examines the application of legal norms under conditions of conflict and political uncertainty—highlighting the relevance of the Israeli experience in these fields to other parts of the world and that of other societies to Israel.

The Israel Law Review is peer-reviewed and presently indexed in major databases and abstracting services including Lexis, Hein, and Ebsco.

As of 2012 the Israel Law Review is produced and distributed by the Cambridge University Press (CUP) under the academic auspices of the Hebrew University's Minerva Center for Human Rights. All Law Review issues from volume 45 (2012) onwards can be ordered through the Cambridge University Press website.

ISSN 0021-2237