

Comparative Asian Legal Systems (2010)

Purpose of Course:

Legal systems that we are familiar with have developed historically in the West European world (with Greek civilization, Christian moral value and Roman law tradition), and then spread to worldwide through colonization or voluntary reception. Thus "law" and concepts related to "law" are transplanted ones onto societies that have never had it. As a result, the interaction between state law and social, cultural, economic situations in non-European countries create complex legal situations in daily life that are different from the case in European society. The concept of "human rights" is the one of most famous production of the West-European law world. In addition to this, because, in developing countries, government plays major role in national development through regulatory measure including the restriction on certain rights, thus analysis on legal system, a typical form of governmental power, is indispensable in development study. This course will argue how constitutional law, especially human rights protection, interacts with social, economic and cultural particularity in a non-European country.

Expected goal:

- Participants should obtain the knowledge on key theories about Asian law (or non-European law).
- Participants should understand the some important arguments on validity of "human right" concept worldwide, as well as their historical and social background.
- Participants should be able to understand how human rights protection is provided in constitutional law as well as how the limitation of human rights is provided in each country.
- Participants should understand the relation of human rights and development in the Asian countries.

Course design:

First Part: Overview of Asian Law and human rights

1. Argument on Human rights: Asian way, right to development etc.
2. Analytical frame work of Asian Law: discuss through Yasuda's hypothesis
3. Universality and particularity of human rights: comparing some international and regional documents on human rights
4. Differences and common features of Asian countries in constitutional protection of human rights
5. Civil and political rights
6. Social rights
7. Some other important issues: state of emergency and human rights enforcement system.

Second part: Case study

Case studies through analyzing the constitutional provisions on human rights in selected Asian countries. (Moderated by participants)

Evaluation:

Short essay and contribution to discussion (especially in second part)

Just for fun!

How do you consider cases below? Which is the human rights violation? Which is a legitimate action or an unavoidable necessary evil? And What is that reason?

- Secret agency kidnaps student activist.
- Police detains the journalist who criticized government's policy on secessionist armed group.
- Ministry of Information bans the newspaper that expose planned foreign exchange policy.
- Court decides to deprive the suffrage of the leader of opposition party and prohibit any political activities.
- Court orders the forced dissolution of political party that advocates deportation of all Chinese immigrants.

- Government regulation prohibits labors union in the special economic zone.
- Law prohibits civil servant to strike.
- Police kills the union leader.

- Parliament makes the law that prohibits worship of Christian in public space.
- Constitution provides that only Muslim can be prime minister.
- Setting the Buddhism as national religion, and government gives subsidy for Buddhist temples.
- Local regulation allows the principal to expel female student who wears the scarf covering her head.
- A vigilance attack and set fire the community of illegal immigrant.

- Education in elementary school is not free.
- Infant mortality rate is more than 10%
- For exploitation of natural resource, expel the people who live in there without land certification.
- Majority of immigrant workers are irregular employee and they are strictly restricted it freedom of changing job.

- By the declaration of a state of emergency, government allows police to arrest suspects by summary procedure.
- Executing death penalty of drug trafficker
- Family members kill a woman who were raped because she stains family's honor.