

LAW AND SOCIETY IN CHINA

Vai Lo Lo

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Book review by Sally Ramage
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This monograph titled *Law and Society in China* has been with me for several months, due to the current political climate, but truth must prevail over politics and so this book review is finally being published.

The author Vai Lo Lo is a professor of law at Bond University, Australia. The author has successfully married social history, cultural history and jurisprudence in an introductory book on China, its society and its many laws in seven chapters which address China's long and distinguished dynasties in imperial China, leading up to law in transitional China, leading up through pre-reform to legislation in contemporary China, the latter topic taking up almost half of this book, from page 124 to the conclusions ending at page 201.

The history of China is generally presented according to the dynasty to which the period's ancient rulers belonged. From its inauguration in c. 2070 BC to the abdication of its last emperor in 1912, China was ruled by a series of 13 successive dynasties. The Chinese are a highly respectable nation with a very long and recorded history over thousands of years.

It has not been until these past forty years that the Chinese legal system began to develop at a rapid pace, although there is still much work to be done on improving and further developing legal codes and statutes.

Modern China

China has its Chinese Code of Civil Law, known as the General Principles of Civil Law. Civil Procedure Law deals with divorce cases, when conciliation is often

successful, but curiously, China turns to Article 90 of the Criminal Procedure Law if conciliation is not necessary, allowing the divorce matter to be conducted by other bodies at grass-roots governments and by neighbourhood committees.

Civil Law China

China has a civil law tradition and one can appreciate this as China has traded with many other countries for thousands of years. This civil law country, like other civil law countries do not turn to legal precedents—they are not binding here. Therefore, due to trade with the rest of the world, China enacted the Foreign Economic Contract Law 1985, to create newer, more complicated model contracts, taking into account prevailing international practice and western private international law and contract law.

There are modernised statutes on taxation; company law and the Code of Company Law; banking law; foreign investment law; contract law; new employment statutes and consumer statutes; Chinese Land Law; environmental laws; maritime law; and non-judicial means of dispute settlement; intellectual property laws; the law of family, marriage and succession; settlement of disputes by non-judicial means aka alternative dispute resolution, and of course, the then new Code of Criminal Law and Code of Criminal Procedure, passed in 1997. China now has China Law Reports translated into English.

One has to always remember that China is a vast country to appreciate that although China is a unitary state, it has joined the World Trade Organisation (WTO).

Present Hong Kong legal issues

As an aside, the reviewer thinks it may be enlightening to address the matter of Hong Kong which bedevils our sitting rooms with scenes of rioting, protests, and destruction for many months now.

Treaty agreement

China resumed its sovereignty over Hong Kong since 1st July 1997 after 150 years of British colonial administration, during which time Hong Kong was governed by a common law legal system as the UK's is and there were only seven national laws of China applicable in Hong Kong until 1 July 1997.

Inter-regional conflict of laws became a very pressing issue.

End of colonialisation: Hong Kong

The United Kingdom has had Hong Kong as a colony, not least because, strategically, it was a vital point for international trade. So Hong Kong's common law tradition became known as Basic Law, as well as permitting six national laws of China, automatically applicable to Hong Kong.

Article 95 of the Basic Law in Hong Kong states that the courts of China and Hong Kong must render judicial assistance to each other.

End of colonialisation: Macau

The same applied to Macau since 31st December 1999, when China resumed sovereignty over this land which the Portuguese colonised. However Macau is a non-Socialist civil law jurisdiction. Some scholars think that a similar codified system throughout will solve the problem.

Criminal elements risk losing illicit money

Underlying the rioting etc, is the reality of trade secrets, counterfeit drugs, illicit international trade and the usual drunkenness and lawlessness so common in the world today. One might hazard a guess that criminals are determined not to comply but are aware of China's death penalty, and like the Arab Spring, other underground social forces are at play.

Further byte-sized books on the laws of China

This is why Vai Lo Lo's book on law and society in China is as very important as it introduces Chinese thinking and Chinese jurisprudence which makes one realize how important it is to study the special terminology of Chinese law because special terminology of Chinese law may not always convey the same meaning of certain English expressions.

Further Reading

Learn about China at www.youtube.com

1-“China's Power and Prosperity”

https://www.youtube.com/watch?v=gF_frOsTrgw

2-“Riding the Dragon”

<https://www.youtube.com/watch?v=JRmlcEBAiIs>

3-“Exiled Chinese millionaires”

<https://www.youtube.com/watch?v=4cwXifDaCjE>

4- “Uncovering Communist China”

<https://www.youtube.com/watch?v=Tk2eP2T2pz8>

5- “Kyle Bass explains the Chinese Currency Crisis as an Investment Opportunity (2019)”

https://www.youtube.com/watch?v=ZB105xNq_AU

6-CHINA

<https://www.youtube.com/watch?v=JovtmKFXi3c>

7-Cybersecurity and Data Protection in China

China had its first reading of a new Bill titled

Personal Information Protection Law 2020 with the Standing Committee of the National People's Congress in October 2020. It will be China's first unified piece of national legislation on the protection of personal information.

8-China's Ministry of Public Security

Issued Guidance on the Implementation of the Multi-Level Protection Scheme for Network Security.

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