

Law in Asia
Fall 2004
Professor Sidel

Law in Asia focuses on the development and reform of law and legal institutions in selected Asian countries. In fall 2004 the seminar will focus on legal development and reform in Vietnam and China, with some reference to other countries in Asia, such as India and Bangladesh.

Topics of discussion will include the changing role of socialist constitutions; law and the regulation of civil society: nonprofit organizations, philanthropy, grassroots organizations and the state in Vietnam and China; procuracy and prosecution: reforming socialist institutions and legal process; the transformation of the legal profession; the struggle for the authority of law in socialist transitional states; law in the service of globalization: the case of export labor; and foreign models and foreign donor support in Asian legal reform.

Students will have the choice of writing a research paper for one or two credits (20/40 pages) due December 31 or taking a take-home exam during the exam period; students will decide on this by October 1. Paper topics will be determined after individual conferences with me. A few possible topics are listed on the attached page. Grading will be based on class participation and the research paper or take-home exam.

The seminar will meet on Tuesday afternoons from 3:30 – 5:30 pm in room 135. Materials are available in the law school bookstore, and all materials will be placed on reserve. Where possible materials will also be placed on my webpage, myweb.uiowa.edu/sidel.

My office hours will be posted outside room 475. I can be reached at mark-sidel@uiowa.edu, and 384-4640 (4-4640).

Seminar Sessions

August 24, 2004: Follows Monday schedule, so no class

August 31, 2004: Introductions; discussions of papers

Vietnam and China I:
The Structure of Legal System and the Problem of Rights

Readings: Legal Systems of the World (sections on China and Vietnam)

Human Rights Watch, *Demolished: Forced Evictions and the Tenants' Rights Movement in China* (March, 2004)

September 7, 2004:

Vietnam and China II:
The Debate over Constitutionalism and Role/Rule of Law

Reading: Sidel, Analytical Models for Understanding Constitutions and Constitutional Dialogue in Socialist Transitional States: Re-interpreting Constitutional Dialogue in Vietnam, 6 *Singapore Journal of International and Comparative Law* 42 (2002)

Materials on the Sun Zhigang case and constitutional reform in China

(Optional) Xin Chunying, What Kind of Judicial Power Does China Need?, 1 *International Journal of Constitutional Law* 1: 58-78 (January 2003) (available at http://www3.oup.co.uk/ijclaw/hdb/Volume_01/Issue_01/010058.sgm.abs.html)

September 14, 2004:

Vietnam and China III:
Law and Regulation of Civil Society: Nonprofit Organizations, Philanthropy and the State in Vietnam and China

Readings: Nick Young, Blurred Law May Be Better Than None, *China Development Brief* (2004)

Nick Young, Searching for Civil Society, *China Development Brief* (2003)

PRC State Council, Regulations for the Management of Foundations (2004)

PRC Social Organizations Law (1998)

(Optional) Benedict J. Tria Kerkvliet, Grappling with Organizations and the State in Vietnam, in Kerkvliet, Heng and Koh (eds.), *Getting Organized in Vietnam: Moving In and Around the Socialist State* (Institute of Southeast Asian Studies, 2004) (on reserve)

September 21, 2004:

Special session:
Asian and Pacific Americans in Iowa

Kim Poam Logan, Executive Director, Iowa Asian Alliance
Iowa State Representative Swati Dandekar (D-Marion)

Readings: Overview of the Asian and Pacific Islander Outreach Initiative (Iowa Department of Human Rights, approx. 2001)

Materials on Asian and Pacific Americans in the United States
Materials on Rep. Swati Dandekar

September 28, 2004:

Vietnam and China IV:
Law and Globalization: The Case of Export Labor
from Vietnam

Readings: Jiang Shunzhe et al v. Daewoosa Samoa, Ltd. and Kil-Soo Lee, Nguyen Thi Nga et al v. Daewoosa Samoa, Ltd., Kil-Soo Lee, Tourism Company 12, and IMS, et al, In the High Court of American Samoa, Trial Division (CA 68-99, 133-99, et al) (2002)

Contract between Tourism Company 12 (Vietnam) and Hoang Trong Thuy (1999)

Remarks of Attorney General Ashcroft Regarding Human Trafficking (January 29, 2004)

Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report (June 2004), sections on Vietnam and China

(Optional) Made in Misery (Special Report), Seattle Post-Intelligencer, November 17-21, 2003 (available at <http://seattlepi.nwsource.com/specials/madeinmisery/>)

(Optional) Sidel, Legal Reform in Whose Interests? Text, Implementation and Reality in Vietnamese Law: Illuminations from Vietnamese Labor Export and Its Regulation (2004) (at myweb.uiowa.edu/sidel)

October 5, 2004:

Vietnam and China V:
Law and Globalization: The Catfish War

Readings: Materials on the catfish dispute between the United States and Vietnam

October 12, 2004:

Special Session:
Iowa's Business Relations with Asia

Kathy M. Hill
Team Leader, International Office
Business Development Division
Iowa Department of Economic Development

Readings: IDED Strategic Plan for State Economic Growth

Read the International section of the IDED website, iowaexports.com [Be sure to read several of the most recent newsletters, along with the Marketing Iowa, Education, and Statistics and Facts sections]

October 19, 2004: India and South Asia I:
Introduction

Readings: Marc Galanter, Law and Society in Modern India (chapters 1 and 2)
India, from Legal Systems of the World (2003)

October 26, 2004: No class (Sidel away)

November 2, 2004: India and South Asia II:
The State and Civil Society, Mediated by Law: India

Readings: Rajesh Tandon, Overview of the Non-Governmental Sector in India, in Working With the Non-Profit Sector in India (Allavida and Charities Aid Foundation India, 2002)

Mark Sidel and Iftekharuzzaman, Philanthropy and Law in South Asia: Key Themes and Key Choices (introduction from Philanthropy and Law in South Asia, forthcoming 2004)

Sanjay Agarwal and Noshir Dadrawala, Philanthropy and Law in India (chapter from Philanthropy and Law in South Asia, forthcoming 2004)

November 9, 2004: India and South Asia III:
The State and Civil Society, Mediated by Law: Bangladesh

Readings: Mohiuddin Ahmad, An Introduction to the Nonprofit Sector in Bangladesh (excerpts) (Allavida and Bangladesh Freedom Foundation (2002)

BRAC vs. Professor Mohamed Ahmed, Appellate Division, Bangladesh Supreme Court, 7 MLR (AD) 2002

November 16, 2004: India and South Asia IV:
Anti-Terrorism, Law, and the State

Readings: Sidel, The Resurgence of the State: Civil Liberties and the Struggle Against Terrorism in Comparative Perspective (in More Secure, Less Free? Antiterrorism Policy and Civil Liberties after September 11, forthcoming 2004)

Readings from The Hindu (India) and Indian civil society organizations on the Prevention of Terrorism Ordinance (POTO, 2001) and Prevention of Terrorism Act (POTA, 2002)

November 23, 2004: India and South Asia V:
Public Interest Litigation and the Supreme Court

Readings: Charles Epp, India: An Ideal Environment for a Rights Revolution?, in Epp, The Rights Revolution: Lawyers, Activists and Supreme Courts in Comparative Perspective (1998)

Upendra Baxi, The Avatars of Indian Judicial Activism: Explorations in the Geographies of Injustice, in Verman, Fifty Years of the Supreme Court of India (2002)

Government of India v. M. Kurian, 2001 SOL Case 213 (March 26, 2001)

November 30, 2004: Student presentations on papers

Available drafts of papers will be distributed.

Materials for the makeup class will be distributed separately

Law in Asia

A few possible topics for research papers (there are many more):

The US-Vietnam catfish war

The US-Vietnam (and China) shrimp war

Agent Orange litigation by Vietnam in the United States

Enforcement of a U.S. judgment against Vietnamese state entities

Falun Gong litigation in the United States

Recent development of law and development work in China

Recent development of law and development work in Vietnam

Open skies airline access negotiations agreements with China and Vietnam

Issues in Vietnam WTO accession

Foreign lawyers in China

Foreign lawyers in Vietnam

Foreign lawyers in India

Labor evaluation of Vietnam

Labor evaluation of China

Liberalization of the insurance industry in China/Vietnam

Developments in legal education in China

Developments in legal education in Vietnam

Foreign investment in China issues