

Introduction

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I Background

Since the dissolution of the Soviet Union and the end of the Cold War in 1991, many countries in the Global North and South have moved to introduce varying degrees of judicial reforms and have undergone rapid modernization of their respective systems of justice. In the last two decades, Asia has become the particular focus of this global trend.

This edited volume showcases some of the most recent research on new legal measures and institutional changes introduced and adopted in Asia. The new breed of new lay participation in the justice system has been adopted in many former Soviet republics such as Russia, Ukraine, Kazakhstan, as well as in their East Asian neighbors including Japan, the People's Republic of China (PRC), South Korea, and Taiwan. Such new systems have given citizens new opportunities to engage in democratic deliberation in their justice systems. Other Asian countries have introduced new environmental laws to tackle the effect of climate change, while others have tried to eradicate growing economic, social, and gender inequality by adopting more equitable policies and legal measures. Yet other countries have begun to reflect on their past wrongs by adjudicating criminal atrocities committed by previous dictatorial regimes. Fourteen chapters included in this edited volume offer critical examinations and important scholarly debates on emerging socio-legal issues, environmental problems, intersection between gender and law, and political development in various regions, by leading authorities in East Asian law and society scholarship.

II East Asian Law and Society Scholarship and Collaboration

In the midst of such significant political changes and judicial reforms sweeping across many countries in East and Central Asia, the Collaborative Research Network on East Asian Law and Society (CRN33) was established in 2009 under the auspices of the Law and Society Association (LSA). The effort to create this innovative collaborative network was specifically led by Professor Setsuo

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Miyazawa of UC Hastings Law School in the US. Professor Miyazawa envisioned the necessity of collaborative research in order to explore the regional significance of East Asia in general theory-building and to engage in empirical inquiries into rapid socio-legal changes taking place in the region. He further encouraged scholars to go beyond the realm of regional specializations; to introduce their research, scholarship, and theories to global audiences; and to promote collaborative work and research exchange with scholars in other regions.

In order to promote the exchange of emergent socio-legal scholarship and facilitate research collaboration among scholars, CRN33 began to hold a scholarly meetings in various East Asian regions. The Inaugural East Asian Law and Society Conference was held on February 5 and 6, 2010, in the vibrant city of Hong Kong. The Hong Kong Government's Tourism Board and the University of Hong Kong provided the institutional and logistical support to the inaugural conference. More than 150 delegates came together from the US, Japan, Korea, China, Taiwan, Malaysia, Iran, the UK, Sweden, Australia, France, Canada, Hong Kong, Singapore, and other countries. Conference papers and presentations all revealed the depth of concern, academic energy, and scholarly research recognizing recent transformative changes and legal development in the region. The presentations also provided fertile ground for future socio-legal research and collaboration. A total of 24 sessions covered important topics, including legal education and professional practice, constitutional reforms, lay participation in legal institutions, colonial policing and legacies, changing legal consciousness, legal impacts on the environment, gender in law, and the development of alternative dispute resolution techniques adopted in East Asia, among many others.¹

Yonsei University in Seoul, Korea became the site of the Second East Asian Law and Society Conference, held on September 30 and October 1, 2011. Once again more than 150 delegates came together from the US, Japan, China, Hong Kong, Taiwan, Sweden, Malaysia, Hong Kong, Australia, Singapore, and other countries. Conference presentations and collaborative scholarly exchanges all revealed the growing development of academic energy, keen interests in ongoing judicial reforms, and multiplicities of scholarly research recognizing recent transformative changes and legal development in East Asia. The presentations also provided collaborative possibilities and fertile ground for even greater socio-legal research studies in East Asia.

¹ There was also an Opening Session with three keynote speakers, and four distinguished panelists participated in a concluding Session. See, for example, Terence Halliday, "The Recursivity of Law as a New Paradigm for Socio-legal Theory and Research in East Asia" (Presentation at the First East Asian Law and Society Conference, Hong Kong, February 6, 2010), accessed October 10, 2014, http://www.crn33-eals.org/hkconference2010_program.pdf.

In March 2013, the Third East Asian Law and Society was organized in Shanghai, China, co-hosted by the KoGuan Law School of Shanghai Jiao Tong University. This time, nearly 300 scholars presented their papers. Driven by the goal of the conference theme, "Building the Asian Socio-Legal Community: Theoretical Visions and Empirical Challenges," the meeting no longer limited itself to socio-legal issues in East Asia, but expanded the coverage of the conference presentation to all of Asia. The conference also introduced three forums corresponding to emerging themes such as the Soft Law Forum, the Financial Law Forum, and the Southeast Asia and Northeast Asia Dialogue Forum. The Soft Law Forum paid attention to Asia's cultural diversity and variability in social structure that resulted in the plethora of non-formal or formal rules with weak binding force or relative lack of enforcement. The conference also provided a postgraduate workshop, where early-career scholars and students from Asian and non-Asian countries joined together to share their research findings and observations, and received critical suggestions and comments from internationally renowned scholars. During the conference, the KoGuan Law School and Cambridge University Press announced that they had launched the *Asian Journal of Law and Society* in order to broaden the coverage of socio-legal issues of Asian regional and global concern. Its editorial board members were also composed of CRN33 members.

Today, the activities of scholarly collaboration and research exchange continue to expand, and the fourth regional conference is now scheduled at Waseda University in Tokyo, Japan in August 2015. Other regional organizations in law and society scholarship also began to extend their scholarly collaboration and research exchange with CRN33 members, including the Latin American Law and Society group led by Professor Cesar Rodrigues of the University of the Andes in Colombia. LSA's African CRN also announced that they will hold a first regional socio-legal conference in Accra, Ghana in July 2015, and CRN33 will participate in the conference as its liaison community. CRN33 members also will present collaborative papers in Africa.

As many scholars have begun to engage in collaborations with researchers in various Asian regions and other parts of the world, all articles included in this edited volume offer excellent examples of the most recent research and critical analyses of socio-legal issues pertinent to East Asian regions.

III The Organization of this Special Edited Volume

This edited volume consists of five distinct discussions of socio-legal issues: (1) emerging judicial stratification in the legal profession; (2) war crimes and

their legacies in the post-colonial era; (3) citizens' participation in justice systems; (4) intersection between gender and law; and (5) environmental justice and legal culture.

The first section examines two important systems of judicial stratification in the legal profession, namely China's legal aid system and its development, and Japan's emerging diversification of new attorneys following the establishment of new professional law schools that led to significant increases in the number of new attorneys in Japan. Weimin Zuo's article critically evaluates the necessity of the Chinese criminal justice system to establish a nationwide system of legal aid services to the general public. The lack of legal aid services, particularly to the poor and rural residents, led to a significant deficit in the quality of criminal defense in China, and Zuo provides a set of recommendations and proposals to eradicate such a deficit in order to provide competent defense counsels in criminal cases. Setsuo Miyazawa critically examines the sudden emergence of newly diversified stratification among Japan's new attorneys. The opening of professional law schools in 2004 led to a significant increase in the number of practicing attorneys and their diversified and stratified practices in pursuing their legal professionalization. Miyazawa argues that the prestige and reputable status of law schools began to influence the career trajectory of many new lawyers, which led to unequal opportunities for employment privileges and significant differences in income earnings. His analysis identifies the emergent manifestation of a highly diversified stratification system among Japan's new lawyers.

The second section focuses on war crimes and their legacies in the post-colonial era. Yvonne Kwan's paper focuses on recent international tribunals of war criminals responsible for the genocide of nearly two million Cambodians in late 1970s. The indiscriminate carpet-bombing and military interventions by the US in the early 1970s led to the geo-political destabilization of the Cambodian government and allowed the emergence of the Khmer Rouge, which first engaged in the massive relocation of urban dwellers to rural areas, prompting systematic killings of political leaders and others from the intellectual class. Her analysis traces the historical genealogy of the genocide in Cambodia and searches for the equitable socio-legal path for personal healing and societal reconciliation for the victims. Denis de Castro Halis investigates the post-colonial realities of Macau, a former Portuguese colony. In 1999, Macau became part of a special administrative region of China, its economy began to depend heavily on casino and gambling industries, and today its revenue has grown to be six times that of Las Vegas. He then traces the colonial history of Macau and critically analyzes the legal impact of its recent reversion to mainland China, contemplating Macau's legal autonomy and socio-political

sovereignty in the future. Matthias Vanhullebusch's contribution examines the right to truth seen – through the lens of transitional justice – from a Chinese perspective on the legacies of World War II in East Asia. Rather than being a claim of a contested truth, the right to truth can serve a reminder to the cardinal principles of the rule of international law such as individual criminal responsibility laid down in the aftermath of World War II and pursued domestically by China as part of an international effort.

The analysis of citizen legal participation in justice systems in Asia is the focus of the third section. China has recently decided to introduce its own system of lay adjudication. China promulgated laws in 2004, 2005, and 2010 to improve its lay judge system. With the use of extensive surveys at district courts and interviews of both lay and professional judges, the authors elaborate how lay judge trials are currently being conducted in China. Korea's new jury system is the focus of the following chapter by Jae-Hyup Lee. Korea introduced an all-citizen jury system in 2008. Lee's analysis focuses on the shadow jury project in which district courts voluntarily recruited people to experience a judicial process and evaluated their actual jury deliberation patterns. His analysis critically evaluates the public credibility of the judiciary and the content and quality of jury deliberation through this citizen participation program.

Harumi Takebe's work examines the recent proposal of the Japanese Federations of Bar Associations (JFBA, or the Japanese Bar consisting of practicing attorneys) that calls for the introduction of a new form of lay participation in the resolution of civil and compensatory disputes. Takebe then compares its merits and demerits with those of another newly introduced system of labor tribunals that also relies on the use of citizen experts in labor dispute resolutions. Takebe finally suspects that the JFBA's motive for introducing the civil tribunal system might have been to increase employment opportunities for many new attorneys who also became JFBA members, and may not be genuinely related to the democratization of dispute resolution processes.

The intersection of gender and law is the topic of the fourth section. Haesook Kim's work examines how Korea's Confucianism culture contributed to the gender-specific social and legal arrangement that historically subordinated women in Korean society. Through her personal interviews with women jurists, including Lee Tai-young (who became Korea's first woman to pass the national bar examination in the post-WWII era, but whose appointment to the judiciary was vetoed by the Korean president), Kim's cutting-edge analysis reveals the multitude of gender-specific barriers that still continue to ensure women's subservient role and status in legal profession. Kim finally concludes that Korea's recent ratification of international conventions on non-gender discrimination,

as well as the application of gender-neutral bar exams has begun to slowly improve the status of women legal professionals. The role of gender in China's judiciary is the focus of the work by Xiaonan Liu, who substantiates the persistence of the subservient status and role of women jurists in China. Despite the rapid increase of women judges at a district court level, they have still been largely shut out from higher managerial and supervisory positions. Like Kim, Liu examines the impact of women's socio-cultural stereotypes, socio-cultural role in society, and impacts of the enactment of the anti-discriminatory law based on gender. Liu then explores ways to eradicate gender discrimination in China's legal profession.

The last and fifth section focuses on environmental justice and legal culture. Patricia Blazey and Xiangbai He review China's historical reliance on the use of fossil fuels for energy production and examine the effectiveness of China's recent policies and legal responses to climate change. The authors also wonder whether or not the Chinese government will be able to adequately respond to the pressure from international communities to curb greenhouse gas emission. Thailand's climate policies and governance are the topic of the next chapter by Kritdiyaporn Wongs. Tracing the evolution of the enactment of environmental laws and programs to tackle the effect of Thailand's recent industrial development and resultant ecological problems, Wongs points out that the government must improve its environmental governance in promoting the inner working of multiple governmental departments and agencies. The author suggests that the rigidity of institutional structures, administrative practice, and civil law-based judicial culture may prevent government efforts from having a true effect.

The work by Qiqi Fu and Paola Pasquali examines the impact of the *Hukou* Household Registration Regulations on China's internal migration of rural residents within its borders. This national migratory policy historically ensured that agricultural workers remained in rural regions as primary suppliers of goods to sustain industrial activities in urban areas. Recent socio-economic changes, however, created significant incentives for rural farmers to move into urban areas to work in industries. In examining the application of the *hukou* system in Beijing and Shenzhen, the authors critically evaluate the socio-economic ramifications of the *hukou* legislation and its future impact on economy and migration. The critical analysis of geo-political and environmental ramifications of radiation contamination in Tibet, China is the focus of the last chapter by Abigail Brown. This provocative piece exposes the likelihood of nuclear contaminants entering Himalayan rivers and reaching two billion "downstream" people who continue to depend on water in rivers originating from the Tibetan Plateau, including Mekong, Yangtze, Indus, Yellow, and Ganges rivers.

The author reveals the failure of the Chinese government and international communities to halt unsafe nuclear fuel cycle activities on the Tibetan Plateau and makes compelling arguments for international communities to act together to eradicate the radiation danger both to people living in Tibet and downstream users in multiple countries throughout Asia.

IV Conclusion

All articles included in this edited volume provide compelling research and development of new scholarship on critical socio-legal issues facing many countries in Asia. The advent of new research and critical analysis also allows a cross-national and comparative perspective that can shed new and critical light on the socio-legal issues within Asian countries and between many regions around the globe.

We are now at a very important stage in answering fascinating research questions concerning socio-political and legal issues around the world. The articles in this edited volume provide an excellent introduction to the ways in which cross-national and comparative research can raise our understanding of legal development, democratic institutions, environmental policies, and remedial policies and programs now taking place in Asia and its regional relations with the rest of the world.