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PSC 395.01: Comparative Legal Systems

Louis Hayes

University of Montana - Missoula, louis.hayes@umontana.edu

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All civil societies govern themselves by some form of law. The philosophical foundations and methods of application of these laws vary widely around the world. The system of law found in the United States is not the standard by any means. This course explores two different approaches to the subject of law. The first of these is Islamic law. While there are important differences among Islamic countries in their approaches to the law, they all have one thing in common. Law is derived from religion, that is, the Koran. The other system to be considered is that of East Asia. Here the common ingredient is the Confucian tradition that serves as a broad philosophical basis for ordering the social and political worlds.

Case Studies

Country case studies will be drawn from each of these two areas. The meaning of law in Islamic countries is fundamentally different from that of the west. It is this difference that explains, in part, the strain in relations between western countries and the Islamic countries of the middle east. In this category, there are many countries to study, from Morocco to Indonesia.

The legal systems of Asia are hard to define, at least from the American perspective. They appear either amorphous or authoritarian. We are accustomed to the law as an independent structure. In East Asia, law is an integral part of ethics and culture. Modern Asia, however, has been forced, out of necessity, to incorporate western approaches to law in order to cope with the demands of the contemporary world. Additionally, some countries combine elements of all three legal systems (Western, Islamic and Confucian) such as Malaysia and Indonesia.

Given that the amount and quality of information available is uneven, it is impractical to try and focus upon one single country in each of the geographical areas. Instead, the areas as a whole can be considered in order to gather data on the subject matter categories listed below.

Subject Matter Categories

Each of the geographical areas listed above will be examined in terms of four subject matter categories. Given that material is not available for all countries on all topics, not all subjects can be considered in detail. Not much is known, for example, on law enforcement and corrections practices in the Islamic world.

- I. Constitutional foundations
 - A. What is the historical background of the constitution?
 - B. What is the philosophy of "law"?
 - C. What is the authoritative basis of the political system?

- II. Essential features of the courts and judicial process?
 - A. Organization of the courts
 - B. What is the role of the legal profession?
 - C. Training legal professionals
 - D. Legal procedure

- III. Philosophical and practical aspects of civil rights
 - A. Civil liberties
 - B. Gender and disabilities issues
 - C. Substance abuse
 - D. Victimless crime

- IV. Essential features of the systems of law enforcement and corrections
 - A. Organization and structure of the police
 - B. Police-community relations
 - C. Corrections philosophy
 - D. Corrections methods
 - E. Law and morality

Requirements

The course grade will be based upon two essay/research papers focusing on the two legal systems. Each paper will address the four topics listed above. Each of these essays counts for 30% of the grade. An additional 20% will be based upon class reports and 20% on participation.

Note the sections of each paper will not necessarily be of equal length due to availability of information. The first paper is due in final form on March 18. The second on May 11.

Attendance is mandatory. Three absences will be allowed. Additional absences will result in a 5% grade reduction per absence.

Calendar

Part 1

January 30 - February 1 The Study of Comparative law

The first week will be devoted to gathering bibliography and exploring different data sources

Part 2

February 6 - 27 Islamic Law

Reports on article and book assignments

March 6 - March 15 Islamic Law

Presentations of research findings

Part 3

March 27 - April 17 Asia

Reports on articles and book assignments

April 19 - May 3 Asia

Presentations of research findings

Part 4

May 8-10 Comparative review

COMPARATIVE LAW

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