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Comparative Law – Online Journal

Topic; Law in Asia – China

Comparative legal analysis provides insights and understanding as to the multitude of legal systems around the world, with respect to the critical similarities and differences in the operation of the law. As the most populous country on earth, with the second largest economy, China proves an interesting legal system to observe.

Pursuant to the applicable readings, with additional research, for a coherent understanding of the development of the legal system in China one must take into account the cultural and historical contexts. The current codified and systemic civil law system in place in China is the product of a rich and extensive history, spanning thousands of years.

Generally, when looking back at the development the legal system of China history is divided into the classification of traditional and modern. Up until the end of the nineteenth century traditional Chinese law was characterised by feudalism, imperialism and rule under emperors, with its influence reaching across East and Southeast Asia. This saw a legal system fostered by Confucianism, with an emperor conferred with executive, legislative and judicial powers, to which all Chinese subjects were bound under.¹

Early in the twentieth century, with the Qing Empire, there was a push upon the legal system to modernise. With the consensus that the Chinese legal system was primitive in comparison to other countries, due to the punitive criminal process and the absence of any development of commercial law procedures.

However, the legal developments following this period could best be described as tumultuous, with the Chinese empire to enter into a long period

¹ Fisher, 'Introduction to the Legal System of China' (2005), <http://faculty.cba.uak.ac.th/teaching/comparatolaw/2005/tauser/China-main.htm>

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