

# **Asian Indigenous Law**

In Interaction with Received Law

*Edited by*  
**Masaji Chiba**



# Asian Indigenous Law In Interaction With Received Law

**Werner Menski, Muneeb Yousuf**



## **Asian Indigenous Law In Interaction With Received Law:**

**Asian Indigenous Law** Chiba Masaji, 2009      **Asian Indigenous Law** Masaji Chiba, 2013-10-28 First published in 1986 Western law is normally regarded as universal when considered from the fact that it has been received and utilized by non Western countries as the basis of their own state legal systems The reception of Western law by non Western countries in modern times is the most influential encounter of non Western law with foreign law The major portion of this book is a collection of descriptions of typical non Western countries from this viewpoint by native scholars      **Insolvency Law in East Asia** Roman Tomasic, 2016-05-23 Insolvency law reform has become a subject of public urgency in many countries in the past two decades and particularly in much of Asia over the last ten years This volume provides an overview of insolvency laws and related rules and procedures in the countries of East Asia The book comprises two introductory chapters dealing with issues such as legal culture and cross border insolvency before examining the fourteen principal jurisdictions in the region Each chapter addresses the key themes of different insolvency regimes such as the legal system and culture personal insolvency laws corporate insolvency rules court based schemes of arrangement winding up procedures liquidators enforcement and offences This title will be an invaluable guide to academics practitioners and policy makers working in the areas of comparative and commercial law      Legal Pluralism and Governance in South Asia and Diasporas Livia Holden, 2016-04-14 Legal Pluralism and Governance in South Asia and the Diasporas contributes to the already heated debate about legal pluralism and the ontology of law by shifting the attention toward the relationship between what is treated as law and its impact on governance at the fora of dispute resolution This book addresses sensitive issues such as gender rights and alternative dispute resolution in India Hindu and Muslim personal laws in South Asia and in Europe cross border white violence the change to Islamic legal traditions under Western domination women s inheritance in Pakistan and in the disputed territory of Gilgit Baltistan indigenous rights and resistance at the India Bangladesh border and customary laws of nomadic groups in India The authors deploy a variety of views that point at the pros and cons of legal pluralism and also integrates its opponents They show how constructions of identity religion and power have historically informed the conceptualisation of secularism which may be an ideal sometimes able to provide for perceptions of accountable governance but also generating dividing worldviews This book was published as a special issue of the Journal of Legal Pluralism and Official Law      *The Politics of Personal Law in South Asia* Partha S. Ghosh, 2012-05-23 It is a political study of the controversy surrounding the issue of the uniform civil code vis vis personal laws from a South Asian perspective At the centre of the debate is whether there should be a centralized view of the legal system in a given society or a decentralized view both horizontally and vertically This issue is entangled within the threads of identity politics minority rights women s rights national integration global Islamic politics and universal human rights Champions of each category view it through their own prisms making the debate extremely complex especially in politically and socially plural South Asia So this book attempts to

harmonize the threads of the debate to provide a holistic political analysis      **Legal Education in Asia** Andrew J. Harding, Jiaxiang Hu, Maartje de Visser, 2017-11-20 Legal education systems like legal systems themselves were framed across Asia without exception according to foreign models These reflect the vestiges of colonialism and can be said to amount to imitating the style and purposes of legal education typical in Western and relatively pure common law and civilian systems Today however we see Asian legal education coming into its own and beginning to accept responsibility for designing curricula and approaches that fit the region's particular needs This book explores how conventional transplanted approaches as regards program design as well as modes of teaching are or are on the cusp of being reimagined and discerns emerging home grown traces of innovation replacing imitation in countries and universities across East Asia      *Legal Pluralism in Indonesia* Ratno Lukito, 2013 With the revival of Islamic law and adat customary law in the country this book investigates the history and phenomenon of legal pluralism in Indonesia It looks at how the ideal of modernity in Indonesia has been characterized by a state driven effort in the post colonial era to make the institution of law an inseparable part of national development Focusing on the aspects of political and conflictual domains of legal pluralism in Indonesia the book discusses the understanding of the state's attitude and behaviour towards the three largest legal traditions currently operative in the society adat law Islamic law and civil law The first aspect is addressed by looking at how the state specifically deals with Islamic law and adat law while the second is analysed in terms of actual cases of private interpersonal law such as interfaith marriage interfaith inheritance and gendered inheritance The book goes on to look at how socio political factors have influenced the relations between state and non state laws and how the state's strategy of accommodation of legal pluralism has in fact largely depended on the extent to which those legal traditions have been able to conform to national ideology It is a useful contribution for students and scholars of Asian Studies and Law      Divorce and Democracy Saumya Saxena, 2022-08-25 This book captures the Indian state's difficult dialogue with divorce mediated largely through religion By mapping the trajectories of marriage and divorce laws of Hindu Muslim and Christian communities in post colonial India it explores the dynamic interplay between law religion family minority rights and gender in Indian politics It demonstrates that the binary frameworks of the private public divide individuals versus group rights and universal rights versus legal pluralism collapse before the peculiarities of religious personal law Historicizing the legislative and judicial response to decades of public debates and activism on the question of personal law it suggests that the sustained negotiations over family life within and across the legal landscape provoked a unique and deeply contextual evolution of both secularism and religion in India's constitutional order Personal law therefore played a key role in defining the place of religion and determining the content of secularism in India's democracy      *Concepts of Law* Lukas Heckendorn Urscheler, 2016-05-23 Debates surrounding the concept of law are not new For a wide variety of reasons and in a wide variety of ways the meaning of law has long been an important part of Western thought both within legal scholarship and

beyond The contributors to Concepts of Law are international experts from the fields of comparative law legal philosophy and the social sciences Combining theoretical analyses with case studies they explore various legal concepts and contexts from diverse national and disciplinary perspectives Legal and normative pluralism is a theme throughout Some chapters discuss the development of state law and legal systems Others wrestle with law s rhetoric and the potential utility of alternative vocabularies e g governance and governmentality Others reveal the rich polyjurality of the present from the local to the global The result is a rich picture of both present scholarship on laws and norms and the state of contemporary legal complexity each crossing traditional boundaries

Foreign Investment in China Peter Corne,2023-09-20 The author a practitioner in Shanghai contends that all foreign investment in China will remain totally at risk until a broad range of enormous administrative lacunae are filled with responsible reliable legal norms These gaps in the system all clearly analyzed and measured her for the reader include the lack of clear delineation between legal and policy norms the breadth of discretion accorded to bodies charged with legal interpretation and implementation the limited scope of judicial review and resulting problems of legislative inconsistency and haphazard legal enforcement Published under the Transnational Publishers imprint

**Law Reform in Plural Societies** Teleiai Lalotoa Mulitalo Ropinisone Silipa Seumanutafa,2017-11-04 This book asserts that the Pacific Islands continue to struggle with the colonial legacy of plural legal systems comprising laws and legal institutions from both the common law and the customary legal system It also investigates the extent to which customary principles and values are accommodated in legislation Focusing on Samoa the author argues that South Pacific countries continue to adopt a Western approach to law reform without considering legal pluralism which often results in laws which are unsuitable and irrelevant to Samoa In the context of this system of law making effective law reform in Samoa can only be achieved where the law reform process recognises the legitimacy of the two primary legal systems The book goes on to present a law reform process that is more relevant and suitable for law making in the Pacific Islands or any post colonial societies

*Religion and Legal Pluralism* Russell Sandberg,2016-03-09 In recent years there have been a number of concerns about the recognition of religious laws and the existence of religious courts and tribunals There has also been the growing literature on legal pluralism which seeks to understand how more than one legal system can and should exist within one social space However whilst a number of important theoretical works concerning legal pluralism in the context of cultural rights have been published little has been published specifically on religion Religion and Legal Pluralism explores the extent to which religious laws are already recognised by the state and the extent to which religious legal systems such as Sharia law should be accommodated

Modern Perspectives on Islamic Law E. Ann Black,Hosseini Esmaeili,Nadirsyah Hosen,2013-01-01 This book presents an invaluable contribution to the debate on the compatibility of Islam and modernity It is full of arguments and examples showing how Islam can be understood in line with modern life human rights democracy the rule of law civil society and pluralism The three authors come from different countries represent different gender

perspectives and have a Shia a Sunni and a non Muslim background respectively which makes the book a unique source of information and inspiration Irmgard Marboe University of Vienna Austria This well informed book explains reflects on and analyses Islamic law not only in the classical legal tradition of Sharia but also its modern contemporary context The book explores the role of Islamic law in secular Western nations and reflects on the legal system of Islam in its classical context as applied in its traditional homeland of the Middle East and also in South East Asia Written by three leading scholars from three different backgrounds a Muslim in the Sunni tradition a Muslim in the Shia tradition and a non Muslim woman the book is not only unique but also enriched by differing insights into Islamic law Sir William Blair provides the foreword to a book which acknowledges that Islam continues to play a vital role not just in the Middle East but across the wider world the discussion on which the authors embark is a crucial one The book starts with an analysis of the nature of Islamic law its concepts meaning and sources as well as its development in different stages of Islamic history This is followed by accounts of how Islamic law is being practised today Key modern institutions are discussed such as the parliament judiciary dar al ifta political parties and other important organizations It continues by analysing some key concepts in our modern times nation state citizenship ummah dhimmah recognition of the status of certain non Muslims in Islamic states and the rule of law The book investigates how in recent times more and more fatwas are issued collectively rather than emanating from an individual scholar The authors then evaluate how Islamic law deals with family matters economics crime property and alternative dispute resolution Lastly the book revisits certain contemporary issues of debate in Islamic law such as the burqa halal food riba interest and apostasy Modern Perspectives on Islamic Law will become a standard scholarly text on Islamic law Its wide ranging coverage will appeal to researchers and students of Islamic law or Islamic studies in general Legal practitioners will also be interested in the comparative aspects of Islamic law presented in this book Comparative Tort Law Mauro

Bussani, 2021-02-26 This revised second edition of Comparative Tort Law Global Perspectives offers an updated and enriched framework for analysing and understanding the current state of tort law around the world Using a critical comparative methodology it covers not only the common tort law issues but also many jurisdictions often overlooked in the mainstream literature Contributions explore illuminating case studies from tort systems in Europe the US Latin America Asia and sub Saharan Africa including new chapters specifically discussing tort law in Brazil India and Russia **Thinking Critically**

**About Law** Amy R Codling, 2025-06-02 You arrive at university to embark upon your journey to think like a lawyer but is simply knowing the law enough to gain you the best marks What do you need to do exactly to achieve a first class law degree and promising professional career For top marks what do your lecturers mean when they say you need to deepen your critical analysis to answer assessment questions When should you put your own viewpoints forward When and how should you draw upon the work of others What do your examiners mean when they give you feedback saying that your work is too descriptive This book explores what it means to think critically and offers practical tips and advice for students to develop the

process skill and ability of thinking critically while studying law as well as beyond that in the workplace The second edition of *Thinking Critically About Law* utilises art music poetry and prose to explore essential questions about studying law and what it means to think critically offering practical tips and advice for students looking to develop critical thinking skills in relation to law Updates reflect seismic changes that have taken place both in law teaching and in society more generally These include the Covid 19 pandemic social movements sparked by the murders of Sarah Everard and George Floyd moves to decolonise the law curriculum and the introduction of the SQE qualification There is also an innovative foreword by Professor Russell Sandberg a new chapter on the topic of how to think critically during discussions a new section on *Thinking Critically About Law in the Future* as well as a renewed emphasis on the health and well being of students Other student focused resources will be available as support materials *Thinking Critically about Law* is a crucial companion for those studying law at A Level and undergraduate level as well as being relevant to postgraduate students newly qualified lawyers and tutors of law

*Kashmir after 2019* Werner Menski, Muneeb Yousuf, 2025-01-21 This interdisciplinary volume portrays India's removal of Article 370 and of Jammu and Kashmir's special status in August 2019 as an effort to stop the suffering of its highly diverse people While the state had been divided between the only two successor nations allowed in 1947 local people were subjected to prolonged violence by several competing external and internal stakeholders Though the bold step of August 2019 signified acceptance by both India and Pakistan of the completion of the partition of 1947 evidence of continuing discontent and latent adherence to continuing dreams of freedom Azadi indicates that the current arrangement needs to be better and more widely understood as a viable peace making effort The book re traces the history of the suffering of Kashmir's people and provides an intriguing new analysis of the conflict through the plurality conscious kite model of law and life suggesting important policy implications It also challenges the negative implications of international and foreign meddling in the Kashmir problem This book will be useful to scholars students and teachers of political science sociology governance economics and development studies It will also be an indispensable companion to scholars and general readers interested in India especially Jammu and Kashmir as well as those engaging with South Asian Studies

**Legal Assistance to Developing Countries** Per Sevastik, 2023-09-20 Since the early 1960s an essential ingredient of Sweden's international development aid has been focused on democracy and human rights issues and Sweden has been refining its policy continuously within this area Today this policy has reached a certain degree of sophistication and therefore a natural focal point is on the development of the rule of law in various recipient countries When and why was it introduced in Swedish development assistance What does it actually entail These and other issues related to assistance within the legal sector are discussed in this anthology written by university professors researchers and lecturers from various law faculties and institutions in Sweden familiar with the developmental work which is channelled through the Swedish International Development Co operation Agency SIDA It encapsulates both actual conditions and ideas outlining future perspectives

Bird that Flies with Two Wings Miranda Forsyth, 2009-09-01 This book investigates the problems and possibilities of plural legal orders through an in depth study of the relationship between the state and customary justice systems in Vanuatu It argues that there is a need to move away from the current state centric approach to law reform in the South Pacific region and instead include all state and non state legal orders in development strategies and dialogue The book also presents a typology of models of engagement between state and non state legal systems and describes a process for analysing which of these models would be most advantageous for any country in the South Pacific region and beyond **Examining Practice, Interrogating Theory: Comparative Legal Studies in Asia** Penelope Nicholson, Sarah Biddulph, 2008-10-31 Legal transplantation and reform in the name of globalisation is central to the transformation of Asian legal systems The contributions to Examining Practice Interrogating Theory Comparative Legal Studies in Asia analyse particular legal changes in China Indonesia Malaysia Singapore Thailand Taiwan and Vietnam The contributions also concurrently critically analyse the utility of scholarly developments in comparative legal studies particularly discourse analysis regulatory theory legal pluralism and socio legal approaches in the study of Asian legal systems While these approaches are regularly invoked in the study of transforming European legal systems the debate of their relevance and explanatory capacity beyond the European context is recent By bringing together these diverse analytical tools and enabling a comparison of their insights through Asian empirical case studies this book makes an invaluable contribution to the debates concerning legal change and the methods by which it is analysed globally and within Asia *The UN Convention on the Elimination of All Forms of Discrimination Against Women* Marsha A. Freeman, Beate Rudolf, Christine Chinkin, 2012-01-26 This is the first commentary on the Convention on the Elimination of All Forms of Discrimination Against Women CEDAW analyzing the Convention article by article Each chapter provides an overview of an article s negotiating history interpretation and all the relevant case law including decisions and recommendations by the CEDAW Committee

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