This course aims to give students a comparative perspective on law and legal institutions. Above all, looking comparatively helps shed light on our own system and question what is “normal” or “natural.” From what it means to be a lawyer to notions of what is “just” or “fair,” courts and dispute resolution outside the United States can be both very different and, at times, surprisingly familiar. After an overview of concepts and classic approaches to the study of law and society, the course will explore these differences and similarities in three Asian settings: China, Japan and India. We will look at several topic areas, including lawyers, illicit sex and environmental protection, to see how each country’s history, political structure, values and interests shape how legal issues are defined and play out.

Course requirements

Grades and assignments.

• Three blog posts: 15% (5% each)
• In-class midterm: 25%
• Take home final OR final paper: 40%
• Class participation: 20%

Blog posts. A class blog has been created at [http://lawandsocietyasia.blogspot.com/](http://lawandsocietyasia.blogspot.com/). Each student is responsible for three blog posts (250-400 words each) over the course of the semester. These short, informal responses to the readings must be posted to the class blog by 2pm the day before class. Following a 30-minute grace period, blog posts posted between 2.30pm and 9pm will be marked down a half grade. Blog posts posted after 9pm will not be accepted.

The blog posts are meant to serve as a starting point for discussion. A good blog post will be clearly written with a distinct voice and point of view. It can draw out points of

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1 Sign up at www.wejoinin.com/rstern@law.berkeley.edu
connection and controversy between authors. It can draw connections between readings and current events. It can directly suggest questions for discussion. It can heartily critique (or enthusiastically endorse) articles, arguments or approaches. The content is up to you. The key point is to advance your own ideas rather than summarize. If you feel stuck, you can always fall back on the questions about the readings circulated before each class.

In-class mid-term examination: A mid-term examination will be held in class in Thursday, October 17. The mid-term will consist of IDs and short answer questions.

Final exam OR paper: Students can choose between taking an open book, open notes final take home exam OR writing a final paper. The final exam will ask students to answer at least three conceptual questions that draw together readings across weeks and speak to themes of the course.

The other option is a 15-page research paper (12pt font, double-spaced, 1-inch margins) about the relationship between law and society on a topic of your choosing in India, China, or Japan. The paper should explicitly link your topic to insights gleaned from class discussions, readings, and lecture. This is an excellent choice for students who want to improve their writing, as there is an option to get feedback on first draft. Research papers will have the following deadlines:

- September 26: Deadline to alert me if you are writing a research paper.
- October 17: Two paragraphs about the topic of your paper, your research question, and five scholarly sources. It is to your advantage to talk to me before writing this up.
- November 7: 4-5 pages presenting (1) background; (2) research question; (3) organizational paragraph; (4) preliminary argument.
- December 6: Optional first draft due.
- December 18: Final draft due.

Attendance and participation. 20% of the final course grade depends on participation. The basic starting point is regular class attendance and completion of the assigned readings before class. Beyond that, I expect students to thoughtfully participate in discussions, with the understanding that first-rate participation corresponds to quality of comments rather than quantity. You can also participate by coming to see me in office hours, posting comments on other students’ blog posts, or occasionally circulating relevant news articles to our class email list.

Please also keep in mind that the course may touch on sensitive, controversial or personal topics over the course of the semester. It is critical that we respect one another’s thoughts, and address comments to the ideas and arguments, not to the person. Discussions should be productive, respectful and appropriate.
Additional course policies

*Laptops and cell phones.* Please do not take out your cell phone during class. In addition, the use of laptops in class is discouraged in order to create the best possible environment for discussion. If you want to bring a laptop, I recommend using a plug-in such as Leech Block (for Firefox) or Stay Focused (for Chrome) to turn off email and web access during class time.

*Getting in touch with me.* The best way to get substantive feedback on your work or discuss class material is in office hours, rather than through email. Emails on administrative matters (setting up an appointment, asking for a recommendation etc.) will be answered quickly. I have office hours on Friday afternoon and I am also happy to meet with students by appointment.

*Students with disabilities.* If you anticipate issues related to the format or requirements of the course, please meet with me so we can discuss ways to ensure your full participation in the course.

Course schedule

**Introduction: August 29**

**Class 1: Comparative constitutions (September 3)**
Excerpts from the Chinese, Japanese and Indian constitutions

**Class 2: Introduction to Comparative Legal Systems, I—Lecture (September 5)**


**Class 3: Law and Social Change (September 10)**


**Class 4: Introduction to Comparative Legal Systems, II—Lecture (September 12)**

**Class 5: Law and American society (September 17)**

Lawrence Friedman, Total Justice (Russell Sage Foundation 1994), pp. 126-145.

JAPAN

Class 6: Introduction to Japanese legal history—Lecture (September 19)


Class 7: Institutions and incentives (September 24)


Class 8: Dispute resolution (September 26)


Class 9: Lost property (October 1)

Mark West, Law in Everyday Japan: Sex, Sumo, Suicide and Statutes (University of Chicago Press 2005), Chapter 2.


Class 10: Illicit love (October 3)

Mark West, Law in Everyday Japan: Sex, Sumo, Suicide and Statutes (University of Chicago Press 2005), Intro and Chapter 6.

Class 11: Environmental law and social change (October 8)


**CHINA**

**Class 12: Introduction to Chinese legal history—Lecture (October 10)**

**Class 13: Law and the activist state (October 15)**


**Class 14: Marriage and state power (October 17)**


*In class: Mid-term evaluations*

**Class 15: In-class midterm examination (October 22)**

**Class 16 and 17: The environment (October 24 and October 29)**

*In class on October 24: Warriors of Qiugang, dir Ruby Yang (2010)*

*For October 29:*


**Class 18 and Class 19: Lawyers and social change (October 31 and November 5)**

*For October 31:*

For November 5:


Class 20: Petitioning (November 7)


INDIA

Class 21: Introduction to Indian legal history--Lecture (November 12)

Class 22 and 23: Litigation and social change (November 14 and 19)


Class 24: The environment (November 21)


Class 25 and 26: Justice in Action (November 26 and December 3)

Katherine Boo, Beyond the Beautiful Forevers: Life, Death and Hope in a Mumbai Undercity (Random House 2012).

Class 27: Comparative Constitutions Revisited (December 5)