

Course Syllabus
Law 335 001 Korean Law

Term 2, Spring 2008
Faculty of Law, University of British Columbia

Classes:

Monday and Wednesday 3:30- 5:00 PM
Curtis 184

Instructor:

Professor Tae-Ung Baik

Office hours:

Monday and Wednesday at 1:30 PM - 2:30PM

Office:

Curtis 150
Faculty of Law, University of British Columbia
1822 East Mall, Vancouver B.C. V6T 1Z1, Canada

Phone:

(604) 822-9353

Email:

baik@law.ubc.ca

Scope and Objectives of the Course

Korea has thousands of years of history and a rich cultural background. The history of Korean law dates back to the era of Kochosun, the first state established on the Korean peninsula in B.C. 2333. However, Korean law has been rarely taught in North America. Accordingly, the number of legal experts on Korean law is very small.

The social and legal association between Canada and Korea has increased continuously in recent years. The influx of Korean immigrants to Canada and the accelerated regional cooperation among countries surrounding Pacific Ocean reflect the increasing strategic and economic importance of Korea in the world. The growing prospect of North Korea opening its market has been attracting great interest from many Korean and international lawyers who wish to contribute to establishing business relations with the Democratic People's Republic of Korea.

The purpose of this course is to provide students with an understanding of the law, legal system and dynamic changes that have been taking place in Korea. The emphasis is on South Korea, but North Korean law is included to show the difficult challenges that the Korean peninsula is faces.

Topics will include an introduction to the civil law system, legal history, legal systems, and selected legal questions in Korea. Constitutional law, criminal law, civil law, economic and social law, administrative law, and human rights law will be covered.

No pre-requisite is required.

Course requirements

- Class participation: 20%
- A class presentation: 30%
- A paper (approximately 15 double-spaced pages in length): 50%
 - The topic and outline of the paper due on Monday, March 4, 2008
 - Final submission due on April 11, 2008

Class Participation

Class participation will count for 20% of the grade, which will be assessed based on the class discussions and contributions to the class.

Class Presentation

Each member of the class should participate in an in-class group presentation (30%). The presentation will consist of a 40 minute presentation, which will be followed by a 25-minute question and answer session. Each group can freely choose a relevant topic subject to professor's approval. In order to avoid duplication of topics, each team should jointly submit an outline of presentation along with the title of the presentation by February 4, 2008 in class. A sign-up sheet to choose the date of presentation and the members of your group will be posted on the door of Professor Baik's office (Curtis 150) on January 23, 2008.

Your group presentation will be graded based on the following criteria: (1) the choice of topic, (2) the art of collaboration, (3) the method of presentation, (4) the clarity of arguments and recommendations, and (5) the performance in question and answer session.

Course Paper

A course paper will count for substantial part of your grade (50%). Please submit a note (approximately 500 words) by Monday, March 3, 2008, on the topic you have selected, indicating the working title, the questions you will address, a working outline and a preliminary bibliography.

The essential aim of the paper is to apply the knowledge and insights you have gained during the course to a topic not covered in depth. The clarity and originality with which you address the issues, the coherence of your arguments, and the appropriate and accurate use of sources will be considered in evaluating your paper.

Your paper should be approximately 15 pages in length, and double-spaced. It should have (a) a title page, (b) a table of contents, (c) numbered pages, (d) footnotes at the bottom of the page (do not use parenthetical documentation), and (e) a bibliography. Footnotes should be used to identify every direct quote, expression of opinion, and factual statement of significance (other than facts of common knowledge).

A hard copy of the paper must be submitted to Fishbowl or to the Professor's office (Curtis 150) no later than Friday, April 11, 2008, and an electronic copy should be submitted to the professor's email, baik@law.ubc.ca.

Required reading materials

- Assigned course readings: WebCT (<http://www.webct.ubc.ca>)
- Additional readings if assigned in class

Reference materials (Law Library Reserve)

- Sang-Hyun Song ed., Korean Law in the Global Economy, Bak Young Sa Pub. Co. (1996)
- Dae-Kyu Yoon ed., Recent Transformations in Korean Law and Society (2000)

I. Overview

Session 1: Monday, January 7, 2008

Introduction

Session 2: Wednesday, January 9, 2008

Methodology: civil law system vs. common law system

- Young-Hee Kim, *Introduction to Korean Legal Materials*, 2 JOURNAL OF KOREAN LAW, NO.1 (2002) PP. 125-166

Session 3: Monday, January 14, 2008

Law, legal consciousness, and legal culture in Korea

- Chan Jin Kim, *Korean Attitudes Towards Law*, 10 PAC. RIM L. & POL'Y 1 (2000) pp.1-46

II. Legal system

Session 4: Wednesday, January 16, 2008

Judicial System

- Supreme Court of Korea, Overview of Korean Judicial System (2007)

Session 5: Monday, January 21, 2008

Constitutional Law: The development of constitutionalism in S. Korea

- Constitution, Republic of Korea
- Dae-Kyu Yoon, *The Constitutional Court System of Korea: The New Road for Constitutional Adjudication*, 1 JOURNAL OF KOREAN LAW NO.2, (2001) pp.1-16
- Jin-Su Yune, *Recent Decisions of the Korean Constitutional Court on Family Law*, 1 JOURNAL OF KOREAN LAW VOL.1, NO.1, 133 (2001) pp.133-56

Session 6: Wednesday, January 23, 2008

Criminal law: crimes and fundamental principles of criminal law

[*Presentation sign-up sheets will be posted at Curtis 150.]

- Kuk Cho, *Korean Criminal Law: Moralism Prima Ratio for Social Control*, 1 JOURNAL OF KOREAN LAW VOL.1, NO.1 (2001) pp.77-96

Session 7: Monday, January 28, 2008

Criminal procedure: criminal adjudication; assessment of sentence; and correctional facilities

- Kuk Cho, *Unfinished Criminal Procedure Revolution" of Post-Democratization South Korea*, 30 DENVER JOURNAL OF INTERNATIONAL LAW AND POLICY, ISSUE 3 (2002). Pp.377-94

Session 8: Wednesday, January 30, 2008

Civil law: Contract; torts, property, family and relatives

- Republic of Korea Civil Act (2005)

Session 9: Monday, February 4, 2008

Civil procedure

[*Presentation outlines due.]

- Jeong-Oh Kim, *The Changing Landscape of Civil Litigation*, Dae-Kyu Yoon ed., RECENT TRANSFORMATIONS IN KOREAN LAW AND SOCIETY (2000) pp.321-38

III. Global Society and Korea**Session 10: Wednesday, February 6, 2008**

Globalization and Korean law

- Hun-Je Suh, *Current Legislative Changes in Korea's Foreign Trade and Investment Sectors*, Dae-Kyu Yoon ed., RECENT TRANSFORMATIONS IN KOREAN LAW AND SOCIETY (2000) pp.263-90
- James D. Thayer, Market Based Anti-American Sentiment: A Study of Non-Resident Copyright Protection, *Journal of Korean Law*, Vol.3, No.2 (2003) pp.193-207

Session 11: Monday, February 11, 2008

International relations and public international law

- Yoon-Ho Alex Lee, *Criminal Jurisdiction under the U.S.-Korea Status of Forces Agreement: Problems to Proposals*, 13 *JOURNAL TRANSNAT'L L. & POL'Y* 213 (2003) pp.213-49

Session 12: Wednesday, February 13, 2008

Private international law

- Kwang Hyun Suk, *New Conflict of Laws Act of the Republic of Korea*, *JOURNAL OF KOREAN LAW*, VOL.1, NO.2 (2001) pp.197-223

Midterm break: February 18 to 22, 2008**IV. Student Presentations****Session 13: Monday, February 25, 2008**

Class presentation I

Session 14: Wednesday, February 27, 2008

Class presentation II

V. Issues in Korean law**Session 15: Monday, March 3, 2008**

The role of law in the economic development and democratization

[*Course paper proposals due.]

- Kwang Shik Shin and Seung Wha Chang. *The Role of Law and Legal Institutions in Asian Economic Development: The Case of Korea; Patterns of Change in the Legal System and Socio-Economy*. (1998)

Session 16: Wednesday, March 5, 2008

Transitional Justice - Jeju 4.3, Kwangju, and thereafter

- Tae-Ung Baik, *Justice Incomplete: The Remedies for the Victims of Jeju April Third Incidents*, Gi-Wook Shin et al. ed., RETHINKING HISTORICAL INJUSTICE AND RECONCILIATION IN NORTHEAST ASIA: THE KOREAN EXPERIENCE (2007) pp.94-113

Session 17: Monday, March 10, 2008

Corporate Governance Reform

- Ok-Rial Song, *The Legacy of Controlling Minority Structure: A Kaleidoscope of Corporate Governance Reform in Korean Chaebol*, 34 Law & Pol'y Int'l Bus. 183 (2002) pp.183-245
- Jooyoung Kim and Joongi Kim, *Shareholder Activism in Korea: A Review of How PSPD Has Used Legal Measures to Strengthen Korean Corporate Governance*, JOURNAL of Korean Law V.1 No.1 51 (2001) pp.51-76

Session 18: Monday, March 12, 2008

Fights against Corruption

- In Sup Han, *A Dilemma of Public Prosecution of Political Corruption*, Recent Transformations in Korean Law and Society (2000) pp.363-376
- Craig P. Ehrlich and Dae Seob Kang, *Independence and Corruption in Korea*, 16 Colum. J. Asian L. 1 (2002) pp.1-69

V. Laws of North Korea

Session 19: Monday, March 17, 2008

North Korean Constitutional Law

- Dae-Kyu Yoon, *The Constitution of North Korea: its changes and implications*, 27 Fordham Int'l L.J. 1289 (2004) pp.1289-1305
- Constitution of DPRK, 1998

Session 20: Wednesday, March 19, 2008

N. Korean criminal law: crimes and penal system

- Criminal Code of DPRK (2004)

Easter Monday: Monday, March 24, 2008 – No class

Session 21: Wednesday, March 26, 2008

N. Korean business law: Opening up of North Korean economy and its market-related laws

- Eric Yong-Joong Lee, *Development of North Korea's Legal Regime Governing Foreign Business Cooperation: A Revisit Under the New Socialist Constitution of 1998*, 21 NW. J. INT'L L. & BUS. 199 (2000) pp.199-242

Session 22: Monday, March 31, 2008

North Korean Human Rights

- Dinah PoKempner, Tae-Ung Baik, and Mike Jendrzeczyk, *Invisible Exodus*, Vol. 14, No. 8 (C) (2002)
- David Hawk, *The Hidden GULAG Exposing North Korea's Prison Camps* (2003)

VI. The Future of Korean Law**Session 23: Wednesday, April 2, 2008**

Legal exchange and judicial reform

- Jae Won Kim, The Ideal and the Reality of the Korean Legal Profession, 2 Asian-Pacific L. & Pol'y J.45 (2001) pp.45-68
- Jae Won Kim, Transnational Legal Practices, Dae-Kyu Yoon ed., Recent Transformations in Korean Law and Society (2000) pp409-429

Session 24: Monday, April 7, 2008

Unification and Korean law

- Jong Hoon Lim, Constitution-Making of Unified Korea: An Institutional Analysis with Special Reference to the Legislative Process, S.J.D. Dissertation, Georgetown Univ. Law Center, 1994, Korean Law in the Global Economy, Bak Young Sa pp. 244-284 (1997)

VII. Conclusion**Session 25: Wednesday, April 9, 2008**

Conclusion- Korea and the future of Asia

[*Course papers due on Friday, April 11, 2008: A paper copy as well as an electronic copy via email should be submitted.]

Readings are subject to additions or deletions which are announced in class.