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Legacy of Modern Chinese History:
Its Relevance to the Chinese Perspective of
the Contemporary International Legal Order

Li Zhaojie*

MODERN Chinese history represents a broad spectrum of earth-shaking and kaleidoscopic changes in the nation-building process. In the space of one and a half century, China was reduced from a 'Middle Kingdom' at the center of the universe to a semi-colonial society at the hands of foreign imperialism; then it emerged as an independent republic and eventually becomes a major world power. Concomitant with such great changes was the radical and yet fundamental transformation of the Chinese perception of world order from the Sino-centralism¹ based on Confucian culturalism² into modern Chinese nationalism embracing

* LLB, Peking University (China); LL.M, UC Berkeley (USA); SJD, University of Toronto (Canada). The author currently serves as a co-editor-in-chief of the Chinese Yearbook of International Law and a vice president of the Chinese Society of International Law. All the points of this article represent the personal view of the author.

1 For a long time in history, geographical barriers kept the whole region of East Asia separate from the West. To Westerners, East Asia was a remote and seemingly inaccessible land at the end of the earth. Even today, in the European parlance, 'the Far East' still remains in common use. However, the Chinese did not perceive their world the same way the Westerners did. The Far Eastern region in Chinese eyes became *Tianxia*, literally, 'all under Heaven', of which China perceived itself to be the very center. Thus, China's name, *Zhongguo*, denoted a sense of 'the central country' or Middle Kingdom which embraced the whole world known to it. Such traditional Chinese perception of its place in the world is what Western historians have meant by the term, 'Sinocentrism', which is used to characterize traditional China's relations with other nations generally. Of course, China's self-image as the center of the world is a false idea in modern geographical terms. Throughout history, however, such idea accorded closely with the facts of East Asian experience, and had seemed to be reinforced by practical reality. See Li Zhaojie, *International Law in China: A Legal Aspect of the Chinese Perspective of World Order*, SJD thesis at the University of Toronto, at 9-11.

2 Confucian culturalism, known also as Confucianism, is not a religion. Instead, it is a school of political and ethical philosophy founded by Confucius (551-479 BC) and his disciples. As it was reinstated in the Western Han dynasty (206 BC-24 AD) as the state ideological orthodoxy, Confucianist cosmopolitan outlook became integrated into the practical aspects of social and political life in China and formed the most dominant political and cultural force in shaping the traditional Chinese view of world order. See, John King Fairbank, 'A Preliminary

Chinese Customary Law

The purpose of the application of Chinese customary law is to protect the interest of the Chinese immigrants. There are five areas of the application of chinese customary law which are polygamy, customary marriage ceremony, divorce, charitable trusts and adoption.

1) Adoption

Traylor J had laid down the principle of adoption which Chinese custom is founded on patriarchal families and clans and the dominant motive for adoption of a son is to ensure that the family ancestor worship will be duly carried on.

In the case of Tan Kui Lim v Lai Sin Fah, the respondent who is the son of Madam Chang Shok Moi, applied for an order declaring the adoption of her grandson by the said Madam Chang Shok Moi to be null and void. The judge held that the adoption of the grandson by the grandmother in this was void and the court could not enforce the transaction, which was vitiated with illegality.

In the case of Lee Seang Neoh v Low Hin Tuan, two sons were adopted to him during his lifetime by a secondary wife and two others after his death by the principal wife. The judge held that the adoptions were not lawful or true adoptions according to Chinese law and custom, and therefore, the four persons concerned did not acquire the status or right of natural or lawful sons.

2) Charitable trust

Charitable trust is an irreversible trust established for charitable purposes. A charitable trust also allows a donor to set assets aside for one or more charities.

In the case of Choa Choon Neoh v Spottiswoode, the testator stated that the rents and profits of his land should be expended on certain ceremonies sin chew. The judge held that the the will is void as being in perpetuity, and not a charity.

In the case of Re Yap Kwan Seng, a trust for Chinese ancestral worship or for a family burial ground was held not to be of public, religious or charitable use. The trust was further held to be void from the beginning as offending the rule against perpetuities.



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China's State Council approves establishing of two districts in Sansha City

Source: Xinhua | 2020-04-18 18:34:07 | Editor: bnasta



BEIJING, April 18 (Xinhua) — The State Council has recently approved the establishment of two districts in Sansha City, Hainan Province, according to a notice issued Saturday by the Ministry of Civil Affairs.

The Xisha District administers the islands and reefs of Xisha Islands and their adjacent waters, and serves as the acting administrative body for the islands and reefs of Zhongsha Islands and their adjacent waters, according to the notice. The district government is stationed on Yongxing Island.

The Nansha District administers the islands and reefs of the Nansha Islands and their adjacent waters. The district government is stationed on Yongshu Reef, said the notice. Enditem

Chinese customary marriage in malaysia. Chinese customary law in malaysia pdf. Chinese customary law in malaysia.

Malay and Aboriginal customary law are recognized as sources of law in Malaysia. The question was whether or not the Native Court had jurisdiction to determine a matter of inheritance. Native Court of Appeal District Officers Court Native Court High Court Judge Relevant District Officer Native Chief 14. Online gaming companies have three months to comply with the real-name registration requirement for new users, and six months to comply for existing users. In December 2017, national practice was updated for a further set of 2 countries [15]. In July 2014, national practice was updated for a set of 9 countries [8]. Online gamers in China will have to begin registering with their real names due to new government regulations that took effect on Sunday. In Sarawak, it is codified in the Undang-Undang Mahkamah Melayu (Laws of the Malay Courts) Comes under the administration of the Syariah Courts. 21. Mohammedan law was applied but only as adopted and modified by native customary law and by the provisions of local Ordinances. Non-native customary law – Chinese customary law 9. Discuss these requirements. Hedges CJ: “the customs of the natives of Sarawak, and the natives of Sarawak must belong to one of the races considered indigenous to the colony and enumerated in the schedule to the Interpretation Ordinance. The Chinese are not indigenous to this country and Chinese customary law is not “native law”.“ 22. Native Court of Appeal Resident’s Native Court Chief’s Superior Court Chief’s Court Headman’s Court Judge with Assessors Resident with Assessors Magistrate with Assessors Temenggong / Pemancar with Assessors Penghulu with Assessors Headman with Assessors 13. Translations into English are, unless otherwise indicated, unofficial. The regulations also state gaming companies must develop ways to ensure minors will play the games in a healthy manner. Malay customary law was applied as part of the native customary law. (15 marks) 26. Cases: Abang Haji Zaini v Abang Haji Abdul Rahman (1951) Re An Application of Sipang bin Lagong 12. But while the regulations call for new restrictions geared for minors, they also require that online game companies begin implementing a real-name registration system for all users, both new and existing. The practice part can be accessed in three ways: This part of the database is only available in English. The applicant must first satisfy that he/she is a native (anak negeri) before the court may resume jurisdiction. (a) in relation to Sarawak, a person who is a citizen and either belongs to one of the races specified in Clause (7) as indigenous to the State or is of mixed blood deriving exclusively from those races; and 4. Upon divorce, half went to descd and the other half to his second wife. Native Courts (Criminal Jurisdiction) Act 1991 Section 2: Any offence punishable with imprisonment for a term not exceeding two years or with a fine not exceeding five thousand ringgit or a combination thereof or to deal with the offender in any other manner in which, under or by virtue of any such law, they may from time to time be empowered to deal, (9 marks) Even as the effectiveness of the regulations is drawing doubt, some online gamers say the regulations will still have a positive impact on the youth. Chinese customary laws were applicable so long as they are recognised by legislation but no further. This can protect them from playing too much,” said Li Ling Zuo, a Tsinghua University student. “I don’t think it will be a problem. The new regulations follow the government’s efforts to clean up online games in the country and to control their influence over children. However, Chinese customary law of succession had long been recognised by Sarawak courts even though the Chinese were not regarded as ‘native’ to Sarawak. But analysts say the new regulations will have their limits, especially when it comes to implementing a real-name registration system. In November 2021, national practice was updated for another country [25]. In July 2018, national practice was updated for a further set of 2 countries [18]. It contains sample public-private partnership (PPP) agreements and concessions, checklists and sample clauses, terms of reference, risk matrices, standard bidding documents developed by government agencies and sample PPP and sector legislation and regulation. Rhe regulations state that companies must restrict the gaming time of minors, but they do not specify how this monitoring should occur. The director of China’s State Council Information Office delivered a speech in April that said the government wants to make an Internet real-name system a “reality as soon as possible,” according to a text of the speech obtained by the group Human Rights in China. In the past authorities have worked to tone down the violent content in some games while also calling for companies to cut down on how long users can play. 23. “I think these regulations will have no effect at all,” he said. The regulations state that users must provide their real names, ID number and contact information. (5 marks) During the British administration of the Straits Settlements and the Malay States, Chinese customary law was judicially recognised in matters of marriage, divorce and inheritance. In June 2016, national practice was updated for a further set of 5 countries [11]. In August 2016, international practice from 2 international courts was updated until the end of 2013 [13]. “Every time something like this introduced, there is always some way around it,” Natkin said. E.g. Adoption Ordinance (Sarawak) expressly acknowledges that its provisions are not in accordance with Hukum Syarak. (c) any person who is ordinarily resident in Sabah, is a member of the Suluk, Kagayan, Simonol, Sibutu or Ubian people or of a people indigenous to the State of Sarawak or the State of Brunei, has lived as and been a member of a native community for a continuous period of three years preceding the date of his claim to be a native, has borne a good character throughout that period and whose stay in Sabah is not limited under any of the provisions of the Immigration Act... 8. Native Customary Law — Harta Sepencarian — Dissolution of Marriage — Order for division of harta pencarian made by Native Officer’s Court — No appeal brought from decision of Native Court — Action brought in High Court — Proceedings stayed Court refused to decide a case which was pending the outcome of the appeal against the decision of the Native Officer’s Court in Kuching. Content of the 2005 study and the updates of the database’s practice part: The printed version of the study, published in 2005, includes international material and national practice up to the end of 2002, all of which has been incorporated in this online database. Kai expects children wanting to play the games will be able to find available ID numbers on the Internet or get them from their parents without their knowledge. Native Courts in Sabah and Sarawak will hear cases involving “natives”. Subject matter of dispute must be a native matter (listed in the State enactment or ordinance). In December 2019, national practice was updated for another country [21]. Descd was married 3 times. (b) in relation to Sabah, a person who is a citizen, is the child or grandchild of a person of a race indigenous to Sabah, and was born (whether on or after Malaysia Day or not) either in Sabah or to a father domiciled in Sabah at the time of the birth. 10. In May 2018, national practice was updated for a further set of 4 countries [17]. Explain. 6. In November 2014, national practice was updated for a further set of 5 countries [10]. It was held that it did not as inheritance was not one of the topics under the Native Court Ordinance. But if it’s really troublesome to register with these games, I won’t want to play,” he added. “A lot of children like to play online games. In December 2018, national practice was updated for a further set of 2 countries [19]. Provided that it not be exercised in respect of such offence which is also an offence under the Penal Code. In September 2021, national practice was updated for a further set of 2 countries [24]. Upon his death, the third wife (defendant) used his share to pay for funeral expenses and transferred to their child. Rules. A mixture of Malay adat and Islamic law. The court acknowledged that native customary rights were exercised by the plaintiffs and their ancestors in the disputed area. (8 marks) 24. 19. In July 2019, national practice was updated for another country [20]. China’s Shanda Interactive Entertainment, a popular online game operator, echoed that sentiment saying the company expects no loss in revenue since it is already in compliance. It is updated on a regular basis, with the most recently incorporated material marked in green . For a custom to be valid and operate as a source of law, it must fulfil certain requirements. 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Now the government wants to better control that, making it a “game of cat and mouse” between authorities who issue the new rules and the users who are finding ways to get past them, he added. 16. In December 2016, national practice was updated for a further set of 2 countries [14]. In December 2020, national practice was updated for December 2018, national practice was updated for a further set of 2 countries [19]. Provided that it not be exercised in respect of such offence which is also an offence under the Penal Code. In September 2021, national practice was updated for a further set of 2 countries [24]. Upon his death, the third wife (defendant) used his share to pay for funeral expenses and transferred to their child. Rules. A mixture of Malay adat and Islamic law. The court acknowledged that native customary rights were exercised by the plaintiffs and their ancestors in the disputed area. (8 marks) 24. 19. In July 2019, national practice was updated for another country [20]. 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