

CALS SEMINAR SERIES: CHINESE LAW

12 January 2014, Monday ✦ 12.30pm – 2.00pm ✦

Lunch will be provided

Lee Sheridan Conference Room, Eu Tong Sen Building

LENIENCY IN CHINESE CRIMINAL LAW?

EVERYDAY JUSTICE IN HENAN

By Professor Benjamin Liebman

Columbia University

ABSTRACT

This article examines one-year of publicly available criminal judgments from one basic-level rural county court and one intermediate court in Henan Province in order to better understand trends in routine criminal adjudication in China. I present an account of ordinary criminal justice in China that is both familiar and striking: a system that treats serious crimes, in particular those affecting state interests, harshly while at the same time acting leniently in routine cases. Most significantly, examination of more than five hundred court decisions shows the vital role that settlement plays in criminal cases in China today. Defendants who agree to compensate their victims receive strikingly lighter sentences than those who do not. Likewise, settlement plays a role in resolving even serious crimes, at times appearing to make the difference between life and death for criminal defendants. My account of ordinary cases in China contrasts with most western accounts of the Chinese criminal justice system, which focus on sensational cases of injustice and the prevalence of harsh punishments.

The evidence I present provides insight into the roles being played by the Chinese criminal justice system and the functions of courts in that system. This article also provides empirical evidence that contributes to debates on a range of other issues, including the relationship of formal law to community norms in Chinese criminal justice, the roles of witnesses and lawyers, the function of appellate review, and how system confronts and handles a range of high profile topics. My findings also contribute to literature on courts in authoritarian regimes and the evolution of authoritarian transparency. This article provides a base for discussing the future of empirical research on Chinese court judgments, demonstrating that there is much to learn from the vast volume of cases that have in recent years become publicly available in China.

ABOUT THE SPEAKER

Benjamin Liebman is a Professor of Law at Columbia University. His scholarship focuses on the evolution of China's legal institutions, the role of China's media and the development of the Chinese legal profession and public interest bar. He is fluent in Mandarin and has spoken on a range of topics relating to China's legal development in the US and in China. Notably, in 2012, Professor Liebman delivered a speech on judicial review and the harmonization of legislation across local and central governments at a symposium organized by the Legislative Affairs Commission of the National People's Congress.

Professor Liebman's recent publications include (1) "Malpractice Mobs: Medical Dispute Resolution in China," (Columbia Law Review, 2013), (2) "A Populist Threat to China's Courts?" in "Chinese Justice: Civil Dispute Resolution in Post-Reform China" (Cambridge University Press, 2011) and (3) "Changing Media, Changing Courts?" in "Changing Media, Changing China" (Oxford University Press, 2011).

Prior to joining the Columbia faculty in 2002, Benjamin Liebman was an associate in the London and Beijing offices of Sullivan & Cromwell. He also previously served as a law clerk to Justice David Souter and to Judge Sandra Lynch of the United States Court of Appeals for the First Circuit.



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Admission is Free & Lunch is Provided

Closing date of registration is 8 January 2015