

Guiding Spirit to Shipping Industry

Sagar Sandesh

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Insight into China through Comparative Law Analysis of Invisible Factors and Contexts - Common Law v. Chinese Law

by Author Dr. (Capt.) Vivek Jain



Dr. (Capt.) Vivek Jain



Indian Mariner, Dr. (Capt.) Vivek Jain's book on China has been riding high on waves and is available on various online platforms in India and abroad. The book has at one time attained 16th rank on Amazon UK website in its category. The full title of the multi-disciplinary book is "Insight into China through Comparative law Analysis of Invisible Factors and Contexts - Common Law v Chinese Law." This book is for anyone interested to understand China deeply, particularly for people involved in International Trade, negotiators, defence personals, maritime stakeholders and so forth. This is probably the first book in the world that has analysed the law in action in the Chinese courts with civil justice process in the background. Civil justice Process, in fact, represents the evolution and progress in any society and often called 'mirror image of society'.

China is becoming important trading and economic power. People need to know Chinese law and how the common people think. By reading a little news story is not the way to understand any country, in particular, China, which is quite different from common law countries (such as India, England, the

US, Singapore, Australia and so forth), European countries, African countries and even South American countries. China, the economic powerhouse, is on the mind of many in 21st century due to projects such as Belt & Road Initiative ("BRI") and probably the dispute-resolution system for projects under BRI. The author has included fair amount of description of steps taken by China in the last few decades to achieve economic miracle that the globe has been watching.

The main theme of the book is to understand China. Law both written and practiced represents the advancement of society in any jurisdiction. In addition, the law written in books in any country is different from law in action as practised in courts in any jurisdiction. The law is practiced via judges in these courts. However, judges in any jurisdiction think in a particular way, in particular, with regard to their discretionary power, this thinking becomes very important and critical.

Thinking of the judges in any jurisdiction will depend on **invisible factors and contexts** such as culture, history philosophy, legal jurisprudence, a concept of justice & procedural fairness, legal history, evolution of law, current

political philosophy and political setup. However, in order to understand a very different philosophy or culture, it is better to compare something that can be understood.

The comparison is exactly what the author tried in this book by comparing common law with Chinese law including its evolution and philosophy over the last

3 centuries. Therefore, in this book, a fair amount of comparison could be found in debates of legalists that believe the written law should be a final authority, and humans are bound to commit crimes due to greed with Confucians who believe in innate goodness and harmony in society. These concepts have been compared with thoughts of HLA Hart and others from common law countries. The readers will find it entertaining that in a few common law countries, there exist realists that believe that judges bring their personal thought process and how does it compare with Chinese philosopher's view.

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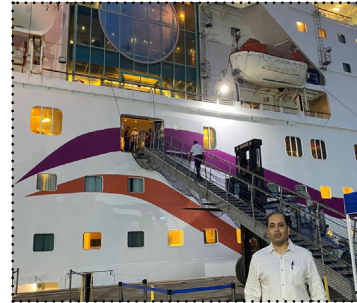
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A particular focus of the book has been on the concept of discretionary power of the judges and even their willingness to exercise those powers, civil procedure law and its practice and so forth. The same discretionary power is also available to bureaucrats in almost all jurisdictions, so this issue is very relevant. In fact, Chinese law is nearer to German law in the last decade though after the Communist revolution, it was following more Communist and Marxist ideology. However, some remnant of Marxist system is still strong, where judges and their performance in courts are supervised by Procuratoratesystem that's run in parallel to the judicial system and judiciary is answerable to the legislature in China. All such unique points are discussed in the book in scholarly fashion.

The author of this book himself has a unique professional history. After graduating with B.Sc. (Nautical Sc.) in prestigious T.S. Rajendra College of

Nautical Science (India), where he obtained First Class with Distinction, he had also sailed on merchant vessels and completed his Master Mariner Certificate of Competency (unlimited) from UK with an award. Thereafter, he became a Barrister in England & Wales and is currently working as a Legal Consultant at a firm in Singapore, where he assists its world-wide clients with arbitration, legal and claim matters. He has previously worked for a few years at law Chambers and a law firm in London along with a few years as a lawyer at the marine insurance provider in London and Shanghai. He has also worked as a Senior Lecturer at University of Plymouth in UK for a few years teaching law to graduate and postgraduate students. He studied Ph. D in International Law in first ranked University for Law in China and did many modules on Chinese Law to understand deeply before he could compare Chinese law with Common Law.

Kanoo Shipping, first agent in India to vaccinate on board cruise vessel at Mumbai port- Capt. Amresh Jha



First agent in India to vaccinate on board cruise vessel and also first to do at Mumbai port. Indeed a great moment of pride and satisfaction.

While **Kanoo Shipping India** continues to vaccinate seafarers pan Indian Ports. Our perseverance to vaccinate seafarers at Mumbai port finally became reality on 27th Sept. We added one more feathers to our cap by becoming the first agency house to vaccinate on board crew at Mumbai Port.

This is also proud moment for all of us as we became the first agent in India to vaccinate

on board CORDELIA Cruise Vessel "Empress" at Mumbai International Cruise terminal on 27th Sept.

I take this opportunity to thank **BMC, Medical officer Dr. Prajakta Sundeep Amberkar, Mumbai Port Chairman Shri Rajiv Jalota (IAS), Mumbai Port, PHO,** Our Team and all concerned for making this successful.

Kanoo shipping operates in 20 countries and in all principal ports and offshore tanker loading terminals around the Arabian Peninsula, including Iraq. In addition to its fully owned offices

and joint ventures across the Arabian Gulf, **Kanoo Shipping has established its own offices in India** and Southern Africa operating a regional network through well-established partnerships in North & West Africa, The Levant region, Yemen, Pakistan and Sri Lanka.

Heartfelt thanks to our customer Waterways Leisure for the opportunity and gratitude to Ships crew for their hospitality. Thanks to all involved for all the support. Hard work and never give up always gives fruitful results. With Gratitude, **Capt. Amresh Jha, Director-Kanoo Shipping India.**

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