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Abstracts from the Comparative and Asian Law Interest Group

A review of Australia's shareholder model of corporate governance: balancing regional versus free trade paradigms

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Abstract

Whilst the recently enacted Free Trade Agreement between Australia and the US will no doubt further embed US-style practice in Australia, initially at least, the conundrum is that at this same time, greater regard needs to be given to alternative, regionally located models of corporate governance. This pits US shareholder, contractarian governance squarely against communitarian or 'stakeholder' governance, the best known example of which, in the region at least, is that of Japan. In this sense, the Free Trade influence exerted by the US will compete with regional, trade based governance issues promoted by Japan. For Australia it will involve navigating a path between adopting US values, on the one hand, or exerting a greater geographic and regional influence, on the other, by demonstrating a preparedness to develop Australian governance beyond the narrow, Anglo-US historical prism.

Islamic Law: should it be taught in Australian Law Schools and how?

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Abstract

A decade ago, a course on Islamic law would have been deemed irrelevant and 'out of place' in an Australian Law School curriculum. But today, courses on Islamic law can be found in the elective offerings in some Australian law schools. The paper looks at the factors that have fuelled this development and assesses whether there is value in Australian lawyers of the 21st century having awareness and some understanding of the central tenets and concepts of Islamic law. This paper shares the experiences of two of the pioneers of Islamic law courses in Australia and reflects on the outcomes for students who have undertaken these courses. It also outlines and evaluates the different teaching methodologies and approaches that were employed. From this, insight may be gained as to whether Islamic law – as a comparative course or as content integrated into core courses – has any prospect of attaining an accepted place in the Australian law curriculum.

Corporate Culture with Chinese Characteristics: Preliminary Analysis of Findings from Major Chinese Corporations' Websites

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Abstract

The vast majority of larger business enterprises in Mainland China now have corporate websites. While not as forthcoming about enterprise finances as their Australian counterparts, many of these corporate websites do provide substantial useful information in Chinese about the business objectives, corporate structure, management style, and operations of the featured enterprises. Some also include English pages briefly summarizing the Chinese contents. Almost without exception, websites of larger Chinese corporations also include a "Corporate Culture" link. Judging by these links, Chinese "corporate culture" (qiye wenhua) encompasses not only the corporations' mission and values, but also content that Australian corporations would normally include under a Corporate Social Responsibility (CSR) report – philanthropy, community involvement, corporate citizenship, environmental awareness, etc. In this paper I synthesize the "corporate culture" content of several dozen websites of major Chinese enterprises – both state-owned and "private". I trace the uniform spread of corporate culture in China to governmental soft policy directives aimed at combating immoral corporate behaviour. I argue that such extra-legal influence on corporations' internal decision-making and allocation of funds is one of many ways that the Chinese government continues to exert control over Chinese businesses, no matter how independent their ownership structure might appear to be.

The Criminalisation of the Falun Gong: A Case Study in Chinese Law-Making

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Abstract

This paper considers a very important aspect of Chinese law-making, that being the issuing of judicial interpretations by the Supreme Court. Such interpretations, it is contended, must be considered as law and therefore must conform with notions of a "rule of law". The Chinese government's campaign against the Falun Gong is considered in light of the role of the Supreme Court and issues of legality.