

Rule of law in China?

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Law in China

- Confucius = Li (ritual)
- Legalists = Fa (formal rules)
- Republic of China 1912-1949 = Law as a part of the quest for modernisation of China
- People's Republic of China 1949-1979 = Law as a form of bourgeois hegemony
 - Mao: Only a limited room for socialist law in China
- Opening up after 1979
 - Deng: Also law is needed to build up the New China
- Today – China in 21st Century?

Rule by men v rule by law

- Public law = Constitution, Administrative law, etc.
- Criminal law = traditional means of social control
- Private Law = Building Chinese socialist market economy (also) with law
- Law is seen as a (new) tool for governance
 - Law shall not be used as a "troublemaker" against social harmony
 - China does need judicial review of administrative decision but vice versa administrative review of judicial judgments
- Rule by law is not (yet?) rule of law
- The position of Chinese Communist Party?

Summary – China and European lawyers

- Modern China is becoming a legal culture on its own
- Chinese Legal System is a mixture (“hybrid”) of Civil Law and Common Law but above all “law with Chinese characteristics”
- “The Rise of the Rest” has taken place in economy – and it will take place gradually also politically and legally
- Chinese law is too important to be left for Chinese lawyers only