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Chinese Law Authority Visiting on Faculty

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Chinese Law Authority Visiting on Faculty

Communist China provides a fair system of law for the vast majority of its people in spite of few lawyers, few laws, and a formal legal system which has not yet been fully developed.

This is the opinion of Victor Hao Li, a visiting professor this term at the University of Michigan Law School.

Professor Li, a native of Hong Kong and a graduate of Columbia Law School, has done extensive research on the law in Communist China. His research has included a trip to Hong Kong to interview refugees and explore Communist Chinese publications.

He also said that criminal punishment in Communist China is, on the whole, more lenient than that of the United States. "Rehabilitation is highly regarded in China," he said, "and a criminal is directed toward self-criticism of his political and personal misdeeds. Although prisoners are constantly engaged in this self-criticism and endless study sessions, prison sentences are light. The system is linked to the Chinese and Communist concept of the perfectibility of man."

"Even in the case of capital crimes,"

he continued, "most criminals are not shot immediately, but are given a year in which to correct the fault that led to the crime. If this happens, and it seems to frequently be the case, the prisoner's sentence is commuted to imprisonment."

Professor Li, who will be teaching part of a class in comparative Russian and Chinese law this term and a course on Chinese law exclusively next term, said that until 1958 Communist China had attempted to install a formal legal system much like that of the Soviet Union.

Partly because of the political rift with the Soviet Union and partly because the system was not working satisfactorily, the Chinese seem to have discontinued this attempt.

The legal procedure is now simple, as it must be if it is to be administered by the poorly educated old revolutionaries who serve as judges. Part of the reason that the system works is that these judges have empathy with the peasants who come before them.

There are a few laws relating to marriage, counter-revolution and labor but most cases are handled individually and are not serious, explained Professor Li. The removal of private property eliminates a great many possible legal problems, and leaves most cases matters of "people not getting along."

Most cases, in fact, do not get beyond the local mediator of the neighborhood committee. If the people involved do not agree on the mediation, and they often do not, the case can be taken to a higher level government district office.

Professor Li emphasized that while the "poor man gets a better shake," perhaps 15 per cent of the people are considered "enemy" and not deserving of the protection of the law.

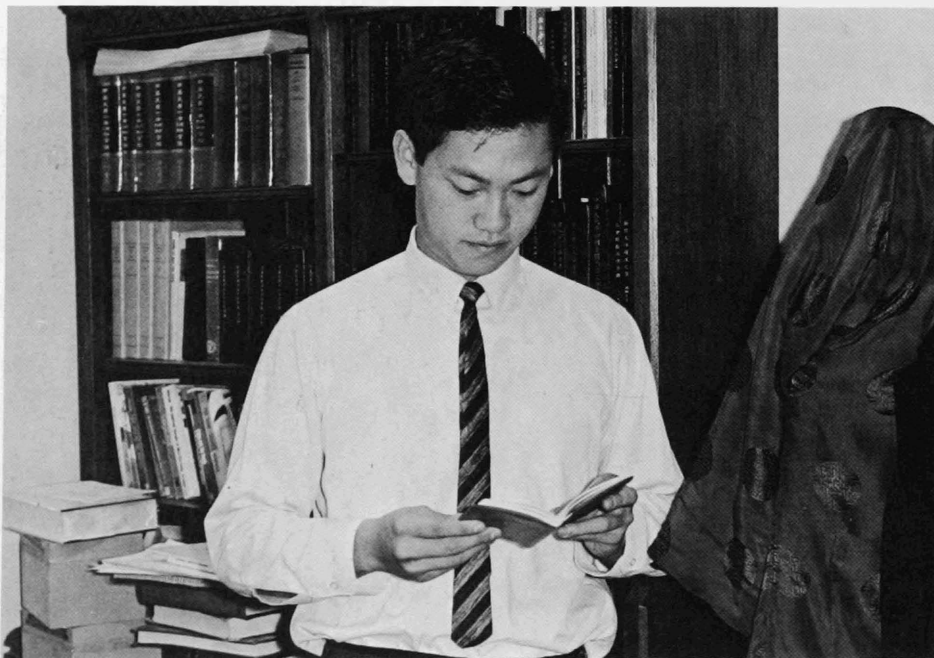
Enemies are defined for political as well as for criminal reasons, he explained. "A former official under the Nationalists or a former rich peasant, landlord, or capitalist would fall into this category. This stigma can even extend to their children under the weak presumption that they might be counter-revolutionary because of their bad class background."

Professor Li said that when a person is finally convicted of a crime he can be sentenced either to reform-through-labor or to the more lenient re-education-through-labor. Various forms of control can also be imposed under which the criminal is let out under supervision. In such a situation, all of one's neighbors know of the control and can constantly watch and advise the criminal. A still more lenient punishment involves public or private criticism of the offender.

Professor Li believes that the Communist Chinese can continue to operate without a formal legal system, but that more complex laws will arise in economic areas. He believes a body of economic rules is developing. These laws are needed to handle questions involving delivery of products, production deadlines, and availability of materials.

Historically, he concluded, China has never had a viable formal legal system. The formal Nationalist system was too complex to penetrate beyond the large cities. Before the Nationalists, there was a harsh, formal code administered by regional magistrates who represented a literate aristocracy. Traditionally, people did not go to the magistrate unless they had to and disputes were settled by elders, clans, or guilds.

Professor Li came to the United States in 1947 at the age of 6 and was naturalized in 1957.



Professor Victor Hao Li