An invitation to Faculty & Guests

WORKS-IN-PROGRESS SERIES
sponsored by the WSRSL Faculty Professional Development Committee

“Circumstances that Would Prejudice Impartiality”: The Meaning of Fairness as Expressed in Japanese Jurisprudence

Articles 23 and 24 of Japan’s Code of Civil Procedure provide for disqualification of judges and for direct party challenges to judges’ involvement in cases. As these provisions directly implicate fairness and impartiality of judges, appellate decisions addressing them provide a unique window into the judiciary’s understandings of those concepts and the underlying principles at stake.

A recent piece, Civil Justice and the Constitution: Limits on Instrumental Judicial Administration in Japan, 20 PAC. RIM. L. & P. J. 265 (2011) (http://ssrn.com/abstract=1653992), explored the legal context of how judicial administration in Japan may adversely impact the fairness of civil proceedings. While broadly drawing from constitutional text and history, statutory text, and case law, the work plainly originated from fairness values inherent in the author’s personal views.

Thus, this paper aims to follow-up on the work in Civil Justice and the Constitution. Using a narrow focus on a finite set of appellate decisions, the paper looks to uncover and contemplate the explicit and intentional voices of Japanese judges expressing the meaning of fairness in the judicial process when resolving concrete disputes among litigants.

Professor Mark Levin is a WSRSL School of Law faculty member and a key Pacific-Asian Legal Studies specialist. Highlights of his diverse, Japan-focused research publications include smoking and tobacco regulation, legal education, and the legal circumstances of race and indigenous peoples in Japan. Currently engaged in a multi-year research project focusing on judicial administration and procedural justice in Japan, this presentation introduces the second of three works (the first is noted above), and expands upon a paper delivered last month at the East Asian Law and Society Conference 2011, “Dialects and Dialectics: East Asian Dialogues in Law and Society,” Yonsei University, Seoul.

DATE: Thursday-November 17, 2011
TIME: Noon - 1:30 pm
LOCATION: Room 254

RSVP with Josie Danielson (ahching@hawaii.edu), by Monday, November 14, 2011.
A light lunch will be provided. Limited Seating.