

SPECIAL ISSUE INTRODUCTION

Stigmatisation, identities and the law: Asian and comparative perspectives

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Impressive growth in Asia, as one of most dynamic regions in the world, sometimes happens at the expense of marginalisation. Individuals who do not fit normative ideals, who are deemed economically unproductive or who do not participate in heterosex-centred reproduction are often regarded as different, even deviant, and come to take on or are given identities that are marginalised. These include, but are not limited to, people with physical or intellectual disabilities, the elderly, gender and sexual minorities, never-married parents or unmarried people. Stigmatisation can be pronounced in homogenous or insular societies and communities that use ‘culture’ and ‘tradition’ as a justification to extract conformity. It can also appear where the self-sufficiency of individuals and heterosexual, biological and nuclear families is touted as a moral virtue that aligns with neoliberal and anti-welfare ideologies.

Against this backdrop, we sought papers that would speak to the theme of this Special Issue. We were interested in the processes of stigmatisation involving a range of interactions and relationships, including being treated as burdensome and unproductive members of society, or regarded as a threat to the social order, as well as social processes in which those who are stigmatised respond to such treatment by coming up with strategies, taking action or deciding not to take action. How do these processes emerge and transform, and what do they look like? How do people respond to differential treatment based on their stigmatised identities at home, at work or against state authorities? How are they protected or persecuted under the law and what forms of recourse do they have? What do these experiences tell us about the manner in which law matters to identities, human relationships and social life?

In collaboration with David Engel (SUNY Buffalo, Law), Rosie Harding (University of Birmingham, Law) and Sida Liu (University of Toronto, Sociology and Law), we first put out a call for workshop papers. We received forty submissions, out of which we chose fifteen. Although we had planned to hold the workshop in person in June 2020 at the National University of Singapore, we converted the workshop to an online event due to the coronavirus disease (Covid-19) outbreak. At the workshop, the authors received feedback from an online audience around the world, engaged in conversation with one another and received feedback from us and our three collaborators.

In the end, six of the authors moved forward with the Special Issue with this Journal. Together, these authors cover a wide range of stigmatised identities: from the more conventional ‘blemishes of character’ attributes as described by Goffman, such as sex workers, sexual minorities and ethnic minorities, to people whose identities push the boundaries of how we conceptualise stigma, such as elderly prisoners and female international arbitrators.

Although our reference to ‘stigmatisation’ is inspired by Erving Goffman, we did not require the authors to draw extensively from Goffman’s *Stigma: Notes on the Management of Spoiled Identity* (1963) or subsequent scholarship that built on his work in any particular manner. Nevertheless, their analyses of stigma and the processes of stigmatisation help to bring light to the plight of marginalised identities in different parts of Asia and advance the scholarship on stigma and stigmatisation in the Global South.

The Special Issue starts with Qian Liu's intriguing paper on 'leftover' women in China – a term that denotes women who remain unmarried past their late twenties. Drawing upon the concept of legal consciousness, Liu studies how queer and heterosexual women strategically use the law to navigate legal and social discrimination. According to Liu, some of these women engage in sham marriages to placate strong societal expectations, or what she calls 'buying a license to be deviant' – using financial success as a means to offset the negative stigma attributed to an unmarried status. Other women in her study – those who have lower social and financial status – carry out 'identity-hopping', jumping from one stigmatised identity to another as a way to deal with stigma.

Mana Takahashi builds on the issue of strong gendered expectations in Asia by researching male sex workers in Japan who cater mainly to gay clients. Male sex work is currently not recognised under Japanese law and male sex workers are not subject to control, regulation, punishment or protection. Meanwhile, male sex workers experience double stigmatisation – the stigma associated with homosexuality and that associated with commercial sex. Using in-depth interviews and a life-history method, Takahashi examines how legal silence affects the stigmatisation process and the doubly stigmatised identity of male sex workers in Japan.

Harry Tan shifts the focus of the Special Issue to the topic of unequal development in a rapidly transforming region. Exploring the phenomenon of 'rough sleepers' – or those who choose to sleep on the streets – in Singapore, one of the world's wealthiest nations that prides itself on high-quality public housing and that criminalises rough sleeping, Tan also draws upon the legal consciousness framework to research how these individuals understand, experience and act in relation to the law. Through in-depth interviews, participant observation and life histories, Tan paints an intricate picture of how rough sleepers form an identity in contravention of the law, actively resist harsh stigmas but, in the process, prevent the building of trust and open communication between rough sleepers, volunteers and the state.

Carol Lawson explores the issue of poverty as well, but this time in the context of Japan, where prisons are increasingly forced to admit elderly prisoners who are often incarcerated for petty offences in a criminal justice system that strongly favours diversionary and reintegrative strategies. Lawson argues that crimes in these cases are only partly attributed to poverty and are driven more by loneliness, marginalisation and anxiety. In this context, elderly Japanese who are already socially excluded and stigmatised due to age, divorce or strained relations with family choose to break the law to seek the protection, purpose and camaraderie in prison.

Next, Maggie O'Brien's paper returns to a traditionally stigmatised group, namely ethnic minorities, and, specifically in her case, the Chakma tribal communities that span the border between India and Bangladesh. O'Brien explores how the Chakma, an indigenous and refugee community, pushes for recognition and against marginalisation, while at the same time extracts privileges in 'weak' and 'strong' legally pluralist states. She argues that, in Bangladesh, weak state recognition and 'strong' legal pluralism encouraged the Chakma to reject the colonially derived status of being 'backwards'. Conversely, in India, the Chakma's constitutionally recognised status and the country's 'weak' legal pluralism where customary and state legal institutions run in parallel meant that Chakma communities turned inward and internalised the backwardness stigma to gain further political recognition.

The final paper in this Special Issue introduces an unlikely stigmatised group in international commercial arbitration. Based on semi-structured interviews conducted across five international arbitration jurisdictions in Asian and elsewhere, Umika Sharma explores the nuances of gender-based stigmatisation in an unexpected group of prestigious arbitral appointments at the highest echelons of international arbitration law firms. Sharma argues that elite female professionals devise innovative strategies to minimise the effects of gender inequality on their professional lives and do such an expert job at it that the stigmatisation is rendered nearly invisible.

Coincidentally, five out of the six authors are junior scholars who are at advanced stages of their PhD or in their early post-doctoral years. Most of them are writing their first socio-legal paper, if not one of their first scholarly papers, for this Special Issue. We are delighted and proud to feature these papers, which push the boundaries of what we know about stigma and their social processes in Asia.

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Reference

Goffman E (1963) *Stigma: Notes on the Management of Spoiled Identity*. Englewood Cliffs, NJ: Prentice-Hall.