

# AP<sup>®</sup> COMPARATIVE GOVERNMENT AND POLITICS

## 2008 SCORING GUIDELINES

### Question 7

**6 points**

**Part (a): 2 points**

One point is earned for each correct description of reforms to the legal system in China in the past two decades. Acceptable descriptions include:

- Refinements to civil law and criminal law.
- Some autonomy for the courts.
- Creation of new types of courts (local, specialized).
- Establishment of commercial law, contract law, property rights.
- Requirements for judges.
- Establishment of law schools and more lawyers.
- Allocation of monies for reform of the legal system.
- Establishment of legal advisory offices.

**Part (b): 2 points**

One point is earned for each correct explanation of reasons for legal reforms. Acceptable explanations include:

- The state's desire to promote and enhance international trade and investments.
- International pressure surrounding high-profile events like the Olympics.
- Development of market mechanisms (capitalism) in China that require codified laws and procedures.
- Domestic pressure for the rule of law from citizen groups in China.
- The need to meet requirements in order to join the World Trade Organization (WTO).

Note: Simply stating "capitalism" without an explanation that links it to law and legal codification does not earn a point.

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**Question 7 (continued)**

**Part (c): 2 points**

One point is earned for each correct description of important features of the Chinese legal system that have not changed in the past two decades. Acceptable descriptions include:

- The party controls the law, the courts, and the legal system.
- No judicial review.
- High rates of conviction.
- High rates of incarceration.
- Use of capital punishment.
- The burden of proof is on the defendant, not the state.
- Courts are inquisitorial, not adversarial.
- *Guanxi*—connections.

Note: Just mentioning or defining the rule of law is not sufficient to earn a point.

A score of zero (0) is earned for an attempted answer that earns no points.

A score of dash (—) is earned for a blank or off-task answer.

- a) China's legal system has changed to include courts that hear civil cases, not just criminal cases. Also, defendants are now guaranteed a lawyer, so cases are more fair. This prevents the government from punishing people completely at whim.
- b) China's economy demands foreign investment, but ~~foreigners~~ <sup>westerners</sup> were hesitant to enter the country to open a business with such little protection. Now that they are safe and can sue in a civil case if necessary, they are more willing to enter the Chinese economy. Also, reforming the legal system reduced the mistrust of the government. Following great protests at Tianemen Square, the ~~the~~ government is being pragmatic, or practical, by returning this small reform to ease the anger of protestors.
- c) Despite certain changes to the legal system, the fact remains that China's courts do not have great power. With a government dominated by a general secretary, the courts cannot enforce their decisions. The legislators or general secretary can pass legislation over the courts, and they have no way to check the power of either branch. Furthermore, the courts still have not been granted the power of judicial review. They have no way of challenging legislation or keeping laws within the scope of the Constitution. This has not changed in the past 20 years.

In the past two decades, China has made significant reforms to the legal system. ~~Previously~~ Previously, trials were mere pretenses and only served to explain charges to the indicted.

Once accused of a crime, the person was immediately perceived as guilty, ~~and not given a~~ and did not receive a chance to prove their innocence.

With recent reforms, the Chinese government has allowed more lawyers to defend the actions of the accused, and ~~an~~ an accusation is no longer synonymous with a guilty sentence. The Chinese government also provides extreme sentences for ~~lesser~~ lesser crimes. In the past two decades, the Chinese government has reformed and begun to lessen the severity of the punishments.

One reason these reforms have come about has to do with the government's efforts to lessen social unrest. By making the judicial system in China more fair, the Chinese government, and the Communist Party, maintain power and legitimacy.

7 B<sub>2</sub>

Write in the box the number of the question you are answering on this page as it is designated in the exam.

Another reason for the reforms lies in China's recent economic successes. With a more capitalist and open market, Chinese citizens are pushing for more social liberties as well.

~~Reforming the judicial system~~  
Reforms on the judicial system came about as ~~concurrent~~ other areas in China's society begin to change.

One area of the Chinese legal system that has not changed is the role of the Communist party. The Communist Party controls all aspects of the government, including the judicial branch. Any arrest, decision, or indictment must directly agree with the Communist ideology.

Those that speak out against the government are still subject to face time in court and receive punishments for their dissent. While these types of cases may have lessened slightly throughout China's history, dissent against the government still remains a

Write in the box the number of the question you are answering on this page as it is designated in the exam.

7 B<sub>3</sub>

sexual crime,

a) One of the reforms to the Chinese legal system has been the formation of a four-tiered judiciary, including the National People's court, and three more levels of court for the subnational governments. Another reform has been the formation of the people's procuratorate to represent the people's needs within the legal system.

b) The rule of law, which was not an important part of Mao's regime, has become necessary for the CCP to retain order within China. There is also the need for a better representation of the people's rights in the face of the government.

c) Despite these reforms, the legal system still does not perform any judicial review ~~on~~ the government's policies. Also, the courts still rule in favor of the government more often than in favor of the people.

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## 2008 SCORING COMMENTARY

### Question 7

#### Overview

Economic reforms have led to major legal reforms in China. Question 7 was designed to test students' knowledge of such reforms in the past two decades by asking them to: (a) identify two reforms to the Chinese legal system in the last two decades; (b) explain two reasons the reforms have occurred; and (c) identify two important features of the legal system that have *not* changed in the past two decades.

#### Sample: 7A

**Score: 6**

In part (a) the response earned 1 point for describing the creation of new courts in the past two decades: "... to include courts that hear civil cases." The response earned a second point in part (a) for describing a change to China's civil and criminal law: "defendants [*sic*] are now guaranteed a lawyer, so cases are more fair."

In part (b) the response earned 1 point for explaining international investment as a reason reforms to the legal system have occurred: "China's economy demands foreign investment, but Westerners were hesitant to enter the country to open a business with such little protection. Now that they are safe and can sue in a civil case if necessary, they are more willing to enter the Chinese economy." The response earned a second point for explaining internal pressure as a reason reforms to the legal system have occurred: "reforming the legal system reduced the mistrust of the government. ... the government is being pragmatic, or practical, by returning this small reform to ease the anger of protestors."

In part (c) the response earned 1 point for stating that the Communist Party still controls the Chinese legal system, a feature that has not changed in the past two decades: "the fact remains that China's courts do not have great power. With a government dominated by a general secretary [party position], the courts cannot enforce their decisions." The response earned a second point for explaining that "the courts still have not been granted the power of judicial review," which is another feature of the Chinese legal system that has not changed in the past two decades.

#### Sample: 7B

**Score: 4**

In part (a) the response earned 1 point for describing refinements to criminal law as a reform to the legal system in China in the past two decades: "With recent reforms, the Chinese government has allowed more lawyers to defend the actions of the accused."

In part (b) the response earned 1 point for explaining social pressure as a reason for judicial reform in China: "One reason these reforms have come about has to do with the government's efforts to lesson social unrest. By making the judicial system in China more fair, the Chinese government, and the Communist Party, maintain power and legitimacy." The response earned a second point for explaining development of market mechanisms as a reason for judicial reform in China: "Another reason for the reforms lies in China's recent economic successes. With a more capitalist and open market, Chinese citizens are pushing for more social liberties as well."

In part (c) the response earned 1 point for explaining that "[o]ne area of the Chinese legal system that has not changed is the role of the Communist [P]arty. The Communist Party controls all aspects of the government, including the judicial branch."



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**Question 7 (continued)**

**Sample: 7C**

**Score: 2**

In part (a) the student earned 1 point for describing the creation of local courts as a reform to the legal system in China in the past two decades: “three more levels of court for the subnational governments.”

In part (b) the student did not earn any points for explaining two reasons that reforms to the legal system in China have occurred.

In part (c) the student earned 1 point for describing one feature of the legal system in China that has not changed in the past two decades: “the legal system still does not perform any judicial review.” The student did not earn a point for describing bias in the judicial system as a feature of the legal system that has not changed in the past two decades: “the courts still rule in favor of the government more often than in favor of the people.”