

**City University of Hong Kong**

**Information on a Course  
offered by School of Law  
with effect from Semester A in 2014/2015**

**Part I**

**Course Title:** Constitutional and Administrative Law of China

**Course Code:** LW6121C

**Course Duration:** One semester

**Credit Units:** 3

**Level:** P6

**Medium of Instruction:** Predominantly Chinese (Putonghua)

**Prerequisites:** Nil

**Precursors:** Nil

**Equivalent Courses:** LW6121C and LW6121E are equivalent courses.

**Exclusive Courses:** Nil

**Part II**

**Course Aims**

This course aims to introduce the historical and ideological background of the constitutional and administrative law of the PRC and give students a specialized knowledge of the actual working of the legal system of the PRC from the constitutional and administrative law perspectives. It gives students a thorough knowledge of the legislative process of the PRC and enables them to understand the dynamics behind the rapidly changing constitutional and administrative law of the PRC.

## Course Intended Learning Outcomes (CILOs)

*Upon successful completion of this course, students should be able to:*

No.	CILOs	Weighting (if applicable)	Alignment of CILOs with PILOs	
			Stream	PILO No. Contributed to
1.	Identify and describe the legislative powers and functions of the National People's Congress and the Local People's Congresses.		CCL	1,2,3
2.	Critically analyse problems of illegality and unconstitutionality of governmental action with particular reference to official action which affects the rights and liberties of the citizens.		CCL	1,2,3,4
3.	Compare and contrast the Basic Law with the legal and constitutional framework of the PRC.		CCL	1,2,3,4

## Teaching and Learning Activities (TLAs)

*(Indicative of likely activities and tasks designed to facilitate students' achievement of the CILOs. Final details will be provided to students in their first week of attendance in this course)*

CILO No.	TLAs	Hours/week (if applicable)
CILO 1-3	Seminar/Lecture format. Case Studies will be used and comparisons with other legal systems will be encouraged. Student presentation and seminars, discussions and small workshops, mock Legco discussions.	3 hours/week or a total of 39 hours of block teaching

## Assessment Tasks/Activities

*(Indicative of likely activities and tasks designed to assess how well the students achieve the CILOs. Final details will be provided to students in their first week of attendance in this course)*

AT No.	Type of Assessment Tasks/Activities	Weighting (if applicable)	CILO Assessed	Remarks (exam duration, etc)
AT 1	Coursework	50%	1/2/3	
AT 2	Examination	50%	1 - 3	3 hours

Students are required to attend at least 70% of the classes (lectures, seminars, presentations). If a student does not meet this requirement, he/she may be disqualified for assessment.

Students must obtain a minimum mark of 40% in both coursework and examination and an overall mark of 40% in order to pass the course.

**Grading of Student Achievement:** Standard (A+, A, A-...F). Grading is based on student performance in assessment tasks/activities.

## Part III

### Keyword Syllabus

Constitutional Law, Administrative Law, People's Republic of China, National People's Congress, Local People's Congress, Basic Law, Illegality of Governmental Action, Unconstitutionality of Governmental Action, Party System, Human Rights, Provincial Legislation, Legislative Process, Civil Obligations.

## Detailed Syllabus

1. Historical and ideological background of constitutional and administrative law of the PRC. Developments before and after 1949. Comparisons with developments in other civil law countries.
2. Basic concepts of the constitutional law of the PRC: Theories of constitutional law; relationship between constitutional law and socialist legality; the position and the role of the Communist Party under the Constitution; nature and classification of the Constitution.
3. Nature of the State: Unified, federal or confederal system; autonomous regions; special administrative regions; future developments; the organisation of the PRC government; the relationship between Legislature, Executive and Judiciary; role of the Army.
4. Election System: Election of the delegates of the Legislature—the National and Local People’s Congress; Election of members of the State Council and the local government; the Party system.
5. Civil obligations and political rights of citizens: Socialist concept of citizen rights and human rights; White Paper on Human Rights; international standards on human rights; realities and expectations.
6. Legislative process: Law making bodies—National People’s Congress and Local People’s Congress, State Council. Hierarchy of law—Constitution, national legislation, ordinary legislation, administration regulation, provincial legislation, departmental order etc. Functions of the National People’s Congress—Law making, interpretation and supervision of law, supervision of the Constitution. Comparison of the Chinese legislative process with that of other civil law countries.
7. Concepts of administrative law: Procedural and substantive law; comparison with other civil law systems and the common law system; Role of administrative law; Administrative Procedure Law, origin of the petition right to sue the government.
8. Administrative review system; administrative liability.
9. Administrative compensation and the State Compensation Law.
10. Case studies; administrative cases concerning foreign interests.

## Recommended Reading

### Text(s)

Lin Feng, Constitutional Law in China, (Hong Kong: Sweet & Maxwell Asia, 2000)

Albert H.Y. Chen (ed), Constitutionalism in Asia in the early twenty-first century, Cambridge ; New York : Cambridge University Press, 2014

Qianfan Zhang, The constitution of China : a contextual analysis, Oxford ; Portland, Oregon : Hart Publishing, 2012

Xu Chongde, Niu Wenzhan, Constitutional law in China, Alphen aan den Rijn, The Netherlands : Kluwer Law International, 2013

Randall R. P. Peerenboom, China's long march toward rule of law, (Cambridge: Cambridge University Press, 2002)

Lin Lai-fan, From constitutional norm to normative constitution (从宪法规范到规范宪法: 规范宪法学的一种前言), (Beijing Shi: Fa lü chu ban she, 2001)

Mark Tushnet, Advanced introduction to comparative constitutional law, Cheltenham, UK : Edward Elgar, 2014

Rosalind Dixon & Tom Ginsburg (ed), Comparative constitutional law in Asia, Cheltenham, UK ; Northampton, MA, USA : Edward Elgar, 2014

Durga Das Basu, Comparative constitutional law, Gurgaon, Haryana, India : LexisNexis Butterworths Wadhwa Nagpur, 2008

Vicki C. Jackson, Mark Tushnet, Comparative constitutional law, New York : Foundation Press, 1999

Tom Ginsburg and Rosalind Dixon, Comparative constitutional law, Cheltenham, UK; Northampton, MA : Edward Elgar, 2011

Michel Rosenfeld and András Sajó, The Oxford handbook of comparative constitutional law, Oxford, U.K. : Oxford University Press, 2012

Shen Zong-ling, Comparative Constitutional Law (比较宪法: 对八国宪法的比较研究), (Beijing University Press, 2002)

Han Dayuan, Constitutional History of Modern China (新中国宪法发展史), (Hebei People's Press, 2000)

Han Dayuan, Study of Chinese Constitutional Events (中国宪法事例研究), (Beijing Shi: Fa lü chu ban she, 2005)

Lin Feng, Administrative law: procedures and remedies in China, (Hong Kong: Sweet & Maxwell Asia, 1996)

James P. Brady, Justice and Politics in People's China, (London: Academic Press 1982)

Derk Bodde/Clarence Morris, Law in Imperial China, (Cambridge; Mass: Harvard University Press, 1967)

Paul Heng-chao Ch'en, Chinese Legal Tradition under the Mongols, (Princeton University Press, 1979)

Wang Guiguo/John Mo (ed.), Chinese Law, (Kluwer Law International, 1999)

Michael W. Dowdle, *'The Constitutional Development and Operations of the National People's Congress'*, Columbia Journal of Asian Law, Vol. 11, Spring 1997, No. 1, pp. 1-125

Stanley B. Lubman, A Bird in a Cage: legal reform in China after Mao, (Stanford University Press, 1999)

Albert Hung-yea Chen, An Introduction to the Legal System of the People's Republic of China, (Hong Kong: Butterworths Asia, 1998)

Jerome Alan Cohen/R. Randle Edwards/Fu-mei Chang Chen, Essays on China's Legal Tradition, (Princeton University Press, 1980)

Ch'ien, Tuan-sheng: The Government and Politics of China, (Stanford University Press, 1970, reprint of Harvard University Press, 1950)

T'ung-Tsu Ch'u, Law and Society in Traditional China, (Hyperion Press, Inc., 1980)

Du Xichan/Zhang Lingyuan: China's Legal System: A General Survey, (New World Press, China, 1990)

Huang Huikang: Introduction to China's Law & Politics, (Wuhan University Press, 1990)

Joseph D. Lowe, The Traditional Chinese and Legal Thought, (Berkeley, Calif, 1984)