

LW6123E: CHINESE CRIMINAL LAW AND PROCEDURE

Effective Term

Semester B 2024/25

Part I Course Overview

Course Title

Chinese Criminal Law and Procedure

Subject Code

LW - Law

Course Number

6123E

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

LW6123C and LW6123E are equivalent courses.

Exclusive Courses

Nil

Part II Course Details

Abstract

This course aims to introduce the laws and regulations relating to criminal liabilities and procedures in the PRC from a comparative perspective. It will provide a general understanding of the nature and function of criminal law and procedures in China. It will enable students to build up the basic skills necessary for both the recognition of and the solution of criminal problems in the PRC.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	Identify, analyse and critically explain the main substantive rules of PRC criminal law, principles of criminal liability, criminal proceedings and sentencing guidelines in the PRC.	30		x	x
2	Analyse and critically evaluate: - issues and concerns in the field of criminal law - the operation of the substantive rules of criminal law: the practical implications of the rules and criminal offences within the PRC's criminal justice process in their social contexts - Issues and concerns in the field of criminal procedures.	35		x	x
3	Apply the principles of criminal law to solve legal problems by: - researching issues of criminal law and procedures - analysing and resolving problems concerning issues of criminal law and proceedings and - communicating their solutions orally or in writing clearly, coherently and accurately in their own words and in plain language. - differentiate and compare the basic rules and principles in Hong Kong with those in the PRC.	35	x	x	x

A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

LTAs	Brief Description	CILO No.	Hours/week (if applicable)
1	Lectures / seminars Lectures/seminars - Reading of cases and other material, and independent research. - Students will acquire knowledge of the substantive rules of PRC criminal law and procedures. Seminars by the instructor - Students will be given guidance on their reading and research for their seminars and presentations. - Students will, by responding to questions and performing exercises, develop their analytical and critical capabilities, discuss important issues of liability pertaining to topics covered in the syllabus. - Instructor will introduce students to issues, concerns and aspects of the operation of the substantive rules of criminal law. Preparation for seminars - Students will research issues of PRC criminal law and procedures. Presentations Students will give presentations on selected topics in which they will scrutinise, analyse and evaluate issues and concerns in the field.	1, 2, 3	3 hours/week or a total of 39 hours of block teaching

Assessment Tasks / Activities (ATs)

ATs		CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Coursework and presentation will test students' ability to research, analyse and critically evaluate some issues and problems in the field of PRC criminal law and procedures.	2, 3	50	The use of Generative AI tools is not allowed.

Continuous Assessment (%)

50

Examination (%)

50

Examination Duration (Hours)

3

Additional Information for ATs

E: The use of Generative AI tools is not allowed.

Applicable to students admitted from Semester A 2022/23 to Summer Term 2024

Students must obtain a minimum mark of 50% in both coursework and examination and an overall mark of 50% in order to pass the course.

Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter

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.

Assessment Rubrics (AR)**Assessment Task**

Coursework and presentation (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Demonstration of understanding of concepts, principles, and theories.

Demonstration of ability to identify legal issues.

Application of knowledge to specific legal problems, to discuss questions, and to comment on legal phenomenon.

Application of legal writing and research skills.

Demonstration of ability to engage in argument-based analysis based on critical thinking.

Demonstration of aptitude for formulating innovative solutions to designated fact-based questions.

Demonstration of oral presentation skills and willingness.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

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Demonstration of understanding of concepts, principles, and theories.

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(B+, B) Significant

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(B-, C+, C) Moderate

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Assessment Task

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Part III Other Information

Keyword Syllabus

Criminal Liability; Criminal Procedure; general principles of criminal law; single crime or multiple crimes; completed crimes and attempted crimes; necessity; self-defence; various crimes and relevant punishments; police power; establishment of a criminal case; criminal jurisdiction; criminal trial; People's Assessors; reform of criminal procedures.

Detailed Syllabus

- a. An introduction to criminal liability and criminal procedures
The nature and purpose of criminal law and procedures in PRC; substantive justice v. procedural justice; crime control v. due process; the nature and scope of the criminal law and procedures in PRC.
- b. General principles of criminal liability
The elements of criminal liability; the meaning of subjective and objective elements; the meaning of object and subject elements; the special requirement of subject in PRC criminal law.
- c. Parties to crime
Principals and secondary parties; intention and knowledge of secondary parties.
- d. Preliminary offences
Conspiracy; preparation, attempt; withdrawal from crime.
- e. Defences
Duress; necessity; intoxication; insanity; self-defence.
- f. Various offences

Specific crimes will be discussed and necessary comparisons will be made.

- g. Police power
The position of the police within the criminal justice process; search; arrest; detention; pre-trial interrogation; administrative power.
- h. Procuratorate's discretion
Supervision of police work; decision to prosecute; relationship with the court; investigation done by the procuratorate; the special function of procuratorate in the PRC.
- i. Criminal trial
Procedure; criminal jurisdiction; the function of judges; People's Assessors.
- j. The function of lawyers
Lawyers in the PRC; the position of criminal lawyer; relationship with the police; lawyers' powers and restrictions; the image of criminal lawyers.
- k. Punishments
Custodial sentences, community correction, fine, deprivation of political rights and mitigation.

Reading List

Compulsory Readings

Title	
1	Nil

Additional Readings

Title	
1	Gao Mingxuan and Ma Kechang, Criminal Law (Xingfa Xue), (Beijing University Press and Higher Education Press, 2007)
2	Long Zongzhi and Yang Guangjian, Criminal Procedural Law (Xingshi Susong Fa), (Beijing University Press and Higher Education Press, 2007)