

LW6124E: CHINESE LEGAL HISTORY AND LEGAL THOUGHT

Effective Term

Semester B 2024/25

Part I Course Overview

Course Title

Chinese Legal History and Legal Thought

Subject Code

LW - Law

Course Number

6124E

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

LW6124C and LW6124E are equivalent courses.

Exclusive Courses

Nil

Part II Course Details

Abstract

This course aims to introduce the study of Chinese legal history and legal thought through which the current Chinese legal system has developed.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if DEC-A1 app.)		DEC-A2	DEC-A3
1	Demonstrate a sound knowledge of the evolution of the Chinese legal system, the various schools of legal thought and the characteristics of the Chinese legal system in various periods of history.			x	
2	Analyse and compare historical approaches to Chinese and English laws.			x	x
3	Be competent to use the knowledge acquired through the course for further independent research or in the academic field.		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	Lecture/seminar	- Preparation outside the class is required Lecture/seminar— Chinese legal history and legal thought form a vital core of the study of Chinese law. This subject is also important for the examination of the current legal system and legal reforms. Students will be required to do the essential readings to be chosen by the lecturer and expected to participate actively in class discussions.	1, 2, 3	3

Assessment Tasks / Activities (ATs)

ATs		CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Coursework	1, 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

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 (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.

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)

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.

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(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.

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(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

Coursework (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Demonstration of understanding of concepts, principles, and theories.

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

Application of legal writing and research skills.

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

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Examination (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Demonstration of understanding of concepts, principles, and theories.

Demonstration of ability to identify legal issues.

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(B-, C+, C) Moderate

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(F) Inadequate

Part III Other Information

Keyword Syllabus

Chinese legal history; Chinese legal thought; theocracy; patriarchal system; Confucius; Mohists; Taoists; Legalists; Feudalism; Reformists.

Detailed Syllabus

- a. An overview of Chinese legal history and legal thought and its main themes.
- b. Legal thought and legal system in the early period:
The origin of Chinese law; theocracy and patriarchal system in the Xia, Shang and West Zhou Dynasty; the legal system in the slave society of Xia, Shang and West Zhou.
- c. Legal thought of the Confucians and the Mohists:
The "one hundred schools of thought" during the Period of Spring and Autumn and the Warring States Period; the legal thought of the Confucian school; the legal thought of the Mohist school.
- d. Legal thought of the Taoists and the legalists:
Law reform during the Period of Spring and Autumn and the Warring States Period; the legal thought of the Taoist school; and the legal thought of the legalists.
- e. The legal system of the Qin Dynasty and orthodox feudal legal thought:
The legal system of the Qin Dynasty; the legal system of the Han Dynasty; the legal thought of the Huang school in the early Han Dynasty; and the legal thought of feudalism.
- f. The legal systems of the Wei, Jin and Northern and Southern Dynasties:
The legal systems of the Wei, Jin and Northern and Southern Dynasties; and Confucianization of the law.
- g. The legal systems of the Sui and Tang Dynasties:
The legal systems of the Sui Dynasty, Tang Code, and legal thought in the early Tang Dynasty.
- h. The legal systems of the Song, Yuan, Ming and Qing Dynasties; the legal thought of the confucian school of Idealist Philosophy of the Song and Ming Dynasties.
 - i. The legal thought of the enlightenment thinkers in the transition period of the Ming and Qing Dynasties.
 - j. The legal thought of the reformists and Westernizers of Modern Times.
- k. The legal thought of Western countries in Modern Times.
 - l. Sen Jia Ben and law reform in the late Qing Dynasty.

- m. Conflicts between Confucianism and legalism in legislation during the late Qing Dynasty.
- n. Evolution of Chinese law and related issues.
- o. A comparison of historical approaches to Chinese and English law.

Reading List

Compulsory Readings

Title	
1	Nil

Additional Readings

Title	
1	Anatol M. Kotenev, Shanghai: Its Mixed Court and Council: material relating to the history of the Shanghai Municipal Council and the history, practice and statistics of the International Mixed Court, (Buffalo, N.Y.: Wm. S. Hein, 1987)
2	Anthony Frangois Paulus Hulsewé, Remnants of Han Law, (Leiden: E.J. Brill, 1955)
3	Ch'uT'ung-Tsu, Law and Society in Traditional China, (Westport; Connecticut: Hyperion Press, Inc., 1980)
4	Committee on Chinese Law and Custom in Hong Kong, Chinese Law and Custom in Hong Kong, (Hong Kong: Government Printer, 1953)
5	Derek Roebuck, The Background of the Common Law, 2nd ed., (Hong Kong: Oxford University Press, 1990)
6	Derk Bodde, Law in Imperial China, (Cambridge: Harvard University Press, 1967)
7	Fu-shun Lin, Chinese Law: Past and Present: a Bibliography of Enactments and Commentaries in English Text, (New York: East Asia Institute, Columbia University, 1966)
8	Harbans Singh Bhatia/Tan Chung, eds., Legal and Political System In China, (New Delhi: Deep & Deep Publications, 1974)
9	Heng-chao Paul Ch'en, Chinese Legal Tradition under the Mongols, (Princeton, N.J :Princeton University Press, 1979)
10	Jerome Alan Cohen, Essays on China's Legal Tradition, (Princeton, N.J :Princeton University Press, 1980)
11	John Henry Gray, China: A History of the Laws, Manners, and Customs of the People, (Mineola, N.Y.: Dover Publications, 2002)
12	Ming Philip Chen, Law and Justice: the Legal System in China 2400 B.C. to 1960 A.D., (New York: Dunellen Publishing Co., 1973)
13	Sybille Van der Sprenkel, Legal Institutions in Manchu China: a Sociological Analysis, (London, Athlone P.; New York: Humanities P. Athlone, 1962)
14	The T'ang Code, (Princeton: Princeton University Press, 1979-1997)