

City University of Hong Kong
Course Syllabus

offered by School of Law
with effect from Semester B 2022/23

Part I Course Overview

Course Title:	Public Law of the PRC
Course Code:	LW3610
Course Duration:	One Semester
Credit Units:	3
Level:	B3
Medium of Instruction:	English
Medium of Assessment:	English
Prerequisites: <i>(Course Code and Title)</i>	NIL
Precursors: <i>(Course Code and Title)</i>	NIL
Equivalent Courses: <i>(Course Code and Title)</i>	LW5613 Public Law of the PRC
Exclusive Courses: <i>(Course Code and Title)</i>	NIL

Part II Course Details

1. Abstract

The legal system of the People’s Republic of China is closely intertwined with the Hong Kong legal system under the “one country-two system” constitutional arrangement. This course examines the constitutional and institutional arrangements within China, its legal and judicial institutions, state-individual relationship, and the rights and liberties regime. The course comprises three main components: constitutional law, administrative law, and human rights law. The issues we will consider are: the fundamentality of the People’s Congress System, the party-state structure, the meaning of ‘the rule of law with Chinese characteristics’, judicial system and the role of the judiciary, administrative reconsideration and administrative litigation, and the protection of citizens’ rights, as well as the authority of Chinese constitutional institutions over the Hong Kong Special Administrative Region.

2. Course Intended Learning Outcomes (CILOs)

(CILOs state what the student is expected to be able to do at the end of the course according to a given standard of performance.)

No.	CILOs [#]	Weighting* (if applicable)	Alignm ent with MILOs	DEC related learning outcomes (please tick where appropriate)		
				A1	A2	A3
1.	Understand the unique constitutional arrangements within China, and how its legal institutions function.	60%	1-5,7,8	√	√	√
2.	Understand the nature of state-individual relationships, in particular, the protection of citizens’ rights.	20%	1-5,7,8	√	√	√
3.	Understand the administrative reconsideration and litigation mechanisms in China.	20%	1-5,7,8	√	√	√

* If weighting is assigned to CILOs, they should add up to 100%.

[#] Please specify the alignment of CILOs to the Gateway Education Programme Intended Learning outcomes (PILOs) in Section A of Annex.

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 self-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.

3. Teaching and Learning Activities (TLAs)

(TLAs designed to facilitate students’ achievement of the CILOs.)

TLA	Brief Description	CILO No.			Hours/week (if applicable)
		1	2	3	
Lectures	Lecture will be given on theoretical issues; Case studies will be used; Students will be engaged in both theoretical discussion and case analysis.	√	√	√	2 hours per week or a total of 26 hours of block teaching
Tutorials	Contemporary issues relating to Chinese constitutional and administrative law will be discussed during tutorials to deepen students' understanding and application of what they learn in lectures. Develop self-confidence in application of legal principles, advocacy skills and public speaking. Foster students' growth through development of greater intellectual and interpersonal maturity.	√	√	√	1 hour per week or a total of 13 hours of block teaching
Class Presentation	Students will be asked to do short presentations in tutorials.	√	√	√	

4. Assessment Tasks/Activities (ATs)

(ATs are designed to assess how well the students achieve the CILOs.)

Assessment Tasks/Activities	CILO No.			Weighting*	Remarks
	1	2	3		
Continuous Assessment:				50%	
Class presentation & participation (20%) Confidence building and students' maturity.	√	√	√		10% on presentation; 10% on participation.
Coursework (30%)	√	√	√		
Examination: (duration: 3 hours)				50%	
				100%	

* The weightings should add up to 100%.

To pass this course, students must obtain an aggregate mark of 40% and a minimum of 30% in each of the coursework, tutorial participation and class presentation, and end of semester examination. Coursework for this purpose means those ways in which students are assessed otherwise than by the end of session examination.

Students may be required to do class work orally or in writing at different intervals of the course. Students are encouraged to read more materials apart from the reading materials listed for the tutorial to enrich their performance in the class.

The portion of the overall mark allocated to performance/participation in interactive in-class activities will be assessed on the quality of the participation and presentation. Assessment criteria for those activities, their nature and their timing will be set out in the student guide/course manual and will be further expanded upon by the course leader.

To enable the students to obtain full benefit from this course, students should attend all of the classes and activities.

Assessment will be formative to enable students to demonstrate their capacity to understand, analyse and apply rules and principles, and summative to assess ability to synthesise primary and secondary material to solve actual and novel problems.

5. Assessment Rubrics

(Grading of student achievements is based on student performance in assessment tasks/activities with the following rubrics.)

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B, B-)	Fair (C+, C, C-)	Marginal (D)	Failure (F)
1. Coursework	<p>Demonstration of understanding of principles and theories.</p> <p>Application of knowledge to specific issues.</p> <p>Ability to engage in argument-based analysis.</p> <p>Aptitude in formulating original arguments.</p> <p>Confidence building and students' maturity</p>	<p>Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.</p>	<p>Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.</p>	<p>Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.</p>	<p>Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.</p>	<p>Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.</p>
2. Examination	<p>Demonstration of understanding of principles and theories.</p> <p>Demonstration of ability to identify issues.</p> <p>Application of knowledge to specific issues.</p> <p>Ability to engage in argument-based analysis.</p> <p>Aptitude in formulating original arguments.</p>	<p>Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.</p>	<p>Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.</p>	<p>Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.</p>	<p>Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.</p>	<p>Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.</p>

Part III Other Information (more details can be provided separately in the teaching plan)

1. Keyword Syllabus

(An indication of the key topics of the course.)

Political System, Public law and Chinese Legal System

Chinese Constitution and Trajectory of Constitutional Evolution

People's Congress System

Constitutional Amendment and Supervision

Sources of Law and Legislative System

Central-Local Relationship

Judicial System and Its Reform

Development of Administrative Law in China

Administrative Reconsideration/Review System

Administrative Litigation System.

Human Rights Situation, and

Protection of Fundamental Rights and Civil Liberties

2. Reading List

2.1 Recommended Readings

(Compulsory readings can include books, book chapters, or journal/magazine articles. There are also collections of e-books, e-journals available from the CityU Library.)

Books:

Albert H.Y. Chen, An Introduction to the Chinese Legal System (Hong Kong: LexisNexis, 5th edition 2019. xxii + 445 pp)

Qianfan Zhang, The Constitution of China: A Contextual Analysis, (Oxford; Portland, Oregon: Hart Publishing, 2012)

Xu Chongde and Niu Wenzhan, Constitutional Law in China, (The Netherlands: Kluwer Law International, 2013)

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

Jiang Jingsong, The National People's Congress of China (Beijing: Foreign Languages Press, 2003)

Yang Fengchun, Chinese Government (Beijing: Foreign Languages Press, 2004)

The General Affairs Office of the CPPCC National Committee, The Chinese People's Political Consultative Conference (Beijing: Foreign Languages Press, 2004)

Richard McGregor, The Party: The Secret World of China's Communist Rulers (Harper Collins Books, 2010)

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

Lin Feng, Administrative Law: Procedures and Remedies in China (Hong Kong: Sweet & Maxwell Asia, 1996)

Wang Guiguo and John Mo (eds.), Chinese Law (Kluwer Law International, 1999)

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

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

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

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

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

Randall R. Peerenboom, China's Long March toward Rule of Law (Cambridge: Cambridge University Press, 2002)

Randall Peerenboom (ed.), Judicial Independence in China (Cambridge: Cambridge University Press, 2010)

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

Aalt Willem Heringa, Constitutions Compared: An Introduction to Comparative Constitutive Law, 6th ed. (Elven, 2021)

Rosalind Dixon & Tom Ginsburg (eds.), Comparative Constitutional Law in Asia (USA: Edward Elgar, 2014)

Albert H.Y. Chen (ed.), Constitutionalism in Asia in the Early Twenty-first Century (Cambridge; New York: Cambridge University Press, 2014)

Vicki C. Jackson and Mark Tushnet, Comparative Constitutional Law (New York: Foundation Press, 1999)

Tom Ginsburg and Rosalind Dixon, Comparative Constitutional Law (Edward Elgar, 2011)

Michel Rosenfeld and András Sajó, The Oxford Handbook of Comparative Constitutional Law (Oxford, UK: Oxford University Press, 2012)

Mark Tushnet, Advanced Introduction to Comparative Constitutional Law (Cheltenham, UK: Edward Elgar, 2014)

Christine Sypnowich, The Concept of Socialist Law (Clarendon Press, 1990)

Juan J. Linz, Totalitarian and Authoritarian Regimes (Colorado, London: Lynne Rienner, 2000)

Selected Book Chapters and Journal Articles

Zhu Guobin, 'Constitutional Law and State Structure', in WANG Guiguo & John Mo (eds.), Chinese Law (La Hague: Kluwer Law International, 1999, pp. 23-62)

He Xin, 'The Party's Leadership as a Living Constitution in China', Hong Kong Law Journal, No. 1, 2012, pp. 73-94

Wang Shucheng, 'Emergence of a Dual Constitution in Transitional China', Hong Kong Law Journal, Vol. 45, No. 3, 2015, pp. 819-850

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

Tong Zhiwei, 'A Comment on the Rise and Fall of the Supreme People's Court's Reply to Qi Yuling's Case', Suffolk University Law Review, 2010, Vol. 43, p. 671-680

Zhu Guobin, 'Constitutional Review with "Chinese Characteristics": Law, Institutions and Recent Developments', in Ngoc Son Bui, Stuart Hargreaves, and Ryan Mitchell (eds.), Routledge Handbook of Constitutional Law in Greater China (Routledge, 2022, pp. 113-134)

Jiang Shigong, 'Written and Unwritten Constitutions: A New Approach to the Study of Constitutional Government in China', Modern China, January 2010, Vol. 36, No. 1, pp. 12-46

Zhu Guobin, 'Redefining the Central-Local Relationship under the Basic Law – with Special reference to the Law on Regional National Autonomy', in Priscilla MF Leung & ZHU Guobin (eds.), The Basic Law of the HKSAR: From Theory to Practice (Singapore: Butterworths Asia, Aug 1998, pp. 121-138)

Zhu Guobin, 'The Composite State of China under 'One Country, Multiple Systems' – Theoretical Construction and Methodological Considerations', in I.CON - International Journal of Constitutional Law, Vol. 10 No. 1 (2012), pp. 272; Full text: <http://icon.oxfordjournals.org/content/10/1/272.abstract?keytype=ref&ijkey=k1zhSQwBMRfsZs3>

Zhu Guobin, 'Weak Courts, Weak Rights – Assessing the Realization of Constitutional Rights in the PRC Courts', Hong Kong Law Journal, (2013) HKLJ Vol 43 Part 2, pp.713-743

Randall Peerenboom, 'Assessing Human Rights in China: Why the Double Standard?' Cornell International Law Journal, 2005, Vol. 38, No. 1, pp. 72-163

Ming Wan, 'Human Rights Lawmaking in China: Domestic Politics, International Law, and International Politics', Human Rights Quarterly, 2007, Vol. 29, No. 3, pp. 727-753

Zhu Guobin, 'Prosecuting 'Evil Cults': A Critical Examination of Law regarding Freedom of

Religious Belief in Mainland China', *Human Rights Quarterly*, Vol. 32 No. 3, 2010, pp. 471-501
http://muse.jhu.edu/journals/human_rights_quarterly/v032/32.3.zhu.pdf

Zhu Guobin, 'The Right to Minority Language Instruction in Schools: Negotiating Competing Claims in Multinational China', *Human Rights Quarterly*, Vol. 36 No. 3, 2014, pp. 692-721
http://muse.jhu.edu/journals/human_rights_quarterly/v036/36.4.zhu.pdf

Zhu Guobin, 'Deference to the Administration in Judicial Review: Comparative Perspectives', in Guobin ZHU (ed.), *Deference to the Administration in Judicial Review* (Springer, Dec 2019, pp. 1-21)

2.2 Online Resources

Westlaw China

Lexis HK

pkulaw (English version of 北大法寶)

2.3 Additional Readings

(Additional references for students to learn to expand their knowledge about the subject.)

Some other relevant journal articles may be assigned for reading during the term.