

Chinese Legal Culture

Department: Fudan International Summer Session 2024

Course Code	LAWS170005		
Course Title	Chinese Legal Culture		
Credit	2	Credit Hours	36+3 tutorial hours (one credit hour is 45 minutes)
Course Nature	<input type="checkbox"/> Specific General Education Courses <input type="checkbox"/> Core Courses <input checked="" type="checkbox"/> General Education Elective Courses <input type="checkbox"/> Basic Courses in General Discipline <input type="checkbox"/> Professional Compulsory Courses <input type="checkbox"/> Professional Elective Courses <input type="checkbox"/> Others		
Course Objectives	<p>To precisely grasp the basic concepts in Chinese legal culture, such as legalist, penal code, etc.</p> <p>To thoroughly understand the mainstreams of traditional legal thoughts in China.</p> <p>To critically look at contemporary legal phenomena in China.</p>		
Course Description	<p>This course will examine the spirit of Chinese law from a historical perspective, with a particular emphasis on its political context. We will explore the early transition of Chinese politics and law by the 2nd century B.C.E. (including doctrines of Confucian and legalist schools), development and spirits of imperial codes, mechanism of judicial administration in criminal and civil justice, local mediation, and family law.</p>		
Course Requirements:			
This course requires the students' attendance at classes and participation in class discussions.			
Teaching Methods:			
Lecture, presentation, group discussion			
Instructor's Academic Background:			
<p>Prof. SHI Daxiao obtained his undergraduate and postgraduate degrees from Peking University, Ph.D. in Foreign Legal History from Peking University Law School. His research interests include the history of foreign legal systems, the history of Western legal thoughts, and jurisprudence. He has translated classic works of foreign legal history such as <i>European Law: Past and Future: Unity and Diversity in Two Thousand Years</i>, and <i>Common Law Tradition</i>.</p> <p>Email: dxshi@fudan.edu.cn</p>			

Course Schedule:

Part I: Introduction to Chinese Law and Legal Culture (3 hours)

Chronology, in 1 Sources of Chinese Tradition xxvii-xxxiii (Compiled by Wm. T. de Bary and I. Bloom, 1999)

Part II: Confucians v. Legalists (6 hours)

T'UNG-TSU CH'U, LAW AND SOCIETY IN TRADITIONAL CHINA 226-79 (1961)

DERK BODDE & CLARENCE MORRIS, LAW IN IMPERIAL CHINA 17-27 (1967)

WERNER MENSKI, COMPARATIVE LAW IN A GLOBAL CONTEXT 493-593 (2006)

***HE WEIFANG, IN THE NAME OF JUSTICE 40-59 (2012)

Part III: Imperial Codes: from Qin to Qing (6 hours)

DERK BODDE & CLARENCE MORRIS, LAW IN IMPERIAL CHINA 55-75 (1967)

William C. Jones, Studying the Ch'ing Code-The Ta Ch'ing Lü Li, 22 AMER. J. COMP. LAW 330 (1974) THE GREAT QING CODE xi-xxx, 1-28 (William C. Jones trans., 1994)

Brian E. McKnight, T'ang Law and Later Law: The Roots of Continuity, 115 J. AMER. ORIENTAL SOC. 410 (1995)

*** Civil Code in China.

Part IV: Criminal Justice (6 hours)

William P. Alford, Of Arsenic and Old Laws: Looking Anew at Criminal Justice in Late Imperial China, 72 CAL. L. REV. 1180 (1984)

Deng Yushu (1792) Zhang Erhuan et al.(1870) in Derk Bodde & Clarence Morris, Law in Imperial China 251-54, 461-67 (1967)

HUANG LIU-HUNG, A COMPLETE BOOK CONCERNING HAPPINESS AND BENEVOLENCE 251-306 (Djang Chu trans. & ed., 1984)

Shuzo Shiga, Criminal Procedure in the Ch'ing Dynasty, in 32 & 33 MEMOIRS OF THE RES. DEPT. OF THE TOYO BUNKO 1 & 115 (1974, 1975)

***CAO XUEQIN, THE STORY OF THE STONE, CHAPTER 4

Part V: Civil Justice (6 hours)

You Cheng v. You Hongfu (c. 1220), Liu v. Liu (after 1205), Li Bian v. Tang Zhongzhao (after 1232), in The Enlightened Judgments Ch'ing-ming Chi 149-50, 301-02, 316-20 (Brian E. McKnight and James T.C. Liu trans., 1999).

PHILIP C. C. HUANG, CIVIL JUSTICE IN CHINA: REPRESENTATION AND PRACTICE 76-109 (1996) ***MARGARET Y. K.

WOO&MARY E. GALLAGHER: CHINESE JUSTICE (2011)

Part VI: Precedent: A Comparative Perspective (3 hours)

R. Randle Edwards, The Role of Case Precedent in the Qing Judicial Process as Reflected in Appellate Rulings, in UNDERSTANDING CHINA'S LEGAL SYSTEM 180 (C. Stephen Hsu ed., 2003).

Wang Zhiqiang, Case Precedent in Qing China, 19 COLUM. J. ASIAN L. 325 (2005).

***China Guiding Cases Project: <http://cgc.law.stanford.edu>

Part VII: Family Law (6 hours)

T'UNG-TSU CH'U, LAW AND SOCIETY IN TRADITIONAL CHINA 14-127 (1961)

FEI XIAOTONG, FROM THE SOIL 60-79 (1992)

The design of class discussion or exercise, practice, experience and so on:

Group Discussion, presentations, and home exercise

Grading & Evaluation:

1. Attendance (3% per 3 credit hours) and participation (1% per 3 credit hours) in class discussions. Each student will be responsible for leading at least one class discussion (12%). Depending on the number of students this may be done in teams. Leaders for each week need to distribute questions via email the day prior to class. (In a total of this section 60%)
 2. Students need to submit a critique of one topic of readings, approximately 5 pages (double space, 12 font). (40%)
- There will be no make-up test.

Teaching Materials & References:

See it above