Part I

Programme Title: Bachelor of Arts (Honours) in Liberal Studies Education; all undergraduate programmes
Programme QF Level: 5
Course Title: Legal Reforms in Modern China
Course Code: SSC2219
Department: Social Sciences
Credit Points: 3
Contact Hours: 39
Pre-requisite(s): Nil
Medium of Instruction: English
Course Level: 2

Part II

The University’s Graduate Attributes and seven Generic Intended Learning Outcomes (GILOs) represent the attributes of ideal EdUHK graduates and their expected qualities respectively. Learning outcomes work coherently at the University (GILOs), programme (Programme Intended Learning Outcomes) and course (Course Intended Learning Outcomes) levels to achieve the goal of nurturing students with important graduate attributes.

In gist, the Graduate Attributes for Undergraduate, Taught Postgraduate and Research Postgraduate students consist of the following three domains (i.e. in short “PEER & I”):

- Professional Excellence;
- Ethical Responsibility; &
- Innovation.

The descriptors under these three domains are different for the three groups of students in order to reflect the respective level of Graduate Attributes.

The seven GILOs are:
1. Problem Solving Skills
2. Critical Thinking Skills
3. Creative Thinking Skills
1. Course Synopsis
This course aims to enhance students’ understanding of modern Chinese legal system by looking at its historical evolvement. China has been consciously and extensively borrowing from Western legal models since the late Qing era. Using “legal transplantation” as the analytical framework, this course seeks to identify the motives and major driving forces behind the venture of importing and adapting foreign laws into the Chinese context. The first part of the course studies the legal reform efforts carried out by the Qing Court and the Kuomintang (KMT) Government. The second part of the course turns to investigate the post-1949 development. Particularly worth to note is the accelerated legal transplantation in various branches of law following the adoption of the “open-door policy” in late 1970s. Impressive results are achieved in terms of the large quantity of laws enacted and legal personnel trained, but it remains debatable whether China has embraced the fundamental legal concepts that characterize Western legal systems such as the rule of law, judicial independence, natural justice, etc. While the focus of this course is to highlight the historical interplay of indigenous and exogenous influences in the development of Chinese legal system, part of the analysis will be on substantive legal rules (e.g., criminal law, civil law, and commercial law) to provide examples for evaluating the effects of legal transplantation.

2. Course Intended Learning Outcomes (CILOs)

Upon completion of this course, students will be able to:

CILO1 appreciate the usefulness of the theory of legal transplantation in analyzing the diffusion of Western laws and legal thoughts in China.

CILO2 identify major events and personages in the legal history of Modern China.

CILO3 understand the origins and evolution of major Chinese legal institutions.

CILO4 familiarize themselves with the literature and scholarly discussions on significant issues arising in the legal history of Modern China, e.g., the rule of law, constitutional democracy, judicial independence, capital punishment, private ownership, etc.

CILO5 develop a historical-critical attitude in approaching legal problems and articulate persuasive arguments based on solid research.
### 3. Content, CILOs and Teaching & Learning Activities

<table>
<thead>
<tr>
<th>Course Content</th>
<th>CILOs</th>
<th>Suggested Teaching &amp; Learning Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Introduction:</strong></td>
<td>CILO1,2,3,4,5</td>
<td>• Lecture</td>
</tr>
<tr>
<td>• Concept of legal transplantation.</td>
<td></td>
<td>• Class discussion</td>
</tr>
<tr>
<td>• Characteristics of traditional legal values and practices in Imperial China.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Legal reform in late Qing China:</strong></td>
<td>CILO1,2,3,4,5</td>
<td>• Lecture</td>
</tr>
<tr>
<td>• Political collapse and extra-territoriality.</td>
<td></td>
<td>• Class discussion</td>
</tr>
<tr>
<td>• Idea of “Chinese learning for essence, Western learning for application”.</td>
<td></td>
<td>• Analysis of historical documents</td>
</tr>
<tr>
<td>• Constitutional reform and promulgation of laws along the lines of western models.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Legal reform in Republican China:</strong></td>
<td>CILO1,2,3,4,5</td>
<td>• Lecture</td>
</tr>
<tr>
<td>• Westernization of legal system under the guidance of the “Three People’s Principles”.</td>
<td></td>
<td>• Class discussion</td>
</tr>
<tr>
<td>• Collection of the Six Laws, court system and the institutionalization of the legal profession.</td>
<td></td>
<td>• Analysis of historical documents</td>
</tr>
<tr>
<td>• Emergence of modern Chinese jurists.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Legal reform in the People’s Republic of China:</strong></td>
<td>CILO1,2,3,4,5</td>
<td>• Lecture</td>
</tr>
<tr>
<td>• Pre-1949 experience of communist justice.</td>
<td></td>
<td>• Class discussion</td>
</tr>
<tr>
<td>• The short-lived triumph of the Soviet model.</td>
<td></td>
<td>• Analysis of historical documents</td>
</tr>
<tr>
<td>• Open door policy – legal reform for utilitarian and instrumentalist purposes.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Globalization of Chinese law – form or substance?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4. Assessment

<table>
<thead>
<tr>
<th>Assessment Tasks</th>
<th>Weighting (%)</th>
<th>CILO</th>
</tr>
</thead>
<tbody>
<tr>
<td>An essay of 1,000 words on a topic assigned by the lecturer.</td>
<td>40%</td>
<td>CILO1,2,3,4,5</td>
</tr>
<tr>
<td>A Group Research Project Paper of 3,000 to 4,000 words:</td>
<td>40%</td>
<td>CILO1,2,3,4,5</td>
</tr>
<tr>
<td>• Students will be divided into groups of three to four members.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Topics to be chosen by students in consultation with the lecturer.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oral Presentation of the Group Research Project Paper:</td>
<td>20%</td>
<td>CILO1,2,3,4,5</td>
</tr>
<tr>
<td>• Students’ performance will be individually assessed.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

5. Required Text


6. Recommended Readings


曹全來 (2005)。《國際化與本土化：中國近代法律體系的形成》。北京: 北京大學出版社。
侯強 (2005)。《社會轉型與近代中國法制現代化, 1840-1928》。北京: 中國社會科學出版社。
華友根 (2006)。《20 世紀中國十大法學名家》。上海: 上海社會科學院出版社。
張希坡 (2013)。《馬錫五與馬錫五審判方式》。北京: 法律出版社。
張希坡, 潘延龍 (2007)。《中國革命法制史》。北京: 中國社會科學出版社。
曾憲義 (2013)。《中國法制史》，第三版。北京市: 北京大學出版社。

7. Related Journals

American Journal of Comparative Law.
China Information.
Columbia Journal of Asian Law.
Duke Journal of Comparative & International Law.
Hong Kong Law Journal.
Journal of Asian Studies.
8. Related Web Resources

- Columbia Law School, Center for Chinese Legal Studies:

- The International Society for Chinese Law and History (ISCLH):
  http://chineselawandhistory.com/

- 中華法律文化網:
  http://www.ruclcc.com/default1.asp

- 中央研究院歷史語言研究所法律史研究室:
  http://proj1.sinica.edu.tw/~leghist/index.htm

9. Academic Honesty
The University adopts a zero tolerance policy to plagiarism. For the University’s policy on plagiarism, please refer to the Policy on Academic Honesty, Responsibility and Integrity with Specific Reference to the Avoidance of Plagiarism by Students (https://www.eduhk.hk/re/modules/downloads/visit.php?cid=9&lid=89). Students should familiarize themselves with the Policy.

10. Others
NIL

July 2015