

LINGNAN UNIVERSITY
LAW AND GOVERNANCE

CLC9006

2nd Term 2018-2019

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Office hours: Tuesday 1:30-3:30pm; Friday 12:30-1:30pm, 3:30-4:30pm, or by appointment

COURSE DESCRIPTION

This course attempts to cultivate students' understanding of the core issues and debates about government, law, society, and their inter-relationship, particularly in the context of Hong Kong. At the same time, this course helps students to apply theories to analyze practical issues, think laterally, engage in community and public affairs, and present arguments intelligently and persuasively. These skills are essential to students in their future careers, particularly in the public sector.

AIMS

This course aims:

1. To foster students' skills in analytical and abstract thinking and inquiry skills through investigating current social issues related to law and governance.
2. To train students' capacity to communicate ideas and formulate arguments in both oral presentations and writings.
3. To instill in students a sense of civic responsibility and political and social consciousness, so that they can effectively contribute to ongoing debates on important social and political issues.

LEARNING OUTCOMES (LOs)

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

1. Understand the fundamental concepts and approaches to different constitutional

and criminal justice systems.

2. Acquire solid knowledge of the legal order, particularly regarding its historical evolution and contemporary practices in Hong Kong.
3. Critically assess the issues related to government, law and society; present and discuss their arguments effectively in intellectual debates both verbally and in report writing.
4. Form logical opinions and sound judgments on social-political issues.
5. Develop the skills to write an argumentative academic essay on a selected topic in this course.

Indicative Contents

Week	Topics
1	Course Introduction
2	Introduction to Basic Concepts <ul style="list-style-type: none"> • What is law? • Types of law • Different legal systems (Romano-Germanic/Civil Law, Common Law, Socialist Legal System, Islamic Legal System) • Functions of law (social control, dispute settlement, social change) • Theories of law and society (the European pioneers, classical sociological theorists, socio-legal theorists, contemporary theorists)
3 & 4	Law and Constitutional Orders <ul style="list-style-type: none"> • Different political systems and forms of government • Concept of separation of powers (executive, legislature and judiciary branches) • Constitution and the executive agencies • Accountability and legitimacy • The criminal justice system in Hong Kong
5 & 6	Law and Human Rights <ul style="list-style-type: none"> • The notion of “Rights”: its source, origin and relation to “Duties” • The development of modern human rights • What are rights? Do they apply everywhere, and are they everywhere the same? • Introduction to various international human rights laws and organisations • Different types of rights: absolute right, limited right and qualified right

	<ul style="list-style-type: none"> • Bill of Rights: the domestic legal instrument to protect human rights • The concept of the rule of law
7 & 8	Law and Capitalism <ul style="list-style-type: none"> • Max Weber: law in economy and society • Law and business activities • Anti-trust law, protection of intellectual property, anti-monopolisation, protection of consumer rights, anti- corruption legislation • Economic globalisation and the law in the 21st century
9 & 10	Law and Public Order <ul style="list-style-type: none"> • What is crime? • What are the reasons to criminalize some types of behaviors? • The element to constitute a criminal offence in legal context • Models of criminal justice process (crime control, due process, principled rights approach) • Crimes against humanity: definition and context • Public order offence vs. civil liberty (freedom of assembly, expression, and association) • Crime and punishment: the four principal goals of punishment • Tension between crime control and rights of citizens: how to balance?
11&12	Law and Social Change <ul style="list-style-type: none"> • Social changes as causes of legal changes • Law as an instrument of social change • Advantages and limitations of law in creating social change • Resistance to change: social, psychological, cultural and economic factors • The trend of socio-legal development

TEACHING METHOD

Lectures are combined with tutorials involving video-watching, fieldwork, in-class discussion, presentation and project report. Students are encouraged during tutorials to lead discussions based on readings related to lecture topics. The course will emphasize students' learning experience outside campus. During fieldwork, students will research their chosen topics and collect data from primary sources. Presentation and report writing allows students to demonstrate their ability to synthesize knowledge and reflect on their learning experience.

SERVICE LEARNING

This course adopts the service-learning approach. Under the guidance of the course

instructor and Ms. Fanny Mak (project officer from the Office of Service-Learning), 8 students (working as two separate groups) will participate in the project “Law and Migrant Workers in Hong Kong”. The program is jointly organized by the Office of Service-Learning of Lingnan University, the Bethune House Migrant Women’s Refuge, and the PathFinders. 4 students will work with the Bethune House and the other 4 students with the PathFinders. The purpose of the program is to allow students to have first-hand experience in the issues of law and female migrant workers in Hong Kong.

ASSESSMENT AND MEASUREMENT OF LEARNING OUTCOMES

Assessment of students’ performance will be based on the following four criteria:

1. Class participation (20%) (measures LOs 1-4) (**for ALL students**)

Students will be graded according to their degree of class participation and other relevant contributions to the class discussion.

2. Performance in the Service-Learning Project (20%) (measures LOs 1-4) (for students participating in service-learning project)

Students will work as two separate groups and participate in the project “Law and Migrant Workers in Hong Kong”. Through fieldwork, students are required to conduct interviews and provide support for female migrant workers in Hong Kong. In the processes, students should collect information about the relationship between law and female migrant workers in Hong Kong. Students will present their findings in class. Skills in assembling the materials and presenting their findings will be assessed.

Details will be announced in the first lecture of the course.

3. A Project Report of Service-Learning (20%) (measures LOs 1-5) (for students participating in service-learning project)

Each working group will write a project report based on the data they collected from their service-learning. The report should be logically-organized and persuasively-argued.

Due date of the project report is 26 April 2019.

4. A Proposal of Research Project (40%) (measures LOs 1-5) (for students who have not participated in service-learning project)

2 students will form a group and write a proposal for an empirical research project on law and governance. The proposal should include your research questions, synthesize the relevant literature, outline your hypotheses and arguments, and propose how you plan to answer the research questions. The proposal should be about 3,500 words. Due date of the proposal is 26 April 2019.

5. Final Examination (40%) (measures LOs 1-4) (**for ALL students**)

This will test the students' understanding of the basic concepts, case studies, and debates encountered in this course.

IMPORTANT NOTES

- Students are expected to spend a total of 9 hours (i.e. 3 hours of class contact and 6 hours of personal study) per week to achieve the course learning outcomes.
- Students shall be aware of the University regulations about dishonest practice in course work, tests and examinations, and the possible consequences as stipulated in the Regulations Governing University Examinations. In particular, plagiarism, being a kind of dishonest practice, is “the presentation of another person’s work without proper acknowledgement of the source, including exact phrases, or summarised ideas, or even footnotes/citations, whether protected by copyright or not, as the student’s own work”. Students are required to strictly follow university regulations governing academic integrity and honesty.
- Students are required to submit writing assignment(s) using Turnitin.
- To enhance students’ understanding of plagiarism, a mini-course “Online Tutorial on Plagiarism Awareness” is available on <https://pla.ln.edu.hk/>.

REQUIRED READINGS

Philippe Nonet and Philip Selznick, *Law and Society in Transition: Toward Responsive Law*, revised edition (New Brunswick: Transaction Publishers, 2001), pp. 29-52.

Peter Solomon, "The Case of the Vanishing Acquittal: Informal Norms and the Practice of Soviet Criminal Justice," *Soviet Studies*, vol. XXXIX, October 1987, pp. 531-555.

William Felstiner, Richard Abel, and Austin Sarat, "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming..." *Law & Society Review*, Vol.15, No.3/4 (1980-1981), pp. 631-654.

P.H. Gulliver, "Dispute Settlement Without Courts: The Ndendeuli of Southern Tanzania," in Laura Nader (ed.), *Law in Culture and Society* (Berkeley: University of California Press, 1997), pp. 24-68.

Dane Archer, Rosemary Gartner, and Marc Beittel, "Homicide and the Death Penalty: A Cross-National Test of a Deterrence Hypothesis," reprinted in Stewart Macaulay, Lawrence Friedman, and John Stookey (eds.), *Law & Society: Readings on the Social Study of Law* (New York: Norton, 1995), pp. 422-440.

Mark Schultz, "Fear and Norms and Rock & Roll: What Jambands Can Teach us about Persuading People to Obey Copyright Law," *Berkeley Technology Law Journal*, Vol.21 (2006), pp. 651-728.

Tom Tyler, "Why People Obey the Law," reprinted in Stewart Macaulay, Lawrence Friedman, and John Stookey (eds.), *Law & Society: Readings on the Social Study of Law* (New York: Norton, 1995), pp. 474-495.

Julie Horney and Cassia Spohn, "Rape Law Reform and Instrumental Change in Six Urban Jurisdictions," reprinted in Stewart Macaulay, Lawrence Friedman, and John Stookey (eds.), *Law & Society: Readings on the Social Study of Law* (New York: Norton, 1995), pp. 522-548.

Eva Pils, *China's Human Rights Lawyers: Advocacy and Resistance* (Abingdon: Routledge, 2015), chapter 1.

OPTIONAL READINGS

Michael Lobban, *White Man's Justice: South African Political Trials in the Black Consciousness Era* (Oxford: Clarendon Press, 1996), pp. 160-192.

Robert Ellickson, *Order Without Law: How Neighbors Settle Disputes* (Cambridge, Mass: Harvard University Press, 1991).

H. Laurence Ross, "Interrupted Time Series Studies of Deterrence of Drinking and Driving," reprinted in reprinted in Stewart Macaulay, Lawrence Friedman, and John Stookey (eds.), *Law & Society: Readings on the Social Study of Law* (New York: Norton, 1995), pp. 444-458.

Charles Tittle and Alan Rowe, "Moral Appeal, Sanction Threat, and Deviance: An Experimental Test," *Social Problems*, Vol.20 (1973), pp. 488-498.

Janice Nadler, "Flouting the Law," *Texas Law Review*, Vol.83 (April 2005), pp. 1399-1441.

Marc Hertogh and Simon Halliday (eds.), *Judicial Review and Bureaucratic Impact: International and Interdisciplinary Perspective* (Cambridge: Cambridge University Press, 2004).

Waikeung Tam, *Legal Mobilization under Authoritarianism: The Case of Post-Colonial Hong Kong* (New York: Cambridge University Press, 2013), chapters 6-7.