

Rule of Law? Forces behind the Dynamics of Chinese Business Law

Prof. Lou Jianbo

LPS-LL203

Course Description

The objective of this course is to provide students a good understanding of Chinese law, focusing on business and commercial law, and how this law is made, implemented and interpreted in China, and what behind the development of Chinese law, from both international and domestic perspectives.

The course will open with an overview of the concept of law and the principle of law in China, and the evolution of this system since 1978, as well as a general introduction on various forces and their role in shaping the legal system in contemporary China.

The course will then provide a systematic survey on law-making, interpretation and implementation of law in China, in an attempt to demonstrate the interaction between the CCP, the parliament, the government, and the judicial in China, as well as the central-local relationships.

Thirdly, the course will investigate WTO and China's foreign trade, legal regimes of FDI and ODI, business organization law, IPR protection in China, as well as China's efforts of internationalizing RMB, free trade zone trials, and rural land reform. The course is to introduce the evolution of those institutions in China and what behind the changes, as well as their impacts on rule of law in China.

Finally, the course will look at whether China can eventually emerge to a full-market-economy and rule-of-law country with the piece-meal, gradualist approach.

A key feature of the course will be use of real life legal examples and case studies involving large foreign companies with investments and business in China. Students are expected to participate in discussion on these cases and consider these cases in the context of legal practices in other jurisdictions, and internationally.

Course Structure and Topics

Module I

1. Defining China's Contemporary Legal System
2. Forces Shaping the Legal System in China

Module II

3. Law-making and the Administrative Implementation of Law in PRC
4. China and the WTO: The Interaction between WTO and China from a Legal Perspective

Module III

5. The Evolution of IPR Protection in China
6. China's Business Organization Law: Public Economy vs. Private Economy
7. FDI in China and China's Outbound Investment: Domestic Regulations and International Obstacles

Module IV

8. The Internationalization of RMB and Pilot FTZs
9. China's Land System and Its Reform

Module V

10. Rule of Law vs. Rules for Business: Course Review

Lectures and Class Sessions

The course comprises of 36 lecture hours and 12 class [tutorial] hours, totaling 48 hours.

Lecture sessions will be based on presentation of background or theoretical materials, discussion of the assigned reading, analysis of case studies, and problem-solving exercises based on real and/or hypothetical cases and situations. Class sessions will be devoted to more detailed discussion of the assigned reading and case studies and to problem-solving, practical exercises, negotiation games or class presentation: they are intended to provide an opportunity for a higher level of interaction with the Professor and/or Class Teacher. Problem-solving exercises may be dealt with during the afternoon sessions as well as in the mornings.

Assessment

Your work in the course will be assessed on the basis of a mid-term paper and a final examination. The mid-term paper consists of an essay of 1500 words, on a topic of your choice related to the course, and approved by the Professor. It counts for 50% of the final grade for the course. The final examination counts for 50% of the total grade for the course. Account may also be taken of class participation.

Reading

A series of articles, cases and materials will be prepared for participants. These materials will form the required readings for the course.

Books on Chinese law to be read in advance (but not required):

- Features - A Complete Research Guide to the Laws of the People's Republic of China (PRC), By Joan Liu and Wei Luo, Published on January 15, 2003, available at <http://www.llrx.com/node/1419/print>.
- Randall Peerenboom, *China's Long March toward Rule of Law*, Cambridge University Press 2002.

Course Level

Intermediate Level (200)

Course Prerequisite

There are no prerequisites for this course.

Open to

All LSE-PKU Summer School students.