



LSE-PKU Summer School 2020

LPS-LL203 | Forces behind the Dynamics of Chinese Business Law

Instructor

Dr Jianbo Lou is Associate Professor of Law and co-director of the Commercial Law Section, and director of the Centre for Real Estate Law at Peking University Law School. He has previously held positions at the University of Cambridge, Queen Mary, University of London, Beijing Foreign University Law School, the University of Hong Kong and the National University of Singapore.

He was educated at Peking University (LLB, LLM) and Queen Mary, University of London (PhD). He published his PhD thesis on the workout and prevention of Chinese banks' non-performing loans (Kluwer 2001) and has written several law journal articles on this topic. Dr Lou has specialised in Chinese real estate law and Chinese commercial law. He also co-authored a book on Chinese Real Estate Law (Kluwer 2000) and several law journal articles. In addition, Dr Lou has published numerous papers covering many fields of Chinese commercial law, both in Chinese and English. Dr Lou's current research projects cover the eminent domain taking of rural land, title registration, financial transaction, and low-and-middle-income housing in China.

Course Description

The objective of this course is to provide students with a good understanding of Chinese law, focusing on business and commercial law, including how this law is made, implemented and interpreted in China, and the forces behind its development, from both international and domestic perspectives. The course is designed for participants who are new to the topic, as well as those with some prior knowledge. The course will open with an overview of the concept and principle of the law in China, and the evolution of this system since 1978, as well as a general introduction to the various forces that are 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

CCP, parliament, the government, and the judiciary in China, as well as the central-local relationships, with a focus on the undergoing judicial reform in China.

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 shall introduce the evolution of those institutions in China and explain the reasons behind the changes, as well as their impact on the rule of law in China.

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

A key feature of the course will be the use of real life legal examples and case studies involving large foreign companies with investments and business in China, such as the Hong Kong abode case, the Qi Yuling case, the Luoyang seed case, the rare earth WTO case between China and US & Japan & EU, Baori golf club case, the Unicom case, Apple vs Proview case and the New Balance case, etc. Students are expected to participate in discussion on these cases, considering them in the context of legal practices in other jurisdictions.

Most of the case discussion will be organized as a moot court, so as to give students a flavour of the court or arbitration room in China. Students will choose to represent various parties or be judges (arbitrators) in the moot court practices. Every student will at least have one opportunity to participate in the moot court practices.

Course Structure and Topics

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 the fundamentals of the Chinese legal system, such as the evolution of Constitution in PRC, the judicial system and the on-going judicial reform, more detailed discussion of the assigned reading and case studies and to problem-solving, practical exercises, negotiation games or class presentation, featured by moot-court practices on various real cases.

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. Class participation may also be taken into account when deciding the final grade.

Reading

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

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

- 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 Prerequisite

There are no prerequisites for this course.