

City University of Hong Kong

Course Syllabus

offered by School of Law
with effect from Semester A 2018/19

Part I Course Overview

Course Title: Chinese Law of Obligations

Course Code: LW6138E

Course Duration: One semester

Credit Units: 3

Level: P6

Medium of Instruction: English

Medium of Assessment: English

Prerequisites:
(Course Code and Title) Nil

Precursors:
(Course Code and Title) Nil

Equivalent Courses:
(Course Code and Title) LW6138C and LW6138E are equivalent courses

Exclusive Courses:
(Course Code and Title) Nil

Part II Course Details

1. Abstract

This course aims to offer a general survey on Chinese law of obligations, in particular the law of contract and the law of tort in China; to introduce students the concepts and principles of Chinese law of obligations; and to lay the academic foundation for advanced research and practice in these areas.

2. Course Intended Learning Outcomes (CILOs)

(CILOs state what the student is expected to be able to do at the end of the course according to a given standard of performance.)

No.	CILOs	Weighting (if applicable)	Discovery-enriched curriculum related learning outcomes (please tick where appropriate)		
			A1	A2	A3
1.	Identify, analyse and critically explain the main substantive rules pertaining to the law of obligations in China.		√	√	
2.	Analyse and critically evaluate: <ul style="list-style-type: none"> ❖ issues and concerns in the field of Chinese law of obligations and its operation of the substantive rules. ❖ the objectives of the law and the practical implications of the rules in their social contexts and their roles and functions in the Chinese society. 		√	√	
3.	Apply the principles of Chinese law of obligations to solve legal problems by: <ul style="list-style-type: none"> ❖ researching issues by applying fundamental doctrines of law of obligations in China. ❖ analysing and resolving problems; communicating their solutions orally and in writing clearly, coherently and accurately in their own words and in plain language. ❖ Being able to recognize the differences in private law concepts and doctrines as well as practical operation thereof between Hong Kong and the mainland. 		√	√	√
		100%			

A1: *Attitude*

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: *Ability*

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to self-life problems.

A3: *Accomplishments*

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

3. Teaching and Learning Activities (TLAs)

(TLAs designed to facilitate students' achievement of the CILOs.)

TLA	Brief Description	CILO No.			Hours/week (if applicable)
		1	2	3	
Reading of cases and other materials, and research	<ul style="list-style-type: none"> Students will acquire knowledge of the substantive rules of Chinese law of obligations pertaining to the topics to be covered in the syllabus. Preparation outside the class 	√	√	√	3
Seminars by the instructor	<ul style="list-style-type: none"> Students will be given guidance on their reading and research for their seminars and presentations through Student seminars—Students shall participate to such an extent as the course leader considers beneficial. The course leader may choose to use the internet as a means of distributing materials and organising topical discussions. Students will, by responding to questions and performing exercises, develop their analytical and critical capabilities discuss important issues of liability pertaining to topics covered in the syllabus. 				
Presentations	Students will give presentations on selected topics in which they will scrutinise, analyse and evaluate issues and concerns in the field and adopt a comparative approach.				

4. Assessment Tasks/Activities (ATs)

(ATs are designed to assess how well the students achieve the CILOs.)

Assessment Tasks/Activities	CILO No.			Weighting	Remarks
	1	2	3		
Continuous Assessment: 50%					
Presentation, class discussion and coursework. Coursework will test students' ability to research, analyse and critically evaluate some issues and problems in the field	√	√	√	50%	
Examination 50% (duration: 3 hours)					
				100%	

Students are required to attend at least 70% of the classes (lectures, seminars, presentations). If a student does not meet this requirement, he/she may be disqualified for assessment.

Students must obtain a minimum mark of 40% in both coursework and examination and an overall mark of 40% in order to pass the course. The examination will be in open-book and students are required to use computers to type the answers. However, students are NOT allowed to access the internet.

5. Assessment Rubrics

(Grading of student achievements is based on student performance in assessment tasks/activities with the following rubrics.)

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B, B-)	Fair(C+, C, C-)	Marginal (D)	Failure (F)
1. Presentation, class discussion and coursework	70% of class attendance required. Coursework demonstrates good grasp of the issues related with both theoretical and practical touch.	Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.	Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.
2. Examination	Shows decent grasp of the knowledge covered and able to apply it to both case questions and essay questions critically.	Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.	Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Part III Other Information (more details can be provided separately in the teaching plan)

1. Syllabus

1.1 Keyword Syllabus

(An indication of the key topics of the course.)

Civil law, civil juristic act, change of rights, obligations, offer and acceptance, validity of contract, breach of contract, tort of negligence, statutory tort, unjustified enrichment, management without mandate

1.2 Detailed Syllabus

1. General introduction: Concept, function and history of civil law
2. Fundamental principles of civil law
3. General
 - 3.1 Persons
 - 3.2 Change of rights: civil juristic act
 - 3.3 Change of rights: agency
 - 3.4 Change of rights: date, period and prescriptions
4. Obligations in General
 - 4.1 General overview and concept
 - 4.2 Performance and non-performance of obligations
 - 4.3 Change of obligations
 - 4.4 Termination of obligations
5. Contract
 - 5.1 Overview, concept and principles
 - 5.2 Offer and Acceptance
 - 5.3 *Culpa in contrahendo*
 - 5.4 Invalidity of contracts
 - 5.5 Discharge of contracts
 - 5.6 Remedies and liabilities
6. Torts
 - 6.1 Overview, concept and principles
 - 6.2 Scope of Rights Protected
 - 6.3 General torts: damage, illegality, causation, and fault
 - 6.4 Strict Liability
 - 6.5 Liability in Equity
7. Unjustified enrichment
8. Management of affairs without mandate

Given the width and depth of the topics, the course leader may choose not to cover all the topics set out above.

2. Reading List

2.1 Essential Reading

Bu, Yuanshi (ed.), Chinese Civil Law (C.H. Beck/Hart/Nomos, 2013)

James Gordley & Arthur von Mehren, An Introduction to the Comparative Study of Private Law: Readings, Cases, Materials (Cambridge, 2006)

2.2 Recommended Readings

(Additional references for students to learn to expand their knowledge about the subject.)

Ling Bing, Contract Law in China (Sweet Maxwell, 2002)

Zhang Mo, Chinese Contract Law Theory and Practice (Brill, 2006)

Zhang Mo, Introduction to Chinese Torts Law (Tsinghua University Press, 2014)

Reinhard Zimmermann, The Law of Obligations: Roman Foundations of the Civilian Tradition (Oxford, 1996)

Basil Markesinis et al, The German Law of Contract: A Comparative Treatise (Hart, 2006)