

LW3611: PRIVATE LAW OF THE PRC

Effective Term

Semester A 2023/24

Part I Course Overview

Course Title

Private Law of the PRC

Subject Code

LW - Law

Course Number

3611

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

B1, B2, B3, B4 - Bachelor's Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

LW5611 Private Law of the PRC

Exclusive Courses

Nil

Part II Course Details

Abstract

This course examines the analytical framework for understanding the three core areas of Chinese private law: contract, property and tort. While Chinese private law is located within the Civil Law Tradition, it displays unique features which

demonstrate both its receptivity to global norms and the influence of Chinese social, political and economic factors. Chinese contract law is integral to the functioning of the Chinese market economy and bears the influence of international contract norms. Yet, the conception of ‘right to subrogation’, the ‘right to withdrawal’ and the ambit of third party rights can be surprisingly extensive from the perspective of European private law. Property law will bear socialist overtones and communitarian concerns, even as private ownership and enterprise are promoted. Tort law adopts concepts such as ‘presumed liability’ and ‘equitable liability’ underpinned by the unique social welfare and insurance arrangements in China.

Course Intended Learning Outcomes (CILOs)

CILOs	Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1 Demonstrate knowledge of basic legal principles of Chinese contract law, property law and tort law.	40	x	x	
2 Demonstrate knowledge of the similarity and difference between Chinese private law and the common law counterpart.	30	x	x	x
3 Demonstrate ability to apply knowledge to solve practical legal problems.	30	x	x	x

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 real-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.

Teaching and Learning Activities (TLAs)

TLAs	Brief Description	CILO No.	Hours/week (if applicable)
1	2-hour lecture and 1-hour tutorial	1, 2	3
2	Students are expected to participate actively in discussions and express their creative views. Develop self-confidence in application of legal principles, advocacy skills and public speaking. Foster students’ growth through development of greater intellectual and interpersonal maturity.	1, 2, 3	

3	Each student is instructed to choose a research topic within the field of PRC private law.		1, 2, 3	
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Assessment Tasks / Activities (ATs)

ATs	CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Presentation: 10% Confidence building and students' maturity.	1, 2, 3	10
2	Assignment: 30%	1, 2, 3	30

Continuous Assessment (%)

40

Examination (%)

60

Examination Duration (Hours)

2

Additional Information for ATs

The use of Generative AI tools is not allowed.

Students must obtain a minimum mark of 30% in both coursework and examination and an overall mark of 40% in order to pass the course.

When University facilities and resources are available, students may be required to take a computer-based examination in computer labs. During the examination, students are blocked from access to files, programs and the Internet.

Assessment Rubrics (AR)**Assessment Task**

Coursework

Criterion

Familiarity with the subject matter; understanding of the subject; extensive knowledge base; critical capacity and analytic ability; original thinking; good organization. Confidence building and students' maturity

Excellent (A+, A, A-)

Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good (B+, B, B-)

Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair (C+, C, C-)

Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal (D)

Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure (F)

Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination

Criterion

Familiarity with the subject matter; understanding of the subject; ability to solve problems; analytic capacity, good organization.

Excellent (A+, A, A-)

Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good (B+, B, B-)

Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair (C+, C, C-)

Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal (D)

Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure (F)

Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Part III Other Information

Keyword Syllabus

- Basic legal concepts in Chinese private law
- Contract law I: general principles and formation
- Contract law II: validity and contractual interpretation
- Contract law III: performance and third party claims
- Contract law IV: termination of contract
- Contract law V: breach and remedies
- Tort law I: framework of tort liability
- Tort law II: liability for others
- Tort law III: defence and remedies
- Tort Law IV: notion of equity in tort law
- Property law I: perceptions of property
- Property law IV: security interests

Reading List

Compulsory Readings

Title	
1	Mo Zhang: Chinese contract law: theory and practice (Martinus Nijhoff 2006)
2	Bing Ling: Contract law in China (Sweet & Maxwell Asia 2002)

Additional Readings

Title	
1	General Principles of Civil Law and General Provisions of Civil Law
2	Contract Law
3	Interpretation No. 1 of the Supreme People' s Court on the Application of Contract Law
4	Interpretation No. 2 of the Supreme People' s Court on the Application of Contract Law
5	Tort Liability Law
6	Consumer Rights and Interests Protection Law
7	Product Quality Law
8	Property Law
9	The Interpretations of Supreme People' s Court on Several Issues Concerning the Specific Application of Law in the Trial of Disputes over Partitioned Ownership of Building Areas
10	Security Law
11	Judicial Interpretation of the Supreme People's Court on Some Issues Regarding the Application of Security Law
12	Database of PRC laws and judicial cases: www.lawinfochina.com