

Course Form for PKU Summer School International 2018

Course Title	China's Constitution and Political System
	中国的宪法和政治体系
Teacher	DUAN Demin
First day of classes	July 2, 2018
Last day of classes	July 27, 2018
Course Credit	2 credits
Course Description	
Objective:	
<p>This course is intended for undergraduate students to understand basic components of China's constitution and political system. It uses question-oriented approach and combines theoretical analysis with factual introduction, with the aim of enabling students to be quickly familiar with major constitutional issues in China. Two theoretical questions will be asked throughout the course: 1. How do we understand the gap between law/constitution on paper and its implementation in reality in China? 2. Is there constitutionalism in China? Guided by these two central questions, this course roughly breaks into four sections: 1. Constitutionalism in China; 2) Basic constitutional issues such as rights and democracy; 3) Sovereignty and constitution; 4) Constitution and political reform. Under each section, sub-topics are to be specified.</p>	
Pre-requisites /Target audience	
<p>This course is for undergraduate students. No particular pre-knowledge about China's constitution and political system is required.</p>	
Proceeding of the Course	
<p>Students are expected to complete required readings prior to class and actively participate in class discussion. Team work will be done by students under the lecturer's supervision. On the last session, students will take a test and there will be a general evaluation of this course.</p>	
Assignments (essay or other forms)	
<p>Students should complete required readings prior to class and actively participate in class discussion. At the end of the course, students have to write short essays on topics that related to the course subject.</p>	
Evaluation Details	

Three parts of the evaluation will be calculated as follows:

Participation and discussion: 20%; Team Work & Presentation: 30%; Final Test (Short Essays): 50%

Text Books and Reading Materials

There are both *required* and *recommended* readings for each class. No book purchase needed. All the required texts (those highlighted in **bold**) will be available through PKU Summer School arrangements.

Academic Integrity (If necessary)

CLASS SCHEDULE

Session 1

Introduction

The purpose and scope of the course

Course requirements

Questions:

- What is constitution and constitutionalism?
- How do we understand China's constitution?

Readings:

- **Constitution of The People's Republic of China; Constitution of The Communist Party of China.**
- Montesquieu, Charles-Louis de Secondat, baron de. 1989. *The Spirit of the Laws*. Ed. & trans. Anne M. Cohler, Basia Carolyn Miller, Harold Samuel Stone. Cambridge: Cambridge University Press, Book XI.
- Theda Skopol, *States and Social Revolutions: A Comparative Analysis of France, Russia and China*, Cambridge: Cambridge University Press, 1979, pp. 67-80, 236-283.
- Zhang Qianfan. 2012. *The Constitution of China: A Contextual Analysis*. Oxford, UK: Hart Publishing.
- Balme, St éphanie & Dowdle, Michael W. ed. 2009. *Building Constitutionalism in China*. New York: Palgrave Macmillan.
- Zhang Fusen ed. 2004. *Outlines of the Constitution of the People's Republic of China*. Beijing: Law Press.
- Chow, Daniel C. K. 2009. *The Legal System of the People's Republic of China in a Nutshell*. St. Paul, MN: Thomson/West.

Session 2

Team Work: Read China's Constitution

What is the most unexpected part of China's Constitution to you, and why?

What is the most interesting part of China's Constitution to you, and why?

How would you compare China's Constitution with other Constitutions in today's world?

I. CONSTITUTIONALISM IN CHINA?

Session 3

Written and Unwritten Constitution in China

Questions:

- How do we understand the “gap” between China's Constitution on paper and its practical implementation?
- Is there an unwritten constitution in China? If there is, how could we understand it?

Readings:

- **Larry Cat á Backer, “The party as polity, the Communist Party, and the Chinese Constitutional State: A Theory of State-Party Constitutionalism.”** *Journal of Chinese and Comparative Law*, Vol. 16(1), pp. 101–68, 2009.
- **Jiang Shigong, “Chinese-Style Constitutionalism: On Backer's Chinese Party-State Constitutionalism,”** *Modern China*, Vol. 40(2), pp. 133-167.
- Constitution of the People's Republic of China. Available at <http://english.people.com.cn/constitution/constitution.html>. Preamble & Chapter I.
- Thomas C. Grey, “Do We Have an Unwritten Constitution?” *Stanford Law Review*, Vol. 27(3), 1975, pp. 703-718.
- Lynn T. White III, “Chinese Constitutional Currents,” *Modern China*, Vol. 36(1), 2010, pp. 100-114.
- Albert Venn Dicey, *Introduction to the Study of the Law of the Constitution*, London: Macmillan, 1961.
- Zhang Fusen ed. 2004. *Outlines of the Constitution of the People's Republic of China*. Beijing: Law Press. Pp. 32-38.
- Wang, James C. F. 1999. *Contemporary Chinese Politics: An Introduction*. Upper Saddle River, New Jersey: Prentice Hall. Pp.322-332.

- Delmas-Marty, Mireille & Will, Pierre-Étienne (ed.). 2012. *China, Democracy, and Law: A Historical and Contemporary Approach*. Trans. Naomi Norberg. Leiden & Boston: Brill.

Session 4

Judicial Review and Constitutional Issues in China

Questions:

- What is the role of constitution in China, given that a large part of it is just words without real consequences?
- Is there judicial review in China?
- How to understand the role of party in China's constitution?

Readings:

- **Chan, Hon S. 1992. "Judicial Review and Control over Discretion in the People's Republic of China." *Review of Central and East European Law*, vol. 18(2), pp. 135-163.**
- **Killion, M. Ulric. 2005. "China's Amended Constitution: Quest for Liberty and Independent Judicial Review." *Washington University Global Studies Law Review*, vol. 4(1), 2005.**
- **Byron Weng, "Some Key Aspects of the 1982 Draft Constitution of the People's Republic of China," *The China Quarterly*, No. 91, 1982, pp. 492-506.**
- Cai Dingjian, "The Development of Constitutionalism in the Transition of Chinese Society," *Columbia Journal of Asian Law*, Vol. 19, 2005, pp. 1-29.
- McGregor, Richard. 2010. *The Party: The Secret World of China's Communist Rulers*. New York: Harper. Pages TBA.
- Lefort, Claude. 1986. *The Political Forms of Modern Society: Bureaucracy, Democracy, Totalitarianism*. Ed. John B. Thompson. Cambridge: Polity Press. Pp. 292-306.
- Nakagane, Katsuji. 2006. *Restructuring China: Party, State and Society after the Reform and Open Door*. Tokyo: Toyo Bunko.
- Shambaugh, David L. 2008. *China's Communist Party: Atrophy and Adaptation*. Washington D. C.: Woodrow Wilson Center Press.
- Brown, Kerry. 2012. "The Communist Party of China and Ideology." *China: An International Journal*, vol. 10, no. 2, pp. 52-68.

II. Basic Constitutional Issues

Session 5

Team Work

Read clauses in China's constitution concerning "democracy" and "human rights" again. Try to compare them with realities in today's China. List 5 negative signs and 5 positive signs.

Try to answer the questions:

Is there a Chinese type of democracy?

What can you say about human rights in China?

Session 6

Democracy in China

Questions:

- How can the promise of democracy in the Constitution be realized?
- What is Mass Line leadership and Democratic Centralism and how can we understand them?
- Can there be a Confucian perspective of China's democracy?

Readings:

- **Shih, Chih-yu. 1997. "The Mass Line Approach to Democracy in China." *Peace and Conflict: Journal of Peace Psychology*, vol. 3(4), pp. 353-371.**
- **Mohanty, Manoranjan. 2003. "Three Represents: Ideology of the Fourth Generation." *China Report*, vol. 39(2), pp. 237-245.**
- **Demin Duan, "Reviving the Past for the Future?: The (In)compatibility between Confucianism and Democracy in Contemporary China," *Asian Philosophy*, Vol. 24(2), 2014.**
- Dickson, Bruce J. 2003. "Whom Does the Party Represent? From 'Three Revolutionary Classes' to 'Three Represents'." *American Asian Review*, vol. 21(1), pp. 1-24.
- Jia, Hepeng. 2004. "The Three Represents Campaign: Reform the Party or Indoctrinate the Capitalists?" *Cato Journal*, vol. 24(3), pp. 261-275.
- Wang, James C. F. 1999. *Contemporary Chinese Politics: An Introduction*. Upper Saddle River, New Jersey: Prentice Hall, pp. 37-70.
- "China's communists write Jiang's capitalist-style theory into party constitution." Associate Press, Nov. 13, 2002.
- Barlow, John A. 1981. "Mass Line Leadership and Thought Reform in China." *American Psychologist*, vol. 36(3), pp. 300-309.
- Albert. H. Y. Chen, "Is Confucianism Compatible with Liberal Constitutional Democracy?" *Journal of Chinese Philosophy*, Vol. 34(2), 2007, pp. 195-126.
- Jiang Qing & Daniel A. Bell, "A Confucian Constitution for China," *New York Times*, July 10, 2012.

- Chai, Hongxia & Song, Xiongwei. 2013. "The Adaptive State—Understanding Political Reform in China." *Policy Studies*, vol. 34 (1), pp. 73-88.

Session 7

Human Rights and Constitutional Issues

Questions:

- How do we understand human rights in Marxist Ideology?
- Is there a traditional Confucian understanding of people's basic rights in today's China?
- How do we understand the issue of human rights within the constitutional framework of China?
- Can human rights consciousness among the Chinese people be a breakthrough for political reform?

Readings:

- **Bell, Daniel A. 1998. "The Limits of Liberal Justice." *Political Theory*, vol. 26(4), pp. 557-582.**
- **Charney, Evan. 1999. "Cultural Interpretation and Universal Human Rights: A Response to Daniel A. Bell." *Political Theory*, vol. 27(6), pp. 840-848.**
- **Kent, Ann. 1991. "Waiting for Rights: China's Human Rights and China's Constitutions, 1949-1989." *Human Rights Quarterly*, vol. 13(2), pp. 170-201.**
- Perry, Elizabeth J. 2009. "A New Rights Consciousness?" *Journal of Democracy*, vol. 20(3), pp. 17-20.
- Falk, Richard. 2004. "Human Rights." *Foreign Policy*, no. 141, pp. 18-26.
- Lefort, Claude. 1986. *The Political Forms of Modern Society: Bureaucracy, Democracy, Totalitarianism*. Ed. John B. Thompson. Cambridge: Polity Press. Pp. 239-272.
- Geenens, Raf. 2008. "Democracy, Human Rights and History: Reading Lefort." *European Journal of Political Theory*, vol. 7(3), pp. 269-286.
- Weatherley, Robert. 1999. *The Discourse of Human Rights in China: Historical and Ideological Perspectives*. New York & London: St. Martin's Press.

III. Central-Local Issues in the Constitutional Framework

Session 8

Team Work

Read the Constitution again. Find out clauses concerning the relationship between central government and local governments, ethnic minority issues, Hong Kong-Macau-Taiwan issues. Try to understand how China's state sovereignty is constituted.

Answer the questions:

How China's sovereignty is constituted?

Is the Chinese state a centralized one?

What do you know about the relationships among different ethnic groups in China?

What do you know about the Hong Kong-Macau-Taiwan issues, especially those relating controversies, in China?

Session 9

Ethnic Minority Areas in Constitution

Questions:

- What is NRA(Nationalities Regional Autonomy)?
- What is the role of NRA in regulating China's minority issues?
- What is the use/role of constitution in this regard?

Readings:

- **Yash Ghai & Sophia Woodman, "Unused Powers: Contestation over Autonomy Legislation in the PRC," *Pacific Affairs*, Vol. 82(1), 2009, pp. 29-46.**
- **Barry Sautman, "Paved with Good Intentions: Proposals to Curb Minority Rights and Their Consequences for China," *Modern China*, Vol. 38(1), pp. 10-39.**
- June Teufel Dreyer, *China's Political System: Modernization and Tradition*, Boston: Longman, 2012. Chapter 13.
- Rong Ma, "A New Perspective in Guiding Ethnic Relations in the Twenty-first Century: 'De-politicization' of Ethnicity in China," *Asian Ethnicity*, Vol. 8(3), 2007.
- Barry Sautman, "Legal Reform and Minority Rights in China," in Stuart S. Nagel, ed., *Handbook of Global Legal Policy*, New York: Marcel Dekker, 2000.
- Ann Anagnost, *National Past-times: Narrative, Representation, and Power in Modern China*, Durham, NC: Duke University Press, 1997.
- Morris Rossabi ed., *Governing China's Multiethnic Frontiers*, Seattle & London: University of Washington Press, 2004.
- Colin Mackerras, *China's Ethnic Minorities and Globalisation*, London & New York: Routledge Curzon, 2003.

Session 10

Hong Kong & Taiwan: Invisible Constitution in Making?

Questions:

- Under what constitutional framework is Hong Kong governed?
- What is the constitutional angle to the Mainland-Taiwan relationship?

Readings:

- **Yongping Ge, “On the constitutional foundations of Hong Kong.”** *Frontiers of Law in China*, vol. 6(1), 2011, pp. 98-116.
- **Phil C. W. Chan, “The Legal Status of Taiwan and the Legality of the Use of Force in a Cross-Taiwan Strait Conflict,”** *Chinese Journal of International Law*, Vol. 8(2), 2009, pp. 455-492.
- Copper, John Franklin. 2013. *Taiwan: Nation-state or Province?* Boulder, Colo.: Westview Press.
- Rogers, John M. 1997. “Anticipating Hong Kong’s Constitution from a U. S. Legal Perspective.” *Vanderbilt Journal of Transnational Law*, vol. 30, pp. 449-493.
- Wang, James C. F. 1999. *Contemporary Chinese Politics: An Introduction*. Upper Saddle River, New Jersey: Prentice Hall. Pp. 175-188.
- Ming K. Chan & Alvin Y. So (eds.). 2002. *Crisis and Transformation in China’s Hong Kong*. Armonk, N. Y.: M. E. Sharpe.
- Bellows, Thomas J. 2005. “The Anti-Secession Law, Framing, and Political Change in Taiwan.” *Asian Journal of Political Science*, vol. 13(2), pp. 103-123.
- Hickey, Dennis V. 2013. “Wake Up to Reality: Taiwan, the Chinese Mainland and Peace Across the Taiwan Strait.” *Chinese Journal of Political Science*, vol. 18(1), pp. 1-20.
- Peter C. Y. Chow, ed., *The “One China” Dilemma*, New York: Palgrave Macmillan, 2008.

III. POLITICAL REFORM

Session 11

Constitution and Political Reform

Questions:

- What is the role played by the constitution on China’s path of political reform?
- Could there be a successful reform within the constitutional scope?

- What are the challenges and opportunities for China's future of political reform?

Readings:

- Chai, Hongxia & Song, Xiongwei. 2013. "The Adaptive State—Understanding Political Reform in China." *Policy Studies*, vol. 34 (1), pp. 73-88.
- Gilboy, George J. & Read, Benjamin L. 2008. "Political and Social Reform in China: Alive and Walking." *The Washington Quarterly*, vol. 31(3), pp. 143-164.
- Minxin Pei, *China's Trapped Transition: The Limits of Developmental Autocracy*, Cambridge: Harvard University Press, 2006.
- Lewis, John W. & Xue, Litai. 2003. "Social Change and Political Reform in China: Meeting the Challenge of Success." *China Quarterly*, no. 176, pp. 926-942.
- Xian, Gao. 1989. "Political Structural Reform and the Future of Democratization in China." *Journal of Legislation*, vol. 16(1), pp. 47-57.
- Zhao, Suisheng (ed.). 2006. *Debating Political Reform in China: Rule of Law vs. Democratization*. Armonk, NY & London, UK: M. E. Sharpe.
- McCormick, Barrett L. 1990. *Political Reform in Post-Mao China: Democracy and Bureaucracy in Leninist State*. Berkeley: University of California Press.
- Zhang, Wei-wei. 2006. "Long-term Outlook for China's Political Reform." *Asia Europe Journal*, vol. 4(2), pp. 151-175.

Session 12

Test and Evaluation

~ The End of Class ~