

LAW 841 CHINESE LAW

Fall 2020

Rm. 108, MTW 2:25-3:20

Professor Virginia Harper Ho

COURSE DESCRIPTION

This course will explore the role of law in contemporary Chinese society from a historical and comparative perspective. It will begin with consideration of China's traditional legal order and the historical influences on China's legal institutions and attitudes toward law from the early twentieth century to the present. The majority of the course will focus on China's administrative and legal institutions and legal reform efforts since 1978. **[The following is not true for 2020!** Due to the volume of material we will cover in a limited time, the legal systems of Greater China (Hong Kong, Macau, Taiwan) will not be covered in this course.] This course satisfies the professional writing requirement.

COURSE GOALS

The course readings, discussion, and assignments are intended to help you:

- Apply comparative legal analysis, primarily with reference to the U.S.
- Understand the cultural and historical context that influence law's development and its application in China.
- Understand the institutional context that informs how the Chinese legal system works, particularly as it affects transnational legal practice and current Sino-U.S. relations.
- Identify unique features of the Chinese legal system, as well as its intersections with common and civil law traditions.
- Better understand the U.S. legal system as a whole, including (i) the functional role of core legal doctrines and procedures; and (ii) substantive areas of law commonly tested on the bar exam.
- Become familiar with primary sources of Chinese law (in English) and the work of leading scholars in the field.
- Practice legal writing and analysis of issues relevant to transnational legal practice.

COURSE MATERIALS

All materials for this course other than the assigned textbook will be available electronically via Blackboard. The primary textbook for the course is: Albert Chen, *An Introduction to the Legal System of the People's Republic of China* (Hong Kong: LexisNexis/Butterworths, 4th ed. 2011), which is available for long-term check-out at the Law Library or for purchase from the KU Bookstore. Course materials provided on Blackboard will be drawn from a variety of primary sources and current scholarship; in most cases, pieces will be excerpted.

- **Assigned Readings & Materials:** The reading list below is only complete for the first weeks of the course, and an updated readings list will be provided as the course progresses. Any adjustments and additional content will be posted to Blackboard. Please check Blackboard to confirm all daily readings, discussion questions (see below), and information regarding assignments.
- **Optional & Reference Materials:** The listed readings include a number of optional selections and reference materials for students with greater interest in the topics we are covering. You are *not* expected to have read selections designated “optional,” but please take a look at the reference materials, as these are useful aids and may be mentioned in class. Blackboard may indicate that it is appropriate to skim certain readings for a general overview. Do not be concerned about Chinese terms/ translations contained in any readings. No Chinese language skill is necessary for this course and no prior familiarity with China or East Asia is assumed.

COURSE FORMAT: ONLINE-ONLY STUDENTS; FULL ONLINE COURSE CONTINGENCY PLANS

Our class is meeting in person this semester. If you are scheduled to be in-person, I expect you to attend in-person unless you have an emergency that prevents you from doing so (see Attendance policy).

If you are online-only, I will expect that you attend daily via Zoom with your video feed on, unless you need to turn it off to attend to other family members. All other course expectations will remain the same. In the event that the Law School is required to move entirely to online instruction, we will continue to follow the schedule, syllabus guidelines, and online participation guidelines we have been using, except that we will meet synchronously on Zoom during our regularly scheduled class time. Given the sensitive nature of our course content, I do not intend to record Zoom class sessions, if any; please advise if this presents a hardship.

EVALUATION; PARTICIPATION

- **No Final Exam.** There is no final exam for this course and this course has been approved for criteria-referenced grading meaning that it is exempt from the curve (which means there is NO reason why you should not all earn an A in this class).
- **Criteria-Referenced Grading.** Grades for the course will be determined as follows:
 - Discussion Questions & Class Participation (15%)
 - Current Events (1/mo.) (5%)
 - Reaction papers 40% (10% each, 5 papers, with lowest grade dropped)
 - Final reaction paper 10% (due last day of class)
 - Assignments 30% (10% each)
- **Discussion Questions.** For each class session that has assigned readings, I have prepared discussion questions that will be graded for completion and that will (of course) be the focus of our class discussion. Three steps . . .
 - **Read the discussion questions before doing the assigned readings so you know what to focus on.**

- Take notes while you read to respond to the discussion questions -- 3-4 bullet points/brief notes per question (max 2-3 sentences if you must) –and submit this via Blackboard by 8:00 a.m. the day of class.
- **Be prepared to share your answers to these questions in class.**
- NOTE: You are allowed up to 3 “free days” when you may choose not to submit discussion question responses, but you should still come to class prepared to discuss.
- **Current Events** In addition, each of you will be asked to provide a “news update” of current events related to China once a month (probably on Wed.); I encourage you to take advantage of the many blogs, podcasts, etc. that I will make available on Blackboard.
- **Reflection Essays; Professional Writing Assignments.** During the semester, you will be asked to produce five (5) short reaction papers (one every few weeks) of 2-5 (single-spaced) pages covering specific portions of the course, including a final reaction paper that will involve revision of one of the earlier papers. In addition, you will be asked to complete four (4) short assignments that will focus on legal research and analysis. Further information regarding these papers and assignments will be provided later in the course.
- **Participation.** As this is a small class, active participation is essential. You should be able to provide an overview of any of the assigned readings and to share your responses to the discussion questions.

All due dates are indicated below, subject to potential adjustment in class and on Blackboard. I reserve the right to amend this syllabus at any time and if so, will inform you in class and via Blackboard.

ATTENDANCE

Because of the broad coverage of the course and the pace at which we will work through the readings, attendance at each class is essential. Failure to attend regularly will have a negative impact on your participation grade for the course. **It is your responsibility and a professional courtesy to inform me promptly if you will be absent and the reason therefor.**

HEALTH & SAFETY; GRACE & PATIENCE

To protect all of us, everyone must wear a mask in the classroom as required by the [Protect KU Pledge](#) and by University policy. Violations of the mask policy in classrooms at KU are treated as academic misconduct. Although you may not view masks as necessary, we are asking you to follow these precautions out. If you come to class without a mask, I will ask you to put one on. If you do not put on a mask when asked, you will have to leave class. Violations will be reported, and consequences will follow as determined by the Dean and the University, up to and including suspension from the course.

This is a difficult time for everyone and may require adjustments to the course plan developed here. Please be patient with yourself, your colleagues, and the faculty and staff in the face of unexpected difficulties, but do let me know as soon as possible if you encounter technical or other difficulties.

SCHEDULING CHANGES

Due to an anticipated commitment that requires adjusting one class, please note that we will **not** meet in person on **Wed. Oct. 7. We will need to reschedule to meet on Zoom at a mutually acceptable time.**

HOW TO REACH ME; OFFICE HOURS

- **Zoom Office Hours:** I have set up online office hours from 10 to 11 a.m. on Mon. and Thurs. (see “Course Materials” tab on Blackboard for access information), but I will cancel office hours if I do not have any students signed up to attend. Please contact me via email in advance with your preferred time to make an appointment. If these times do not work for you, you may email me to schedule an appointment separately via Zoom.
- **Email is best.** I will communicate with you primarily via email and this is also the best way to reach me.
- **Urgent matters.** Contact Yolanda Huggins at yhuggins@ku.edu or (785) 864-9200 during regular business hours and she can reach me urgently if necessary.
- **Office phone.** If you choose you may leave a voicemail, which will be rendered into a somewhat passable email message. My office phone is not forwarded to me otherwise.
- **Responsiveness/Day of Rest.** I make every effort to respond as soon as possible and within 1 to 2 days to email (I encourage you to do the same). However, because I set aside Sundays for worship, rest and relationships, I will generally not respond to email until Monday unless you are experiencing an emergency.

GENDERED LANGUAGE

Last spring, the DDLC encouraged members of the Law School community to self-identify personal pronouns in solidarity with gender non-conforming individuals and the LGBTQ+ community as a whole. The main reasons for this effort are to reduce appearance-based assumptions about a person’s pronouns and to show respect to LGBTQ+ people in our community. Empathy and mutual respect are essential to our community; however, diversity also includes acceptance of differing viewpoints. In particular, designation of personal pronouns can communicate views regarding gender and gender identity that an individual may not wish to endorse. This practice is also not required by the Law School, the University, or by standards of professionalism, and so your decision to adopt this practice or not is entirely up to you.

If you would like for me to use your preferred pronouns or a particular designation when addressing you, please inform me as soon as possible. However, I have chosen not to designate my preferred pronouns. This is because gender is not simply a social construct (being more biologically rooted than race), because it matters both within and beyond the LGBTQ+ community, and because it is, in my view, too important to human identity and relationships to neutralize it or to discourage open conversations about it by labelling the gender binary and gendered language as harmful. I also believe that insisting upon gender neutrality will not create a more gender-equitable society, just as we have learned that “color-blindness” is counter-productive in breaking down racial barriers. That said, I again encourage you

to let me know if you need to correct how I am pronouncing your last name, if you want me to use a different title, or if you want to talk further about these issues.

ACCOMMODATIONS

Classroom accommodations are available to eligible students registered with the Student Access Center. If you feel you may qualify for accommodations, please reach out to access@ku.edu or to Asst. Dean Terranova, who serves as the accommodations liaison for the Law School. You are encouraged to do so **within the first two (2) weeks of the semester**. The eligibility determination process can take time and accommodations may not be possible if requests are made later in the semester. In order to protect the anonymity of the student exams to the greatest extent possible, students should not contact me regarding disability accommodations. In the case of accommodations to occur during class time, however, speaking with me in conjunction with Dean Terranova is appropriate.

ASSIGNMENT DUE DATES

Reflection Essay 1 (Historical Foundations): Assigned T Sept. 1; DUE Fri. Sept. 18

Reflection Essay 2 (CCP): Assigned M Sept. 14; DUE Fri. Sept. 25 (ADJUSTED – Due Mon. Sept. 28)

Reflection Essay 3 (Judicial Independence): Assigned T Sept. 29; DUE Fri. Oct. 9

Reflection Essay 4 (Rights Advocacy): Assigned T Oct. 13; outline due M Oct. 19; DUE Mon. Oct. 26

Client Memo (Exercise 1) (Foreign NGO Law): Assigned W Oct. 14; DUE Tue. Oct. 26

DELETED Client Memo (Exercise 2) (FIE Law): Assigned W Oct. 28; DUE Tue. Nov. 3 (NO LONGER DUE)

Client Memo (Exercise 3) (HK National Security Law): Assigned W Nov. 12; DUE Fri. Nov. 21

Reflection Essay 5: DUE Mon. Dec. 7 (Essay Rewrite; Rule of Law)

COURSE TOPICS & READINGS

Week 1

I. INTRODUCTION; THE CHINESE LEGAL TRADITION

1. **Wed. Aug. 26** *Introduction & Current Context*

Global Context of U.S.-China Relations:

- Ian Johnson, Opinion: Kicked Out of China, and Other Real-Life Costs of a Geopolitical Meltdown, NY Times, July 16, 2020.
- Timeline: The Unraveling of U.S.-China Relations, July 22, 2020, <https://www.npr.org/2020/07/22/893767828/timeline-the-unraveling-of-u-s-china-relations> (transcript & 4 min. newscast)

Chen (2011) "Introduction", pp. 1-8

"Methods of Comparative Law," John H. Merryman, David S. Clark & John O. Haley, *Comparative Law: Historical Development of the Civil Law Tradition in Europe, Latin America, & East Asia* (LexisNexis, 2010), ISBN 978-1-4224-7478-5, pp. 72-79

Carl Minzner, *End of an Era: How China's Authoritarian Revival is Undermining its Rise* (2018), pp. 1-12 (remainder to be assigned later)

OPTIONAL: SKIM: Pew Research Survey, "Americans' Negative View of China Reaches Record High Amid Coronavirus Outbreak," Aug. 8, 2020, <https://www.pewresearch.org/global/2020/04/21/u-s-views-of-china-increasingly-negative-amid-coronavirus-outbreak/>

*Please note that discussion question notes are due each day even though not noted here.

Week 2

A. INTELLECTUAL & HISTORICAL FOUNDATIONS

2. **Mon. Aug. 31** *Confucianism; Legalism; The Great Qing Code*

Chen (2011), pp. 9-15 (Confucianism), 16-26 (Law in Imperial China)

Introduction to Li Si and excerpts, in deBary (1999), pp. 206-212

SKIM: Han Fei-tzu, "On the Importance of Having Standards," in Philip J. Ivanhoe and Bryan W. Van Norden, *Readings in Classical Chinese Philosophy* (2003), pp. 302-307 (Optional: "The Two Handles", in *id.*, pp. 307-311).

SKIM: "Introduction," *The Great Qing Code* (William C. Jones, trans.) (Oxford: Clarendon Press, 1994), pp. 1-13

Chart - Development of the Qing Code, in Bodde, Derk & Clarence Morris. *Law in Imperial China* (Philadelphia: Univ of Penn, 1967), pp. 56-57

SKIM: Excerpts from the Ta Tsing Leu Lee [The Great Qing Code (1810 ed.)]

OPTIONAL (timelines & maps encouraged):

- Outline of Early Chinese History (chart) in *Hsun Tzu: Basic Writings* (Burton Watson, trans.) (London: Columbia UP, 1963), front matter
- Excerpts from Confucius, *The Analects* (Hong Kong: Chinese UP, 1983), trans. D.C. Lau, pp. 11-27, 108-131.
- Introduction to Lao-tzu (Taoism), in deBary (1964), pp. 48-51 (pp. 51-61 optional)
- “Chinese Legal Terms & Concepts,” John W. Head, *Great Legal Traditions: Civil Law, Common Law & Chinese Law in Historical & Operational Perspective* (Carolina Acad. Press, 2011), pp. 465-466 (“Legal Terminology”)
- Table of Contents of *The Great Qing Code* in Jones (1994), pp. ix-xxviii

3. Tue. Sept. 1 Extraterritoriality and the Qing Reformers

Chen (2011), pp. 27-29

Timeline of Chinese History (BBC), <https://www.bbc.com/news/world-asia-pacific-13017882>. Review the period from the top of the timeline thru “The Republic” (1911). Be prepared to share a few things that you learned.

Julia Lovell, *The Opium War: Drugs, Dreams & the Making of China* (2011), pp. 9-15 & maps

SKIM: “Prince Kung’s Discovery of International Law,” & excerpts from Liang Ch’i-ch’ao and Wang K’ang-nien in Ssu-yü Teng and John K. Fairbank, *China’s Response to the West* (Cambridge: Harvard UP, 1954), pp. 97-99

“Jan. 29, 1901 Imperial Edict,” in Xu Xiaoqun, *Trial of Modernity: Judicial Reform in Early Twentieth-Century China, 1901-1937*, p. 27

SKIM: Wang Chung-Hui, “Law Reform in China,” *The Chinese Social and Political Science Review* (1917), pp. 13-21

Wesley, Fischel, *The End of Extraterritoriality in China* (Berkeley, CA: Univ. of California Press), pp. 1-15.

OPTIONAL REFERENCE:

- Map of China c. 1900 from J.A.G. Roberts, *A Concise History of China* (Cambridge: Harvard UP, 1999), pp. xxii-xxiii
- Legal Reform Chronology: John W. Head, *Great Legal Traditions: Civil Law, Common Law & Chinese Law in Historical & Operational Perspective* (Carolina Acad. Press, 2011), pp. 506-513
- Treaty of Wanghia (1844) & Treaty of Tientsin (1859), in *Treaties between the Empire of China and Foreign Powers* (1902) pp. 76-95.

4. Wed. Sept. 2 Sun Yat Sen and the Republican Era (1911-1949); Taiwan (Republic of China)

Chen (2011), pp. 28-32

Timeline of Chinese History (BBC), <https://www.bbc.com/news/world-asia-pacific-13017882>. Review the period entitled “Republic.”

“In Memory of 1911,” Oct. 9, 2011, p. 8

“From Sun to Mao to Now” Economist Oct. 8. 2011, pp. 54, 56

Excerpts from Sun Yat-Sen, in deBary (1999), pp. 320-330 (skim)

Ch’ien Tuan-sheng, *The Government and Politics of China* (1950), pp. 150-156, 247-249; SKIM 253-261 (remainder optional)

Taiwan (Republic of China):

“History,” Government Portal of the Republic of China (Taiwan), https://www.taiwan.gov.tw/content_3.php (review thru 1949)

“Government Agencies,” Government Portal of the Republic of China (Taiwan), <https://www.taiwan.gov.tw/3866.php> (click on and review details on the “Judicial Yuan” (<https://tps.judicial.gov.tw/english/>) and the “Executive Yuan” (https://www.taiwan.gov.tw/3866.php?q_xCat=2))

OPTIONAL:

- “1911 Inspirational Lives”, China Daily USA ed., Oct. 9, 2011, pp. 6-7



Recommended Movies: *The Last Emperor* (1987); *1911* (2011)

B. FROM MAO TO NOW: THE CULTURAL REVOLUTION, THE REFORM PERIOD, AND XI JINPING’S “NEW ERA”

5. Mon. Sept. 7 Mao & the Cultural Revolution

Chen (2011), pp. 7-8, 32-41

Timeline of Chinese History (BBC), <https://www.bbc.com/news/world-asia-pacific-13017882>. Review the period entitled “Communist Victory” thru the year 1976.

Mao to Reform Period Chronology (thru 1976)

William C. Jones, “Law in Mao’s China,” in *Understanding China’s Legal System* (C. Stephen Hsu, ed.) (New York: New York UP, 2003), pp. 22-41

Excerpts from Mao Zedong, “On the People’s Democratic Dictatorship” (1949), in *Selected Readings from the Works of Mao Tsetung* (Peking: Foreign Languages Press, 1971) and introduction in deBary (1999), pp. 423-24

Mao Zedong, "On the Correct Handling of Contradictions Among the People", Feb. 27, 1957 in Stuart Schram, *The Political Thought of Mao Tse-Tung* (1963), pp. 236-244.

Mao Zedong, "Completely Smash the Feudal, Capitalist, and Revisionist Legal System," *Chinese Law and Govt.*, vol. II, no. 4 (Winter 1969-70), pp. 7-11

OPTIONAL:

- Background on Cultural Revolution: J.A.G. Roberts, *A Concise History of China* at xxii-xxiii) (Cambridge: Harvard UP, 1999), pp. 272-288

 *Recommended Movie: Farewell My Concubine* (1993)

6. Tue. Sept. 8 The Reform Era (I) & Socialist Legality (1978-2000)

Chen (2011), pp. 41-47

Reform Period Chronology

Carl Minzner, *End of an Era* (2018), pp. 18-23 (background of reform era)

Zhu Yuanshi, "The Causes of the 'Cultural Revolution'," *Beijing Review*, no. 37 Dec. 14, 1981, pp.15-18

Richard Baum, "Modernization and Legal Reform in Post-Mao China: The Rebirth of Socialist Legality," *Studies in Comparative Communism* (1986), pp. 84-93

Deng Xiaoping, "Build Socialism with Chinese Characteristics 1984)," *Selected Works of Deng Xiaoping* vol. 3 (Beijing: Foreign Languages Press, 1994), pp. 72-75

Kellee Tsai, *Capitalism Without Democracy: The Private Sector in Contemporary China* (Ithaca: Cornell UP, 2007), pp. 36-37, 48-65, OPTIONAL: 207-217 (remainder assigned for Class 8).

OPTIONAL: *A Great Trial in Chinese History (The Case of the Gang of Four)* (Beijing: New World Press, 1980), excerpts

7. Wed. Sept. 9 China's WTO Accession & Beyond (2001-2013)

Review Chen 5-6 (questions)

Carl Minzner, *End of an Era* (2018), pp. 23-26 (background of 2000s)

China After Deng Xiaoping, Charlie Rose Show, Feb. 16, 1995, <https://charlierose.com/videos/12690> (1st 12 min.)

Julia Ya Qin, "Trade, Investment and Beyond: The Impact of China's WTO Accession on China's Legal System," *191 China Q.* 720 (2007), pp. 720-725, 728-737, 740-741

Benjamin Liebman, "Assessing China's Legal Reforms," *23 Colum. J. Asian L.* 18 (2009), excerpt

SKIM: PRC State Council, *The Socialist System of Laws with Chinese Characteristics*, October 27, 2011

8. Mon. Sept. 14 Xi Jinping & China on the World Stage (2013-present)

BROWSE: Infographic: U.S. Relations With China: 1949-2019 (U.S. Council on Foreign Relations), <https://www.cfr.org/timeline/us-relations-china>

“China Rules” Interactive Series (Part I): The Land That Failed to Fail, *New York Times* (Nov. 2018) (should be able to view 1 segment without paywall), <https://www.nytimes.com/interactive/2018/11/18/world/asia/china-rules.html>

Video: How Xi Became China’s Most Powerful Leader in Decades (*The Wall Street Journal*, Oct. 2017) (3 min)

Carl Minzner, *End of an Era* (2018), pp. 26-35 (summary of the Xi era to date)

Jianfu Chen, “Chinese Law & Legal Reform: Where to From Here?” 50 HK L. J. 243, 243-249 (2020)

SKIM: “CCP Central Committee Decision concerning Some Major Questions in Comprehensively Moving Governing the Country According to Law Forward,” trans. by China Copyright & Media, Oct. 28, 2014, available at <http://chinacopyrightandmedia.wordpress.com>.

SKIM: China’s Thirteenth Five-Year Plan (2016-2020) (Eng. trans.), Part XVIII (on rule of law)

OPTIONAL: Infographic: Catching Tigers and Flies, *ChinaFile*, Aug. 15, 2018 <https://www.chinafile.com/infographics/visualizing-chinas-anti-corruption-campaign>

OPTIONAL: Kellee Tsai, *Capitalism Without Democracy: The Private Sector in Contemporary China* (Ithaca: Cornell UP, 2007), pp. 1-13 (SKIM pp. 13-14 on methods), pp. 14-16, 207-217.

II. INTERLUDE: THE RULE OF LAW

9. Tue. Sept. 15 Legal Reform, Legitimacy & The Rule of Law

Chen (2011), pp. 180-190 (court structure), 197-200 (role of courts in society); optional pp. 284-290 (civil procedure)

Case Handout

Populism & Adaptive Legality: SKIM Liebman, Benjamin L. “A Return to Populist Legality? Historical Legacies and Legal Reform”, pp. 165-200, in Heilmann & Perry eds. *Mao’s Invisible Hand: The Political Foundations of Adaptive Governance in China* (Sebastian Heilmann & Elizabeth J. Perry, eds. Cambridge: Harvard UP 2011), pp. 165-188 (pp. 173-176 optional).

10. Wed. Sept. 16 Rule of Law & Authoritarian Legality

Peerenboom, (2002) (“*Long March*”), pp. 55-71

William Hurst, *Chinese Law & Governance: Moving Beyond Responsive Authoritarianism and the Rule of Law*, 1 *J. Chinese Gov.* 457 (2016)

OPTIONAL: Francis Fukuyama, *Reflections on Chinese Governance*, 1 *J. Chinese Gov.* 379 (2016)

FRI. SEPT. 18 REFLECTION ESSAY 1 DUE

III. INSTITUTIONS AND PROCESSES

A. LAW AND THE STATE: CONSTITUTION, STATE STRUCTURE, AND THE CCP

11. Mon. Sept. 21 *The PRC Constitution*

SKIM: Chen (2011), pp. 49-74

PRC Constitution (1982), as amended. Note: Folder includes a redacted version to more readily identify amendments in the current text. The original 1982 text is also included.

Chart: PRC Constitutional Evolution

"China's Communist Party Absorbs More of the State," Cong. Res. Svc., Mar. 23, 2018, <https://crsreports.congress.gov/product/pdf/IF/IF10854> (3 pp.)

Jie Cheng, "Modernity, Identity and 40 Year's Quest for Constitutionalism in China" (draft 2019) (focus on Parts IV & V; skim remainder) (not to be circulated)

OPTIONAL: Keith J. Hand, "Constitutional Supervision in China after the 2018 Amendment of the PRC Constitution: Refining the Narrative of Constitutional Supremacy in a Socialist Legal System," (draft 2019), pp. 1-9 (background on constitutionalism; XJP reforms); 13-20 (assessment); OPTIONAL: pp. 10-13 on mechanisms.

12. Tue. Sept. 22 *State Structure & the Chinese Communist Party (CCP) (I)*

SKIM: Chen (2011), pp. 75-94, 116-121

PRC Constitution, Ch. III

Chart of Political Levels and State Structure, van Rooji, in Chen et al. *Implementation of Law* (2002), pp. 336-338

Kenneth Lieberthal, "Nomenklatura," *Managing the China Challenge* (Brookings Institution Press, 2011), pp. 49-55

Who Are in Charge of What in China? (Harvard Fairbank Center for Chinese Studies): China's Leaders of Party and State after the 13th NPC and CPPCC (Apr. 2018), <https://fairbank.fas.harvard.edu/wp-content/uploads/2018/04/Post-NPC-Infographic-July-2018.pdf> and <https://fairbank.fas.harvard.edu/infographic-chinas-leaders-of-party-and-state-after-the-13th-npc-and-cppcc/> commentary at:

13. Wed. Sept. 23 State Structure & the Chinese Communist Party (CCP) (II)

Chen (2011), pp. 95-99, 105-116 (skim 106-109 re: evolution of CCP constitution)

SKIM: Patricia M. Thornton, "The New Life of the Party: Party-Building and Social Engineering in Greater Shanghai," 68 *China J.* 58 (2013), pp. 58-78.

Jianfu Chen, "Chinese Law & Legal Reform: Where to From Here?" 50 *HK L. J.* 244, 250-273 (2020)

Browse the homepage (English) of the CCP: <http://english.cpc.people.com.cn/>

MON. SEPT. 28 REFLECTION ESSAY 2 DUE

B. LEGISLATION & SOURCES OF LAW

14. Mon. Sept. 28 Legislation

SKIM: Chen (2011) pp. 123-137, 144-146 (hierarchy of law); optional: pp. 99-105 (on electoral system)

"The Role of Think Tanks in Policymaking" CBR 2009

SKIM: Jamie P. Horsley, "Beyond Protests: China's Struggle to Foster Effective Public Participation," (draft Michigan China's Legal Construction Program at 40), pp.1-16.

SKIM: Chung, Jae Ho "Central-Local Dynamics: Historical Continuities & Institutional Resilience", in Heilmann & Perry eds. *Mao's Invisible Hand: The Political Foundations of Adaptive Governance in China* (Sebastian Heilmann & Elizabeth J. Perry, eds. Cambridge: Harvard UP 2011), pp. 297-298, 302-313 (remainder optional).

Browse NPC website http://www.npc.gov.cn/englishnpc/Organization/node_2846.htm

OPTIONAL REFERENCE: Law on Legislation (2000; and amended 2015).

C. THE JUDICIARY & THE ROLE OF THE COURTS

15. Tue. Sept. 29 *The Courts: Dispute Resolution*

SKIM: Chen (2011) 171-173, 180-195 (structure of the court system)

Benjamin Liebman, Rachel Stern, Margaret Roberts & Xiaohan Wu, “*Dodging Decisions: Avoiding Responsibility in Chinese Courts*,” conference draft (Sept. 16, 2019) (*do not circulate*)

Rachel Stern, “Legal Mobilization and Authoritarian Political Participation: Evidence From China,” (2020).

SKIM: Guiding Case No. 113, Michael Jeffrey Jordan v. Trademark Review and Adjudication Board of the State Administration for Industry and Commerce and Qiaodan Sports Co., Ltd. (Administrative dispute over a trademark) (Issued on December 24, 2019 as deliberated and adopted by the Judicial Committee of the Supreme People's Court)

OPTIONAL REFERENCE: Organic Law of the People's Courts (1983), as amended 2006, *in* lawinfochina.com; People's Mediation Law of the PRC, Aug. 28, 2010, *in* lawinfochina.com; Civil Procedure Law of the PRC (2017 amendment), eff. 7/1/17.

16. Wed. Sept. 30 *The Courts (II): Judicial Interpretation & The Role of Precedent in a Civil Law System*

Chen (2011), pp. 166-169 (guiding cases); Chen (2011), pp. 147-150 (legis review), 154-166 (NPC, judicial, admin interp)

SKIM: Jie Cheng, “Constitutional Review Practices in China: A Paddling Duck Model? (working paper 2020) (used by permission) (you can skip Part II if you wish)

Mary Ann Glendon, Paolo C. Carozza & Colin B. Picker, *Comparative Legal Traditions: Text, Materials and Cases on Western Law*, 3d ed. (West 2007) ISBN13: 978-0-314-14408-9; ISBN10: 0-314-14408-0, pp. 244-247, 799-808.

Susan Finder, “Supreme People's Court's New Guidance on Similar Case Search,” July 27, 2020, <https://supremepeoplescourtmonitor.com/2020/07/27/supreme-peoples-courts-new-guidance-on-similar-case-search/>.

“China's new judicial reforms on case law and other guidance,” Supreme People's Court Monitor (Susan Finder's blog), June 22, 2019 post:

<http://supremepeoplescourtmonitor.com/tag/guiding-cases/>

REVIEW: Guiding Case No. 113, Michael Jeffrey Jordan v. Trademark Review and Adjudication Board of the State Administration for Industry and Commerce and Qiaodan Sports Co., Ltd. (Administrative dispute over a trademark) (Issued on December 24, 2019 as deliberated and adopted by the Judicial Committee of the Supreme People's Court)

OPTIONAL: Interpretation of the Supreme People's Court on Several Issues concerning the

Application of the Foreign Investment Law of the People's Republic of China

OPTIONAL REFERENCE: China's Guiding Cases Project, <https://cgc.law.stanford.edu/>

17. Mon. Oct. 5 Judicial Independence

Chen (2011), pp. 171-176 (partly a review from Class 15), 200-211.

Brian Fitzpatrick & Stephen Ware, "How Does Your State Select its Judges", ALEC Policy Forum, Mar. 2011 pp. 9-12.

Randall Peerenboom, "Judicial Independence in China: Common Myths and Unfounded Assumptions," in *Judicial Independence in China: Lessons for Global Rule of Law Promotion* (Cambridge UP, 2010) ISBN 978-0-521-19026 8, pp. 71-86.

Congressional Executive Commission on China, "Judicial Independence": <https://www.cecc.gov/judicial-independence-in-the-prc>

SKIM: "Who gave 'judicial independence' a death sentence,?" China Media Project, Jan. 14, 2015, <https://chinamediaproject.org/2015/01/14/who-gave-judicial-independence-the-death-penalty/>

OPTIONAL REVIEW: Populism & Adaptive Legality: SKIM Liebman, Benjamin L. "A Return to Populist Legality? Historical Legacies and Legal Reform", pp. 165-200, in Heilmann & Perry eds. *Mao's Invisible Hand: The Political Foundations of Adaptive Governance in China* (Sebastian Heilmann & Elizabeth J. Perry, eds. Cambridge: Harvard UP 2011), pp. 165-188 (pp. 173-176 optional).

D. ADMINISTRATIVE AGENCIES & ENFORCEMENT OF LAW

18. Tue. Oct. 6 Administrative Agencies & Enforcement

Chen (2011), pp. 331-343

SKIM: Chung, Jae Ho "Central-Local Dynamics: Historical Continuities & Institutional Resilience", in Heilmann & Perry eds. *Mao's Invisible Hand: The Political Foundations of Adaptive Governance in China* (Sebastian Heilmann & Elizabeth J. Perry, eds. Cambridge: Harvard UP 2011), pp. 297-298, 302-313 (remainder optional).

Kenneth Jarret & Lie Huihan, "Understanding China's Changing Civil Service," *China Bus. Rev.*, July-Aug. 2009, pp. 36-39

Xuehua Zhang, China's Environmental Administrative Enforcement System, *Envir. L. Rep.* vol. 41, 10-2011, pp. 10890-10894 (14 pp.)

19. Wed. Oct. 7 Constraints on Administrative Discretion

REVIEW (assigned last class): Chen (2011), pp. 331-343

Chen (2011), pp. 331-343 (ALL, ARL)

Handout: Constraints on Administrative Discretion

“See You in Court,” Economist, Sept. 30, 2017

Xixin Wang, “An American Tree Planted in Chinese Soil: The Impact of Due Process of Law on Chinese Administrative Law Reforms,” (MI 2019) (summary of admin law issues pp. 1-4)

John W. Givens & Andrew McDonald, “Squeezing the Same Old Stone: Evidence from Administrative Courts Explain Tax Reforms, Land Seizures & Protest in Rural China”, SSRN, Sept. 30, 2012

REVIEW (see class 15): Rachel Stern, “Legal Mobilization and Authoritarian Political Participation: Evidence From China,” (2020). (OGI, letters and visits) [Draft DQs, pair with article on ALL (Liebman – check SSRN)](OGI super-litigants)

REFERENCE:

- PRC Administrative Litigation Law (aka Administrative Procedure Law), 1989, amended June 27, 2017, in lawinfochina.com.
- Administrative Reconsideration Law (1999, 2017 am., eff. Jan. 1, 2018), lawinfochina.com
- Administrative Licensing Law (2019)
- Law of the People’s Republic of China on Administrative Penalty (2009 am., 2017 am.), lawinfochina.com.
- State Compensation Law of the People’s Republic of China, amended 2012, lawinfochina.com.
- Law of the PRC on Administrative Supervision (2010 Amendment), June 25, 2010, lawinfochina.com

FRI. OCT. 9 REFLECTION ESSAY 3 DUE

20. Mon. Oct.12 COVID-19 Case Study: Legal Implementation & Administrative Discretion

Context:

SKIM: Neysun A. Mahboubi, "Comparative Administrative Law Matters in the Fight Against COVID-19," *Reg. Rev.*, Jul. 2, 2020.

SKIM: Peter Hessler, "How China Controlled the Coronavirus," (read pp. 1-6 and skim remainder for a present-day glimpse of life under COVID in China through both Western and Chinese eyes).

China's Response & Administrative Law

Jacques deLisle, "China's Administrative State is Both a Blessing and a Curse," *Reg. Rev.*, June 30, 2020.

Shen Kui, "The Delayed Response in Wuhan Reveals Legal Holes," *Reg. Rev.*, Apr. 20, 2020.

OPTIONAL: Weng et al., "Responding to the Coronavirus Pandemic – A Tale of Two Cities," (forthcoming 2020) (a comparison of responses in Shanghai and Los Angeles from public management scholars).

E. CONCEPTS OF RIGHTS; ALTERNATIVES TO FORMAL JUSTICE

21. Tue. Oct. 13 Rights & Resistance in China

Context: Constitutional Limits on 1st Amendment Rights in the U.S.

SKIM: Erwin Chemerinsky, § 11.4.1 "Public Forums"; "Time, Place, Manner Restrictions," *Constitutional Law: Principles & Policies*, (2006) pp. 1127-1128; 1131; 1134; 1136-1137)

Concepts of Rights:

Elizabeth Perry, "Chinese Conceptions of 'Rights':" From Mencius to Mao – and Now," *Perspectives on Politics*, Mar. 2008, vol. 6:1, pp. 37-46 (skim 39-41)

SKIM: Confucius: Introduction to Confucius in deBary, *Sources of Chinese Tradition*, vol. I (New York: Columbia UP, 1964 ed.), pp. 15-20

Review: Chen (2011), pp. 18-25 (legality & rights under the Qing Code), 68-73 (Constitutional rights and duties)

Resistance:

Stephen McDonnell, "Why China Censors Banned Winnie the Pooh," BBC China Blog, July 17, 2017, <http://www.bbc.com/news/blogs-china-blog-40627855>.

Li Yuan, "Widespread Outcry in China Over Death of Coronavirus Doctor," N.Y. TIMES, Feb. 7, 2020, <https://www.nytimes.com/2020/02/07/business/china-coronavirus-doctor-death.html>

Guobin Yang, "The Digital Radicals of Wuhan," CDCS, Feb. 3, 2020, <https://cdcs.asc.upenn.edu/guobin-yang-2/>

22. Wed. Oct. 14 The Media

Context: Press Freedoms & Prior Restraints SKIM: Erwin Chermersky, § 11.2.3.1 "Prior Restraints," Constitutional Law: Principles & Policies, (2006) pp. 949-950, 953-954, 958-960.

Role of Media: Liebman, Benjamin, Watchdog or Demagogue: The Media in the Chinese Legal System, 105 COLUM. L. REV. 1 (2005), pp. 1-11, OPTIONAL: pp. 11-14 (rsrch methods)

Maria Repnikova, Media Politics in China: Improvising Power under Authoritarianism (2017), excerpt
As an alternative to the Repnikova excerpt, you may listen to/ watch Professor Repnikova's podcast on Sinica (55 min.): 'Critical' Journalism in China, Explained by Maria Repnikova – Sinica, February 15, 2018, <https://supchina.com/podcast/critical-journalism-in-china-explained-by-maria-repnikova/>

23. SPECIAL SESSION: Thurs. Oct. 15 4:30-6:35 CT (5:30-7:35 PM ET)– China & the International Legal Order (Online Symposium)

"China and the International Legal Order" Virtual Symposium, HILJ-YJIL-Oxford | October 15th, 2020
5:00 PM – 7:35 PM (Panels begin at 5:30 and run for 30 min. each)

To register, please click the link and provide your name, email address, affiliation, and job title (including student): https://harvard.zoom.us/webinar/register/WN_RCxnlKkiQMujwaF1UdyTPg.

Assignment: You must attend at least one of the panels and write a brief (1-2 p.) summary of the presentations, one paragraph describing some of the key things you learned from it and one or two questions that you have about the topic after listening to the panel. Be sure to include your name at the top and a heading with the panel title and listing the panel participants & affiliations & their topics, if provided.

24. Mon. Oct. 19 Constraints & Rights Lawyering

OPTIONAL/SKIM: Chen (2011), pp. 217-222, 230-236

Fu, Hualing and Cullen, Richard, "Weiquan (Rights Protection) Lawyering in an Authoritarian State: Toward Critical Lawyering," 59 China J. 111 (2008), pp. 111-126

SKIM: Teng Biao, Weiquan Lawyering & the Internet, China Perspectives (Mar. 2012) pp. 29-41

OPTIONAL: Law of the People's Republic of China on Lawyers (中华人民共和国律师法), am. 2012, 2017

OPTIONAL: Dan Harris, *On Becoming a China Lawyer*, Apr. 16, 2017, <http://www.chinalawblog.com/2017/04/on-becoming-a-china-lawyer.html>

MON. OCT. 19 REFLECTION ESSAY 4 OUTLINE DUE – NO DISCUSSION QUESTIONS REQUIRED

25. Tue. Oct. 20 Civil Society

NOTE: In lieu of discussion questions, please complete and submit the handout for this class session, including questions related to our Foreign NGO client memo project (**adjusted due date Mon. Oct. 26**)

Gabriel Corsetti, "How Many NGOs are There Really?" *China Development Brief*, Aug. 2, 2019, <https://chinadevelopmentbrief.cn/reports/how-many-ngos-are-there-really-in-china/>

"What Chinese Charities are Facing in One Easy Chart," *ChinaFile*, Nov. 19, 2018, <https://www.chinafile.com/ngo/latest/what-chinese-charities-are-facing-one-easy-chart>

SKIM: Katherine Wilhelm, "Foreign Nonprofits in China: End of an Era," (draft) (MI 2019) (Only the Executive Summary, Introduction, and Parts IV-V are assigned; remainder optional)

Foreign NGO Client Memo Handout (Exercise 1)

Browse all of the following websites:

- All-China Women's Federation (ACWF) at <http://www.womenofchina.cn/> (the ACWF is a "government NGO" or "GONGO")
- The One Foundation at <https://www.globalgiving.org/donate/15390/one-foundation/> (this is a private foundation started by movie star Jet Li)
- Friends of Nature (FON) at http://www.fon.org.cn/index.php?option=com_content&view=featured&Itemid=237 (this is one of the oldest environmental NGOs in China – also a private NGO)

OPTIONAL: Simon, Karla. *Civil Society in China* (2013) (excerpts), 234-249, 302-304, 314-335 (history of NGOs in China, regulatory framework).

OPTIONAL: Civic Freedom Monitor – China, <https://www.icnl.org/resources/civic-freedom-monitor/china>

OPTIONAL REFERENCE: (we will use some of these in our client exercise)

- PRC Law on the Administration of Overseas Non-Governmental Organizations within the Territory of China, Apr. 28, 2016, eff. Jan. 1, 2017, in lawinfochina.com.
- Ministry of Public Security, Guidelines for the Registration of Representative Offices of Overseas Non-Governmental Organizations and Recordation of Temporary Activities, Dec. 31, 2016, in lawinfochina.com.
- Ministry of Public Security, Catalogue of the Activity Fields and Projects of Overseas Non-Governmental Organizations and Directory of the Competent Business Authorities, Dec. 1, 2016.

26. Wed. Oct. 21 Case Study: Challenging Environmental Harms

Case Study Guide (No discussion questions required today). Each of you are assigned in the Case Study Guide to read ONE of the following assigned articles (the remainder will be optional for you) and be prepared to summarize it in class, in addition to preparing to respond to the case study using any of our materials for this week. You are NOT required to submit anything in advance but you must bring your talking points, etc. to class to facilitate our case study discussion.

SKIM H. Christoph Steinhardt & Fengshi WU, "In the Name of the Public: Environmental Protest and the Changing Landscape of Popular Contention in China, 75 *China J.* 61 (2015):61-82.

Rachel Stern, *From Dispute to Decision: Suing Polluters in China*, *China Q* (2011) pp. 294-312

NRDC Blog, "New Weapons in the War on Pollution: China's Environmental Protection Law Amendments," Apr. 24, 2014.

OPTIONAL (background): China's Environmental Crisis – Beina Xu and Eleanor Albert, *Council on Foreign Relations*, Jan. 18, 2016

OPTIONAL: Environmental Protection Law of the PRC (1989, am. 2014)

MON. OCT. 26 REFLECTION ESSAY 4 DUE; CLIENT MEMO EXERCISE 1 (FOREIGN NGO LAW) DUE.

IV. SELECTED TOPICS IN MODERN CHINESE LAW

A. CRIMINAL LAW

27. Mon. Oct. 26 *Criminal Procedure & Criminal Defense Lawyers*

Chen (2011) pp. 211-215 (procuracy); OPTIONAL: Chen (2011), pp. 241-250 (lawyers in criminal process), pp. 266-284 (these excerpts offer an overview of the 1996 Criminal Procedure Law and the 2007 Lawyers' Law, but both have been subject to several amendments (the CPL in 2012 & 2018 and the Lawyers' Law in 2012 & 2017)).

Susan Trevaskes, "Deepening Reform in China's Criminal Justice System: The Case of Trial Centeredness," *MI* 2019

Rudolf B. Schlesinger, "Comparative Law" (on continental criminal procedure) in Mary Ann Glendon, Michael Wallace Gordon & Christopher Osakwe, *Comparative Legal Traditions: Text, Materials and Cases on Western Law*, 2d ed. (West 1994) ISBN: 0-314-03501-X; pp. 180-188

"Policing the Party," *Economist*, Sept. 1, 2012

REFERENCE: (not required to be read in full; reference in completing discussion questions).

- Lawyers' Law (am. 2012, 2017)
- Criminal Procedure Law (1979), as amended 2012, 2018.
- Notice Amending the Criminal Procedure Law (2018).

B. HUMAN RIGHTS

28. Tue. Oct. 27 *Conceptions of Human Rights in China*

Randall Peerenboom,, “Human Rights in China,” in Peerenboom, et al., eds., *Human Rights in Asia* (New York: Routledge, 2006), pp. 413-421, 424-432

State Council Press Release, “China Reviews Human Rights Progress, Pledging Greater Effort,” June 15, 2016.

SKIM PRC 2016-2020 Human Rights Action Plan, Eng. Version:
http://english.gov.cn/archive/publications/2016/09/29/content_281475454482622.htm

Select at least one of the following to review:

- **Religion in China:** Eleanor Albert & Lindsay Maizland, “Religion in China,” Council on For. Relations Backgrounder, Sept. 25, 2020, <https://www.cfr.org/backgrounder/religion-china>.
- **Uighyrs (Xinjiang): Xinjiang (XUAR):** Darren Byler, “I researched Uighur society for 8 years and watched how technology opened new opportunities and then became a trap,” *The Conversation*, Sept. 18, 2019, <https://theconversation.com/i-researched-uighur-society-in-china-for-8-years-and-watched-how-technology-opened-new-opportunities-then-became-a-trap-119615>. There is a great deal of material collected at <http://bit.ly/xinjiangdetentions>. Prof. Magnus Fiskesjö of Cornell University also has a gigantic bibliography [here](#).

29. Wed. Oct. 28 *Human Rights Debate*

“Tibet protests fuel Chinese resentment,” *The Irish Times* April 26, 2008

SKIM/REVIEW: PRC 2016-2020 Human Rights Action Plan, Eng. Version:
http://english.gov.cn/archive/publications/2016/09/29/content_281475454482622.htm

Congressional Executive Commission on China, “Frequently Asked Questions,”
<https://www.cecc.gov/about/frequently-asked-questions>

“Absurd U.S. Bill on Xinjiang Reveals U.S. True Face of Human Rights Violator,” June 20, 2020, <https://www.chinadaily.com.cn/a/202006/20/WS5eedcbe3a3108348172545e6.html>

Clay Chandler & Grady MacGregor, “The U.S. Has Long Decried China’s Great Firewall: Now Its Building its Own,” Aug. 6, 2020, <https://fortune.com/2020/08/06/us-china-pompeo-apps-great-firewall/>

“China Issues Report on Human Rights Violations in the U.S.,” *Xinhua*, Mar. 14, 2020, <http://global.chinadaily.com.cn/a/202003/13/WS5e6b41a0a31012821727ef8c.html>

SKIM: Human Rights Record of the United States in 2019, 3/14/2020, <http://www.chinadaily.com.cn/a/202003/14/WS5e6c0d5ea31012821727f0c5.html>

OPTIONAL REFERENCES:

- U.S. State Dept. Human Rights Country Report (2019) – China, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/china/>
- Human Rights Watch Country Report – China (2019), <https://www.hrw.org/world-report/2020/country-chapters/global#>
- Human Rights Watch Country Report – United States (2019), <https://www.hrw.org/world-report/2020/country-chapters/united-states>

C. COMMERCIAL AND ECONOMIC LAW

30. Mon. Nov. 2 Foreign Investment Reform & Outbound FDI

BROWSE: U.S.-China FDI Project – *National Committee on U.S.-China Relations & The Rhodium Group*, May 2019, <http://www.us-china-fdi.com/> (infographic)

“China’s Tech Giants Caught Between Tightening Scrutiny at Home and Abroad,” Aug. 14, 2020, <https://www.caixinglobal.com/2020-08-14/in-depth-chinas-tech-giants-caught-between-tightening-scrutiny-at-home-and-abroad-101592969.html>

Rhodium Group, “Two-Way Street: 2020 Update – U.S.-China Direct Investment Trends (Executive Summary)” (2020), 4 pp. (full report optional)

Jones Day, “China Further Opens Its Market with New ‘Foreign Investment Law’,” Feb. 2020.

AmCham Shanghai, “China’s 2020 Foreign Investment Negative List,” 2020 <https://www.amcham-shanghai.org/en/article/policy-briefing-chinas-2020-foreign-investment-negative-lists>

Vivienne Bath, “Hope, Experience, & Foreign Investment,” (MI 2019)

OPTIONAL REFERENCE: Foreign Investment Law, prom. Mar. 15, 2019, eff. Jan. 1, 2020; Regulation for Implementing the Foreign Investment Law of the People's Republic of China, Dec. 26, 2019.

31. Tue. Nov.3 The Trade War Unpacked

“Xi’s New Economy,” *Economist*, Aug. 15, 2020, at 9

Background on U.S.-China Trade, USTR, <https://ustr.gov/countries-regions/china-mongolia-taiwan/peoples-republic-china>

The U.S.-China Trade War: A Timeline (2020)

“These 6 Charts Compare the US and China Economies in the Second Year of Their Trade War, CNBC, Jan. 1, 2020, <https://www.cnbc.com/2020/01/02/trade-war-6-charts-comparing-us-china-economies-and-markets-in-2019.html>

Julia Ya Qin, “The China Challenge to the World Trading System,” Michigan ChinaLaw at 40 draft Sept. 2019.

SKIM: Executive Summary, Findings of Section 301 Investigation, USTR, Mar. 22, 2018, <https://ustr.gov/sites/default/files/enforcement/301Investigations/301%20Draft%20Exec%20Summary%203.22.ustrfinal.pdf>

State Council Information Office, PRC Facts & China’s Position on the U.S.-China Trade War, Sept. 2018, http://english.www.gov.cn/archive/white_paper/2018/09/26/content_281476319220196.htm, pp. 2-3, pp. 29-38 (on IPR & tech transfer), SKIM headings of remainder; SKIM 67-71 (“China’s position”).

OPTIONAL: “China Won’t Be Scared Into Choosing Marketization,” CSIS, Apr. 23, 2020.

32. Wed. Nov. 4 Intellectual Property Rights & the Trade War

Intellectual Property Laws Chart

USTR, Phase One Trade Agreement Fact Sheet – Intellectual Property, https://ustr.gov/sites/default/files/files/agreements/phase%20one%20agreement/Phase_One_Agreement-IP_Fact_Sheet.pdf

USTR, Phase One Trade Agreement Fact Sheet – Technology Transfer, https://ustr.gov/sites/default/files/files/agreements/phase%20one%20agreement/Phase_One_Agreement-Technology_Transfer_Fact_Sheet.pdf

REVIEW: Julia Ya Qin, “The China Challenge to the World Trading System,” Michigan ChinaLaw at 40 draft Sept. 2019.

REVIEW: State Council Information Office, PRC Facts & China’s Position on the U.S.-China Trade War, Sept. 2018, http://english.www.gov.cn/archive/white_paper/2018/09/26/content_281476319220196.htm, pp. 29-38 (on IPR & tech transfer), SKIM 67-71 (“China’s position”).

OPTIONAL: Chinese Perspectives on Trade and the Economic Tension with the US – David Dollar and Yiping Huang, *Brookings Institution*, Jun. 24, 2019, <https://www.brookings.edu/podcast-episode/chinese-perspectives-on-trade-and-the-economic-tension-with-the-us/> (30 minutes)

OPTIONAL: The Unwinnable Trade War – Weijian Shan, Foreign Affairs, Oct. 8, 2019 “The Unwinnable Trade War,” <https://www.foreignaffairs.com/articles/asia/2019-10-08/unwinnable-trade-war>

D. TERRITORIAL SOVEREIGNTY

33. Mon. Nov. 9 Taiwan/Republic of China

Susan V. Lawrence, "Taiwan: Issues for Congress," *Congressional Research Service*, May 24, 2018, <https://fas.org/sgp/crs/row/R44996.pdf>, pp. 1-13 (U.S. position); pp. 38-45 (PRC & ROC positions).

Chris Horton, "Taiwan's Status is a Geopolitical Absurdity," *The Atlantic*, July 18, 2019, <https://www.theatlantic.com/international/archive/2019/07/taiwans-status-geopolitical-absurdity/593371/>

SKIM: Richard C. Bush, "A One-China Policy Primer," *Brookings* (Mar. 2017), <https://www.brookings.edu/wp-content/uploads/2017/03/one-china-policy-primer.pdf>. Read the "Key Findings" and the bolded headings throughout. Pp. 8-20 are the core of this report.

SKIM: Taiwan Relations Act (1979)

OPTIONAL: Ministry of Foreign Affairs, Guide to Taiwan 2019-2020, http://multilingual.mofa.gov.tw/web/web_UTF-8/MOFA/glance2019-2020/English.pdf. Highly recommend browsing this guide. Note especially the timeline on pp. 16-23, the overview of foreign affairs on pp. 33-41, and the discussion of cross-strait relations on pp. 42-47.

OPTIONAL: David Wertime, "U.S. Must Update Its Thinking on Taiwan," *Politico China Watcher*, Oct. 8, 2020, <https://www.politico.com/newsletters/politico-china-watcher/2020/10/08/former-intel-officers-were-thinking-about-taiwan-wrong-taipei-beijing-washington-conflict-490547>

34. Tue. Nov. 10 China & International Law: The South China Sea

Council on Foreign Relations, "China's Maritime Disputes," *South China Sea Timeline*, <https://www.cfr.org/interactives/chinas-maritime-disputes#!/p31345>. Watch the 7-minute video and then browse all the paragraph-length sections under each heading tab (i.e. "Mapping the Claims," "Historical Context," "By the Numbers," "Power Projection," and "Policy Options").

Hannah Beech, "Where Did China Get the Nine-Dash Line," *Time*, July 19, 2016, <https://time.com/4412191/nine-dash-line-9-south-china-sea/>

Ted McDorman, "The South China Sea Arbitration," *ASIL Insights*, Nov. 18, 2016, <https://www.asil.org/insights/volume/20/issue/17/south-china-sea-arbitration>

Michael R. Pompeo, U.S. Position on Maritime Claims in the South China Sea, July 13, 2020, <https://www.state.gov/u-s-position-on-maritime-claims-in-the-south-china-sea/>.

BROWSE: Council on Foreign Relations, *South China Sea Timeline*, <https://www.cfr.org/timeline/chinas-maritime-disputes>. An excellent overview of the escalating territorial disputes in the East and South China Seas between China and its neighbors, including Japan, Vietnam, and the Philippines.

OPTIONAL REFERENCE: Asia Maritime Transparency Initiative, CSIS, <https://amti.csis.org/>. Interactive maps of ocean features, islands, and claimants.

35. Wed. Nov. 11 The Hong Kong Special Administrative Region (HKSAR) – Part I

“What is One Country, Two Systems?” *South China Morning Post*, June 28, 2017, <https://www.scmp.com/video/hong-kong/2100413/what-does-one-country-two-systems-mean> (2 min.) (try to disregard the peppy background music)

What Is the Basic Law (BBC), <https://www.bbc.com/news/world-asia-china-49633862>

Video (3 min): Jude Blanchette, “What’s Happening in Hong Kong,” Sept. 2019, <https://www.youtube.com/watch?v=6xnHbV2cIMl>

“China: Power and Prosperity” (documentary), PBS, Nov. 22, 2019, <https://www.youtube.com/watch?v=JovtmKFXi3c>. (1 hr. 45 min.). Watch segment at 1:32:01-1:44:29 (final segment). This overlaps somewhat with the events described in the Blanchette video.

How China Sees the Hong Kong Crisis - Andrew J. Nathan, *Foreign Affairs*, Sep. 30, 2019, <https://www.foreignaffairs.com/articles/china/2019-09-30/how-china-sees-hong-kong-crisis>

SKIM: Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, July 1, 2020.

OPTIONAL REFERENCE: Treaty of Nanking (1842), *Treaties between the Empire of China and Foreign Powers* (1902) pp. 1-5 (referencing the agreement to cede Hong Kong to Britain).

Part II (you are encouraged to read for Wed., but we will revisit this material on Mon.)

Richard C. Bush, “Order From Chaos: A Requiem for the City of Hong Kong,” *Brookings (blog)*, Nov. 18, 2019 (1 p.)

“The Darkness Behind,” *Economist*, July 18, 2020.

Chen Weihua (Opinion), “Double Standard of West Over Protests in U.S. and H.K. Laid Bare,” *China Daily*, June 5, 2020, <https://www.chinadaily.com.cn/a/202006/05/WS5ed981cda310a8b24115afa7.html>

REVIEW: Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, July 1, 2020.

SKIM: Executive Order on Hong Kong Normalization, July 14, 2020, <https://www.whitehouse.gov/presidential-actions/presidents-executive-order-hong-kong-normalization/>

E. CHINA & THE WORLD

36. Mon. Nov. 16 Sovereignty & International Relations – Hong Kong Part II

No new material is assigned for today. Instead, we will have an open discussion continuing our material from last week and focus on the Hong Kong National Security Law and its aftermath.

From Wed. Nov. 11 - Part II (feel free to read for Wed., but we will revisit this material on Mon.)

Richard C. Bush, "Order From Chaos: A Requiem for the City of Hong Kong," *Brookings (blog)*, Nov. 18, 2019 (1 p.)

Chen Weihua (Opinion), "Double Standard of West Over Protests in U.S. and H.K. Laid Bare," *China Daily*, June 5, 2020, <https://www.chinadaily.com.cn/a/202006/05/WS5ed981cda310a8b24115afa7.html>

SKIM: Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, July 1, 2020.

SKIM: Executive Order on Hong Kong Normalization, July 14, 2020, <https://www.whitehouse.gov/presidential-actions/presidents-executive-order-hong-kong-normalization/>

37. Tue. Nov. 17 The Belt & Road Initiative (aka "One Belt, One Road")

"China's Massive Belt and Road Initiative Builds Global Infrastructure and Influence," PBS, Sept. 27, 2019, https://www.youtube.com/watch?reload=9&v=xl_kw3mNazY. (10 min.)

VIDEO: State Council, "The Belt and Road Initiative," Sept. 21, 2015, http://english.www.gov.cn/news/video/2015/09/21/content_281475194891127.htm (1.5 min.)

SKIM: Andrew Chatzky and James McBride, "China's Massive Belt and Road Initiative," Council on Foreign Relations, May 21, 2019, <https://www.cfr.org/backgrounder/chinas-massive-belt-and-road-initiative>

SKIM: Min Ye, *The Belt Road and Beyond – State-Mobilized Globalization in China: 1998-2018* (2019), "State Mobilized Globalization" (pp. 3-18); "BRI Origins," pp. 115-124, "Implications: Road and Roadblocks in China and Beyond," pp. 204-212.

38. Wed. Nov. 18 China & the International Order

Jacques deLisle, "Turning the Tables?: A Chinese Model of Law, China's Approach to International Law, and Their Implications," *MI 2019* (ROL, China's approach to law as importer, exporter, or shaper?)

Choose one of the following: (remainder optional)

- Opinion: Zhiqun ZHU, "Interpreting China's 'Wolf-Warrior Diplomacy,'" *The Diplomat*, May 2020.
- John Pomfret, "China's Odious Manipulation of History is Infecting the West," *Wash. Post* Aug. 23, 2017.
- What Just Happened with the NBA in China? – *ChinaFile*, Oct. 10, 2019, <https://www.chinafile.com/conversation/what-just-happened-nba-china>

China Is Not an Enemy - M. Taylor Fravel, J. Stapleton Roy, Michael D. Swaine, Susan A. Thornton and Ezra Vogel, *The Washington Post*, Jul. 3, 2019,

https://www.washingtonpost.com/opinions/making-china-a-us-enemy-is-counterproductive/2019/07/02/647d49d0-9bfa-11e9-b27f-ed2942f73d70_story.html

Center for Strategic and International Studies, "Mapping the Future of U.S. China Policy – Findings," <https://chinasurvey.csis.org/analysis/>. Click on each tab under "Findings" and review graphs and results for all 3 groups (U.S. thought leaders, U.S. public, and U.S. allies & partners)

OPTIONAL: White House, U.S. Strategic Approach to the PRC, <https://www.whitehouse.gov/wp-content/uploads/2020/05/U.S.-Strategic-Approach-to-The-Peoples-Republic-of-China-Report-5.20.20.pdf?fbclid=IwAR0f6PyO8BoEVUvIrshD0YgDfJGacxVFheChUxpHye-RIRAB397Iq4dMaw0> (16 pp.)

OPTIONAL: China in the World (*Carnegie-Tsinghua Center for Global Policy*), <https://carnegietsinghua.podomatic.com/> A series of conversations between Director Paul Haenle and Chinese and international experts on China's foreign policy.

39. Mon. Nov. 23 Conclusion

OPTIONAL: Donald Clarke, "China's Legal Non-Construction Project," *Michigan Chinese Law* at 40 (2019)

OPTIONAL: "China: Power and Prosperity" (documentary), PBS, Nov. 22, 2019, <https://www.youtube.com/watch?v=JovtmKFXi3c>. (1 hr. 45 min.)

NO CLASS TUE. NOV. 24

FRI. NOV. 21 CLIENT MEMO/EXERCISE 3 DUE

MON. DEC. 7 REFLECTION ESSAY 5 DUE