

MGCS 5005
Narratives on China's Legal Past and Present

Professor Billy So

Course Description

This course explores the prospect of the rule of law in Chinese cultural context by critically examining narratives on Chinese legal tradition and its modern transformation from the beginning of the last century. Main themes may touch on jurisprudential ideas and values, constitutional order, legal institutions, criminal justice system, civil and commercial laws, customary law, mediation and arbitration, and the interplay among politics, society and economy in the legal context. Class discussions will not only involve deep reading of legal documents, textual analysis, and historical analysis but also ponder on legal theories and categories.

Class Schedule

NO. THEME

L1	Introduction
L2	Law with or without Heaven
L3	Song legal justice
L4	Extraterritoriality and modernization of Chinese law
L5	Criminal justice
L6	Civil law
L7	Customary law as legal norm and legal knowledge
L8	Court adjudication, arbitration and mediation in dispute resolution
L9	Commercial law
L10	Constitutional law
L11	Concluding remarks – “Governing the Country According to Law”

Assessment Tasks:

1. Participation in learning activities during the lectures with required readings (10%)
2. Reflective essay (10%)
3. Quiz (30%)
4. Team project (50%)

Major Readings:

Fairbank, John King. *China: A New History*. Cambridge, MA : The Belknap Press of Harvard U Press, 1998. Chap. 8 (The Paradox of Growth without Development – Limitations of the Law), pp.183-186.

Chen, Albert H.Y. *An Introduction to the Legal System of the People's Republic of China*. 4th ed. Hong Kong: LexisNexis, 2011. Chaps.1-2 (Introduction: Legal theory, comparative law and the case of China; The legal history of traditional China).

So, Billy K. L. “Sung Criminal Justice and the Modern Implication of Chinese Legal Tradition.” In Liu Tseng-kuei ed., *Papers from the Third International Conference on Sinology, History Section: Law and Custom*. Taipei: Institute of History and Philology, Academia Sinica, 2002. pp.63-107.

Unger, Roberto. *Law in Modern Society*. The Free Press, 1976. Chap.2.