

**ANTH3540/5540**  
**Anthropology of Gender, Sexuality, and the Law**  
**Monday 12.30 pm – 3.15 pm**  
**Zoom (online)**

**Professor Sealing Cheng**  
([sealing@cuhk.edu.hk](mailto:sealing@cuhk.edu.hk), NAH304)  
**Research Assistant: Nie Youping**  
(1155135522@link.cuhk.edu.hk)

In this course, students will learn to:

- 1) Analyze the logic and assumptions underlying law's relationship to gender, sexuality, class, and ethnicity;
- 2) Contextualize the meanings of gender and sexuality embedded in juridical processes within a historical and cross-cultural perspective;
- 3) Understand law as social processes, legal documents as ethnographic artifacts, legal procedures as techniques of legitimation;
- 4) Develop skills to critically examine the making of laws, their ways of enforcement, and their impact on people.

**Assessment:**

**1. Tutorial Participation and Discussion Questions (20%)**

All students contribute to class discussion by formulating some of their viewpoints and line of inquiry before coming to class. PLEASE SUBMIT YOUR DISCUSSION QUESTION TO BLACKBOARD DISCUSSION FORUM EACH SUNDAY before class.

Participation is an important element in this course. Each student is required to attend a minimum of 7 tutorials to pass the course.

The class and the online forum will be a safe environment for the exchange of diverse ideas and debates. Respect for differences and intellectual rigor are important pedagogical goals in this class. All opinions will be respected but all opinions must be defended.

YOU ARE INVITED TO CONTRIBUTE TO ONLINE DISCUSSION on our course facebook group by posting relevant material and posting comments and questions.

**2. Leading Tutorial Discussion (10%)**

Each student will be responsible for leading one tutorial discussion at the beginning of each class. Leading a tutorial means formulating provocative questions and opening up a space for dialogue. The point is to stimulate and invite your tutorial participants to jointly interrogate particular issues that interest you. Please DO NOT present a summary of the readings and leave it at that. Try also to find material (newspaper cuttings, pictures, video clips etc) other than the readings to enrich the discussion. You are welcome but not required to discuss with me how you intend to proceed with the tutorial beforehand, unless you require special equipment for your presentation. Leading a tutorial means that you are in charge – so, be empowered and be creative!

**3. 2 Short Responses (30%)**

**Write ONE short response (800 - 1000 words) on**  
**i. any class from Wk 2-6, submit by Oct 2 Friday; and**  
**ii. any class from Wk 8-11, submit by Dec 4 Friday;**

Please use response papers to demonstrate your understanding of any number of the readings, and formulate a short argument with one of the key points in the texts.

See this on advice on response papers: [https://awelu.srv.lu.se/genres-and-text-types/writing-in-academic-genres/the-essay-format/response-papers/#:~:text=A%20response%20paper%20is%20a,or%20a%20work%20of%20fiction.&text=In%20the%20introduction%2C%20the%20book,article\(s\)%2C%20etc.](https://awelu.srv.lu.se/genres-and-text-types/writing-in-academic-genres/the-essay-format/response-papers/#:~:text=A%20response%20paper%20is%20a,or%20a%20work%20of%20fiction.&text=In%20the%20introduction%2C%20the%20book,article(s)%2C%20etc.)

**Please name each piece with your [Last Name First Name]Response[#], e.g. CHENGResponse1 and send to appropriate Blackboard folder.**

#### **4. Fieldnotes from a Courtroom (15%)**

Pick a courtroom of your choice to observe for at least 3 hours and write a coherent set of notes with reflection. (1500 words). More details to be given in class.

#### **5. Research Paper (25%) [2,000 words for ANTH3540, 2,500 words for ANTH5540]**

**Recommended Topic: Digital Sexual Violence**

**Use what you have learnt in the course to write a research paper on digital sexual violence, the criminal justice response to it, and/or the legal remedies addressing the issue. Are there alternative ways to frame the problem of sexual violence and come up with solutions.**

**This is a relatively new field, so it will be an interesting investigation for us all!**

**If you feel strongly that you want to do a research paper on another subject, please let me know on or before Nov 2.**

**\* Readings with an asterisk (\*) are required for MA students and optional for undergraduates.**

Wk 1	Sept 7	Introduction
------	--------	--------------

Malinowski, Bronislaw. 1985[1926]. *Crime and Custom in Savage Society*. Totowa, N.J.: Helix Books

Freeman, Michael and David Napier. 2009. "Introduction: Law and Anthropology." In *Law and Anthropology*, pp.1-12. London: University College London.

Wk 2	Sept 14	Theorizing Sexuality and the Law
------	---------	----------------------------------

Rubin, Gayle. 1992 [1984]. "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality." In Carole Vance (ed.) *Pleasure and Danger*, 267-293. London: Pandora.

Franke, Katherine. 2002. "Putting Sex to Work", in Wendy Brown and Janet Halley (eds), *Left Legalism/ Left Critique*. Durham: Duke University Press, pp.290-336.

\*Foucault, Michel. 1984[1979]. "We Other Victorians," in Paul Rabinow (ed.) *The Foucault Reader*, London: Penguin, pp. 292-300.

Optional:

Ugo Mattei and Laura Nader. 2008. "Introduction." In *Plunder: When the rule of law is illegal*. New York: Wiley-Blackwell.

Zelizer, Viviana. 2007. *The Purchase of Intimacy*. Princeton: Princeton University Press.

Wk 3	Sept 21	Rights, the Law, and the State (Ho Yan Chan; Cheung Hoi Yan; Sze Ching CHOY;)
------	---------	---

Miller, Alice and Mindy Roseman. 2019. "Seismic Shifts: How Prosecution Became the Go-to Tool to Vindicate Rights." In Mindy Roseman and Alice Miller (eds.) *Beyond Virtue and Vice: Rethinking Criminal Law and Human Rights*, pp. 39-53. Philadelphia: University of Pennsylvania Press.

Brown, Wendy. 2002. "Suffering the Paradoxes of Rights." In Wendy Brown and Janet Halley (eds), *Left Legalism/ Left Critique*. Durham: Duke University Press, pp.420-434.

Lancaster, Roger N. 2011. "Introduction: Fear Eats the Soul," pp. 1-17; and "The Victimology Trap," pp. 214-226. In *Sex Panic and the Punitive State*. Berkeley: University of California Press.

\*Riles, Annelise. 2006. "Anthropology, Human Rights, and Legal Knowledge: Culture in the Iron Cage." *American Anthropologist*, 108 (1): 52-65 (March 2006).

Optional:

Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*.

Wk 4	Sept 28	Sexual Virtues and the Law (YY, Man Yin Chung; Wing LEE)
------	---------	--

Sommer, Matthew. H. "Dangerous Males, Vulnerable Males, and Polluted Males: The Regulation of Masculinity in Qing Dynasty Law." In Susan Brownell and Jeffrey N. Wasserstrom (eds.) *Chinese Femininities/Chinese Masculinities: A Reader*, pp. 67-88. Berkeley: University of California Press.

Sigley, Gary. 2009. "Sex, politics and the policing of virtue in the People's Republic of China." In Elaine Jeffreys (ed.) *Sex and Sexuality in China*, pp. 43-61. London: Routledge.

\*Park, Jeong-Mi. 2013. "'Women Free of Habitually Lewd Acts?': Criminal Law, Postcoloniality, and Women's Sexuality, 1953-1960." *Korean Social Sciences Review* 3(2):217-248.

Optional:

Lethbridge, Henry. 1980. "Rape, Reform, and Feminism in Hong Kong." *Hong Kong Law Journal* 260.

Cho, Kuk. "The Crime of Adultery: Inadequate Means for Maintaining Morality and Protecting Women." *Journal of Korean Law* 2(1):81-99.

Wk 5	Oct 5	Colonialism, Traditions, and Customary Law in Hong Kong (sisi Yang, Man Fei Law, kt HO)
------	-------	---

Chan, Selina. 1997. "Negotiating Tradition: Customary Succession Rights in the New Territories in Hong Kong." In Grant Evans & Maria S. Tam (eds.) *Hong Kong: The Anthropology of a Chinese Metropolis*. Honolulu: University of Hawaii Press.

Merry, Sally Engle and Rachel Stern. 2005. "The Female Inheritance Movement in Hong Kong: Theorizing the Local/Global Interface." *Current Anthropology* 46(3):387-408.

\*Chan, Eliza. 1997 "Jyuh Fohng Neuih: Female Inheritance and Affection." In Grant Evans & Maria S. Tam (eds.) *Hong Kong: The Anthropology of a Chinese Metropolis*. Honolulu: University of Hawaii Press.

Optional:

Carole J. Peterson. 1996. "Equality as a human right: The development of anti-discrimination law in Hong Kong." *Columbia Journal of Transnational Law* 34: 335-388.

Max, W. L. Wong. 2018. "Judicial Construction of T'sip in Chinese Family Law in East Asia – A Comparative Perspective." Unpublished Conference Paper.

WK 6	Oct 12	Sex Laws and Love (zheng qiao Li? Siran Geng, YAOWEN Fang?Wenting Teng;Yijin Liu, Elena; )
------	--------	--

West, Mark. "Love" and "Commodified Sex," pp. 28-67 and 145-175. In *Lovesick Japan: Sex \* Marriage \* Romance \* Law*. Ithaca, NY: Cornell University.

\*West, Mark. 2006. "Love Hotels." In *Law in Everyday Japan: Sex, Sumo, Suicide, and Statutes*. Chicago: University of Chicago Press.

Wk 7	Oct 19	Mid-term Review /Court Visit
------	--------	------------------------------

Oct 25	2-4 pm	Panel on Digital Sexual Violence, Women's Festival, Eaton Hotel
--------	--------	---

Oct 26	No Class (Chung Yeung Festival)	
--------	---------------------------------	--

Wk 8	Nov 2	Marriage, Gay and Not Gay ( Ben, Man Ting Lee; Yijin liu; Wentian Teng )
------	-------	--

Warner, Michael. 2002. "Beyond Gay Marriage." In Wendy Brown and Janet Halley (eds), *Left Legalism/ Left Critique*, pp. 259-289. Durham: Duke University Press.

Erni, John. 2015. "Marriage Rights for Transgender People in Hong Kong: Reading the W Case." In Deborah S. Davis and Sara L. Friedman (eds.) *Wives, Husbands, and Lovers: Marriage and Sexuality in Hong Kong, Taiwan, and Urban China*, pp. 189-217. Berkeley: University of California Press.

Stone, Linda. 2004. Gay Marriage and Anthropology. *Anthropology News*, p.10.

\*Polikoff, Nancy. 2009. "Law That Values All Families: Beyond (Straight and Gay) Marriage." *Journal of the American Academy of Matrimonial Lawyers* 22 (2):85-104.

Optional:

\*Murray, Melissa. 2012. "Marriage as Punishment." *Columbia Law Review* 100(2).

Corn, David. 2015. The 19 Best Lines From the Supreme Court Decision That Just Legalized Gay Marriage. <http://www.motherjones.com/politics/2015/06/supreme-court-gay-marriage-best-lines-kennedy-decision> (last accessed Jan 10, 2016)

Long, Scott. 2019. "Objects in Political Mirrors May Not be What They Appear." In Mindy Roseman and Alice Miller (eds.) *Beyond Virtue and Vice: Rethinking Criminal Law and Human Rights*, 233-247. Philadelphia: University of Pennsylvania Press.

Duggan, Lisa. 2002. "The New Homonormativity: The Sexual Politics of Neoliberalism." In *Materializing Democracy: Toward a Revitalized Cultural Politics*, ed. Russ Castronovo and Dana D. Nelson, pp.175-194. Durham and London: Duke University Press.

Council on Foreign Relations. 2015. "Same-sex Marriage: Global Comparisons." <http://www.cfr.org/society-and-culture/same-sex-marriage-global-comparisons/p31177>

Wilkins, Chris. 2014. "Gay Rights in Hong Kong." Open Democracy. <https://www.opendemocracy.net/chris-wilkins/gay-rights-in-hong-kong>

OBERGEFELL ET AL. v. HODGES, DIRECTOR, OHIO DEPARTMENT OF HEALTH, ET AL. 2015 No. 14–556.

Wk 9	Nov 9	Sexuality and Nationalism in the Law (Xinche Zheng ; Yu Zhang; Jini chu; Ryanne XU)
------	-------	---

Cheng, Sealing and Kim Aeryung. 2019. "Virtuous Rights: On Prostitution Exceptionalism in South Korea." In Mindy Roseman and Alice Miller (eds.) *Beyond Virtue and Vice: Rethinking Criminal Law and Human Rights*, 93-113. Philadelphia: University of Pennsylvania Press.

Roseman, Mindy Jane. 2019. "Abortion as Treason: Sexuality and Nationalism in France." In Mindy Roseman and Alice Miller (eds.) *Beyond Virtue and Vice: Rethinking Criminal Law and Human Rights*, 158-169. Philadelphia: University of Pennsylvania Press.

\*Cheng, Sealing. 2011. "The Paradox of Vernacularization: Women's Human Rights and the Gendering of Nationhood." *Anthropological Quarterly* 84(2):475-506.

Wk 10	Nov 16	Gender, Sex, and Border in Human Trafficking (Shaochong Nie; Ching Yu Yung; Yu Chai Mercy ho; Manyi Liu?; Man Yi Liu)
-------	--------	---

Doezema, Jo. 2002. "Who gets to choose? Coercion, consent, and the UN Trafficking Protocol." *Gender and Development* 10(1):20-27.

Vance, Carole. 2011. "Thinking Trafficking, Thinking Sex." *GLQ: A Journal of Lesbian and Gay Studies* 17(1): 135-143.

Kulick, Don. 2008. "Four Hundred Thousand Swedish Perverts." *GLQ* 11(2): 205-235.

Optional:

Peters, Alicia. 2015. "The Experts Make Sense of the Law" and "Defining Trafficking Through Survivor Experience," pp. 73-89 and 127-150. In *Responding to Human Trafficking: Sex, Gender, and Culture in the Law*. Philadelphia: University of Pennsylvania Press.

Wk 11	Nov 23	Authenticity and Illegality in Cross-Border Migration (Ka Yin Chow; Mengyao Xie?; Zimeng Yin)
-------	--------	---

Luibhéid, Eithne. 2008. "Sexuality, Migration, and the Shifting Line between Legal and Illegal Status." *GLQ: A Journal of Lesbian and Gay Studies* 14(2-3): 289-315.

Friedman, Sara L. 2015. "Regulating Cross-Border Intimacy: Authenticity Paradigms and the Specter of Illegality Among Chinese Marital Immigrants to Taiwan." In Sara L. Friedman & Pardis Mahdavi (eds.)

*Migrant Encounters: Intimate Labor, the State, and Mobility Across Asia*, pp. 206-230. Philadelphia: University of Pennsylvania Press.

Coffman, Jennifer. 2007. "Producing FGM in US Courts: Political Asylum in the Post-Kasinga Era," *Africa Today* 53:58-84.

\*Lewis, Rachel A. 2014. "'Gay? Prove it': The politics of queer anti-deportation activism." *Sexualities* 17(8): 958-975.

Optional:

Constable, Nicole. 2012. "International Marriage Brokers, Cross-Border Marriages and the US Anti-Trafficking Campaign." *Journal of Ethnic and Migration Studies*. 18(7): 1137-1154.

Wk 12	Nov 30	The Prison System and the Punitive State
-------	--------	--

Polanco, Mieka. 2015. "Etiology/Assessment/Redress: Criminal Bodies and State Impunity." *PoLAR* 38(2):248-264.

Sudbury, Julia. 2005. "Celling Black Bodies: Black Women in the Global Prison Industrial Complex". *Feminist Review* 80: 162-79.

Pemberton, Sarah. 2013. "Enforcing Gender: The Constitution of Sex and Gender in Prison Regimes". *Signs* 39(1):151-175

\*Davis, Angela. 2001. "Public Imprisonment and Private Violence." In Waller, M.R. and Rycenga, J. (Eds.) *Frontline Feminisms: Women, War and Resistance*, pp.3-16. New York, NY: Routledge

Optional:

Comfort, Megan. 2008. "'On-line' at San Quentin" and "'Papa's House': The Prison as Domestic Satellite," pp. 21-64 and 99-125. In *Doing Time Together: Love and Family in the Shadow of the Prison*. Chicago and London: University of Chicago Press.

Cohen, David Reed and Lee Panich. 2009. "The Prison Notebook: Lessons Learned Teaching Anthropology at San Quentin State Prison" *Anthropology News* 50(1): 25-6.

Wk 13	Dec 7	Research presentations and Review
-------	-------	-----------------------------------