



MASTER OF LAWS

Course Code: LAW633

Course Title: Beyond the Law: Regulatory Mechanisms in Cross-border Issues in the Asian Context

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Date Submitted: 5 April 2015

PRE-REQUISITE/CO-REQUISITE/MUTUALLY EXCLUSIVE COURSE(S)

N.A.

COURSE SPECIALISATION

N.A.

GRADING BASIS

Graded

COURSE UNIT

1 CU

FIRST OFFERING TERM

Academic Year: AY2015/2016

Academic Term: Term I (September 2015)

COURSE DESCRIPTION

Law is the leading but certainly not the only regulatory mechanism in the political, social and economic realms.

Indeed, a simplistic over-reliance on the law and the legal system in the conduct of business, social and economic matters is inadequate in protecting one's rights, interests and needs especially when the rule of law is weak.

Other regulatory mechanisms that can aid in governance in the public and private realms include ethical value systems, soft law, conventions and norms, as well as networks in the various facets of human endeavours. Together with "hard law", they provide a variegated and nuanced way to protect and enhance rights, interests, and norms.

This module seeks to develop an appreciation and understanding of these quasi-legal regulatory mechanisms, and how they can be used in conjunction with hard law and the legal system to protect one's rights and interests, with particular reference to Asia. How can such regulatory mechanisms advance accountability, regulate affairs in the different spheres of human endeavours?

Issues that are examined include ethical challenges, management of corruption, ethnic business networks, corporate governance concerns that are prominent features in the Asian business landscape.

This module is structured on an eclectic set of readings drawn from different disciplines, broadly comparative in nature, and inter-disciplinary at heart.

LEARNING OBJECTIVES

By the end of this course, participants will be able to:

1. Develop a understanding of contemporary developments and trends in various of modes of regulation and governance, including quasi-legal and non-legal modes (the knowledge dimension);
2. Engender awareness and sensitivity in identifying and analysing the issues and challenges that governments, businesses, and individuals face in various regulatory contexts (the skill & awareness dimension);
3. Encourage critical inquiry into the assumptions, principles, and values that individuals and stakeholders bring into the decision-making process where regulation and governance issues are raised (the self-awareness and empathy dimension); &
4. Foster a sensitive and critical understanding of the various modes of regulation as well as development of well-thought action plans to manage regulatory conflicts and dilemmas and to (the action dimension).

PRE-REQUISITE/ CO-REQUISITE/ MUTUALLY EXCLUSIVE COURSE(S)

None

RECOMMENDED TEXT AND READINGS

There is no prescribed text for this course.

In addition to the prescribed, additional readings, mainly from online sources, may also be assigned.

Do keep in touch with contemporary developments in the legal and business world related to ethics and social responsibility. News publications such as *The Economist*, *Wall Street Journal*, *The Financial Times*, and the *International New York Times* are helpful in this regard.

ASSESSMENT METHOD

For this course, the final grade will comprise the following five components:

▪ Class Participation	15%
▪ Group Presentation – Presentation	10%
▪ Group Presentation – Essay	15%
▪ Individual Research Paper	25%
▪ Take-home final examination	35%

(Individual assessment components account for **75%** of the final grade.)

INSTRUCTIONAL METHODS AND EXPECTATIONS

- ***Class participation (15%):***

The focus is on *quality* of participation, not the frequency of participation.

Make it a habit to join in actively and purposefully in class discussions. It will greatly facilitate your learning, and make class interesting. Adequate preparation for classes will make class participation a natural extension of your learning. Learning from your peers is an under-rated attribute in SMU.

Be mindful of distractions like emails, internet, and other social media platforms. They not only affect your learning but the seminar room environment as well. From time to time, the use of electronic devices in seminars may not be permitted.

- ***Group Project (25%):***

For the group project, students will be assigned to their project teams by the instructor (consisting an oral presentation and an essay).

All students are required to attempt the seminar question(s) as part of the seminar preparations. It will assist in your learning process while helping you to participate meaningfully in the seminar discussions. It's also good practice for the exams.

The duration of each group's presentation should not exceed 45 minutes. Presentations should be as interactive as possible, drawing in the entire seminar class to participate in a collaborative learning process. The presentation should *not* be an oral version of the written essay. The essay is to be submitted a week after the presentation. This is to enable the groups to incorporate feedback gathered during the presentation.

The group report should be word-processed and double spaced. Please observe the word limit of 2,000 words and indicate the word count.

- ***Individual research paper (25%):***

The largely self-directed individual research paper requires students to research and write on a topic of their choice. The length of the paper is between about 2,500 to 3,000 words (tbc).

- ***Take-Home Final Examination (35%):***

The final examination will be a take-home examination (duration to be confirmed).

More details on each assessment mode will be provided in due course, and in the first seminar.

COURSE METHODS

Primarily, the Socratic Method and its variants are adopted. In addition, a variety of pedagogical methods (such as small group discussions) are utilized, with the pedagogical emphasis being on engaging student-to-student interactivity, active class participation, and group work.

Wherever applicable, relevant comparative perspectives are raised and discussed as well.

Students are expected to be well prepared for seminars, as well as participate actively and constructively in seminars.

Much of the learning is done in the preparation for seminars and through in-class participation, peer learning, and personal reflection. The more prepared one is for seminars, the more likely is one able to discuss the issues intelligently and with discernment. The learning journey is also enhanced in the process.

In preparing for seminars, students should:

- Cover the recommended reading thoroughly and reflect/think about the issues raised;
- Make personal notes on the topic;
- Go beyond minimal reading to other sources, including the mass media and Internet, to maintain awareness of topical issues for discussion in class;
- Give prior thought and consideration to the topic to be covered and forming personal views, ideas and questions to be raised at the seminars; and
- Where possible, consider and raise issues directly pertinent to them as individuals, and as organizational people working in organizations, professions and the global economy.

Important: Academic Integrity

All acts of academic dishonesty (including, but not limited to, plagiarism, cheating, fabrication, facilitation of acts of academic dishonesty by others, unauthorised possession of examination questions, or tampering with the academic work of other students) are serious offences.

All work (whether oral or written) submitted for purposes of assessment must be the student's own work. Penalties for violation of the policy range from zero marks for the component assessment to expulsion from the university, depending on the nature and severity of the academic transgression.

When in doubt, students should consult the instructor of the course. Details on the SMU Code of Academic Integrity may be accessed at <http://www.smuscd.org/resources.html>.

COURSE SCHEDULE *(subject to change)*

Session	Topic	Readings (tba)
I	Introduction <ul style="list-style-type: none">• What is the role of law in the business world? Is law fundamentally about regulation?• While law plays a leading role in most societies, it is certainly not the only regulatory mechanism in the political, social and economic realms. What are the other regulatory mechanisms?• Why and when might law and the legal system be inadequate as a regulatory mechanism?• How relevant are non-legal regulatory mechanisms in Asia in various spheres of life whether economic or non-economic? What about in Singapore or the country you come from?	
2	Institutions as Regulation and Regulations <ul style="list-style-type: none">• What are "institutions" per Douglass North? How do the institutions regulate?• How does law complement "institutions"?• Why is law the preferred regulatory mechanism in the commercial realm and, increasingly, in the non-commercial realms (e.g., in social or relational disputes)?• What is the role of ethnic business networks and how they cope with an inadequate regulatory environment?	
3	Rules, Culture, and Transplants	

	<ul style="list-style-type: none"> • For legal transplants to succeed, a society must possess the necessary social, political, and institutional prerequisites first. What was lacking in the Cambodian land laws and what general lessons might this have for legal transplants for economic activities? • Aoki (2014) argues that formal rules per se do not necessarily create institutions in the sense of an integral pattern and process of social behaviour and ideas. How can a formal rule function as a substantive form of an institutional process? What must formal rules do before they can help sustain a social order? • Why did European colonialists of the past and contemporary efforts to establish an economic rule of law fail in various parts of the developing world, including Asia? Are legal transplants somewhat “path dependent” on the traditional legal system if they are to be a “sustainable” legal system? 	
4	<p>Soft Law as/in Governance</p> <ul style="list-style-type: none"> • What is “soft law”? What role does it play in a system of governance? • Is soft law an increasingly popular mode of regulation? In which areas of modern life are they being used? How does soft law complement hard law? How does soft law lead regulatory change? • What does the European Union’s experience with soft law tell us about the temporality of soft law? 	
5	<p>Corporate Ethics</p> <ul style="list-style-type: none"> • In the midst of corporate scandals and the anger against capitalism, is law an effective regulatory device? Is enough attention given to ethics as a way of regulating the excesses of capitalism and preventing trust from eroding? • Is there a role for ethics in corporate governance at a time when capitalism is under siege? Can ethics and norms function as regulation? • Can traditional values and philosophies like Confucianism aid in corporate governance? How so? (Consider also what is corporate governance?) • Besides improving on enforcement of 	

	workplace safety and health legislations, how can non-law modes of regulation nudge MNCs (including Asian business groups) into improving their regulatory observance of workplace conditions?	
6	<p>Corruption: Getting Things Done?</p> <ul style="list-style-type: none"> • What is corruption? Is there a business case and/or a cultural justification for variants of corrupt practices? • What are the challenges, from an ethical and corporate responsibility perspective, of doing business overseas, especially in emerging markets where the rule of law may be weak? • ‘When in Rome,’ should business ‘do as the Romans do’? Do cultural and other differences justify unethical and illegal conduct in business? • Can businesses operate ethically in places where corruption is rampant? Is it realistic to expect ethical conduct in such a scenario? How does corruption threaten business? • How does corruption threaten business, an economy, a country? • When does gift-giving become ethically problematic? • Are facilitation payments corrupt payments? Are they a lesser evil than full-fledged bribe payments? • Who suffers the most whenever corruption is present? • How can non-legal methods of regulation tackle the scourge of corruption? 	
7	Group Project Presentations	
8	Group Project Presentations & Individual Research Paper presentations	
9	Individual Research Paper presentations	
10	Course wrap-up and review	