

# China's Legal System: Evolution, Education, and Practice

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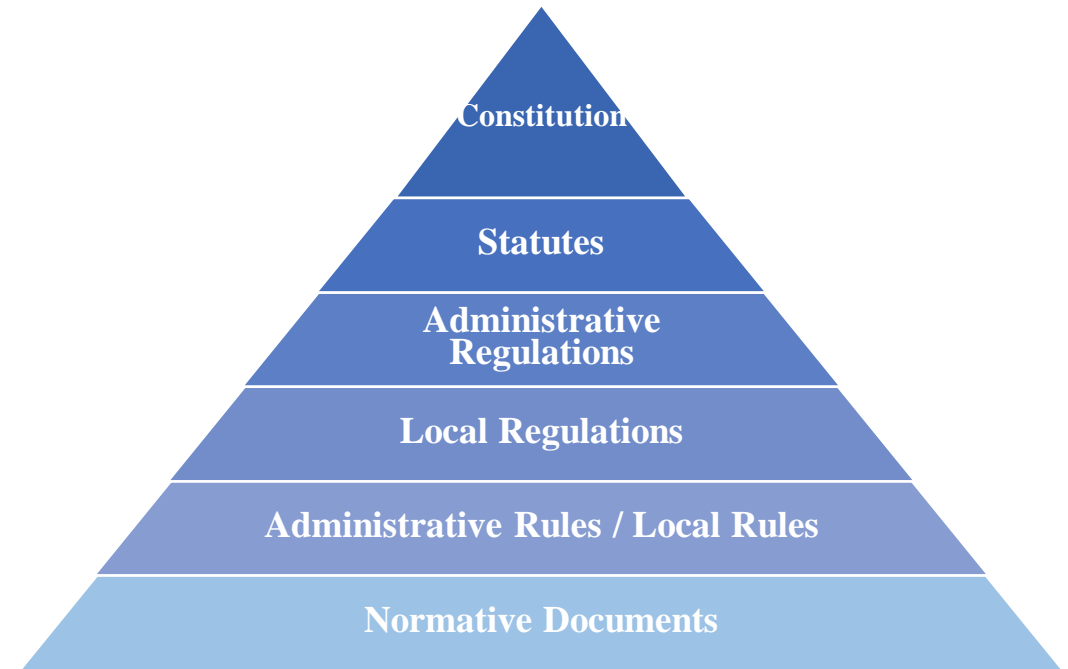
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- Chinese legal system
- Legal education in China and opportunities for overseas students
- Legal practice and lawyers
- Recent legal developments and reforms in China

# Chinese legal system

- Chinese legal system refers to the legal system in Mainland China, exclude Taiwan, Hong Kong and Macau
- Civil law systems
  - Statutes and written rules are primary sources of law
  - Guiding cases: quasi case law (2010)
- Sources of law:
  - Statues (288)
  - Administrative regulations (600~)
  - Local regulations (12,000~)
  - Administrative rules
  - Local rules



The hierarchical ranking of Chinese legal sources

# A legal system with Chinese socialist characteristics

- The leadership of CCP – party-state
  - Article 1(2) of the PRC Constitution
  - Leadership by the Communist Party of China is the defining feature of socialism with Chinese characteristics. It is prohibited for any organization or individual to damage the socialist system.
- Birth control policy
  - Article 25 of the PRC Constitution
  - The state shall promote family planning to see that population growth is consistent with economic and social development plans.
  - “One child policy” to “two children policy” to “three children policy”
- Divorce cooling off period
  - Article 1077 of the Civil Code
  - 30 days after submit application



The Constitution of the People's Republic of China

# The evolution of Chinese legal system

- 1949-1966
  - Demolish legal system established by Kuomintang
  - Built Chinese legal system from scratch
  - Marriage Act 1950 was the first legislation in China
  - PRC Constitution was enacted in 1954
  - Key features: consolidate the ruling of the CCP; class struggle (eliminate landlords and capitalists); inadequate and immature legal system (130 legislation)
- 1966-1976
  - Cultural revolution
  - Lawlessness
  - No new legislation passed; Police system and judicial system stopped functioning; universities shut down.
- 1976~
  - Reform and opening up
  - Stable and long period of development
  - Relative comprehensive legal systems
  - Law is deployed to boost economy and maintain social order (law is a tool)

# Legal education

- Bachelor
  - National college entrance exam
  - 4 years
  - National standard curriculum: 1+10+X
  - 1 Xi Jinping's legal thoughts
  - 10 core modules: legal theory, constitutional law, legal history, criminal law, procedures, administrative law, international law, commercial law, etc
  - X optional course
- Master
  - National post-graduate entrance exam
  - 2-3 years
  - Professional degree and research degree
- Doctor
  - Exam or paper application + interview
  - 3-5 years
  - Professional degree and research degree

# Opportunities for overseas students



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## About China

China is located in East Asia and borders the western part of the Pacific Ocean. It has a land area of more than 9.6 million square kilometers, and a mainland coastline of more than 18,000 kilometers. Its water area, including inland sea and marginal sea, is over 4.7 million square kilometers, in which there are more than 7,600 islands of every size. Among them, the island of Taiwan is the largest, with an area of 35,798 square kilometers. China borders 14 countries and is adjacent to 8 island countries on the sea. By provincial administrative division, China has 4 municipalities, 23 provinces, 5 autonomous regions and 2 special administrative regions. Its capital is Beijing. There are 56 ethnic groups in China, which is a multi-ethnic, multi-lingual, multi-dialect and multi-text country. The common language is Mandarin and standard Chinese characters. Source: The official website of the Chinese government



Country profile



Region profile



Education Profile



Scholarships



Universities & Programs

Degree

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## Happenings in China

more +

Statement on the Admission Results of the 2020 Chinese Government Scho...

It is learnt that certain organizations have recently been sending fake admission notices and documents of Chinese Government Scholarship to international students ...

Statement on the Admission Results of the 2020 Chin...

My First Experience of Painting

Chinese Language and Me

China Scholarship Council

<https://www.campuschina.org>

# Opportunities for overseas students

The screenshot displays a user interface for finding scholarships. At the top, there are six blue navigation tabs: Chinese Government Scholarships, Local Government Scholarships, Confucius Institute Scholarships, School Scholarships, Enterprise Scholarships, and Other Scholarships. Below these are filter boxes for Country, Student Category, Province, University, and Scholarship Category, followed by a blue Search button and a grey Reset Filters button. The main content area is a grid of six cards, each representing a scholarship opportunity with a title, a brief description, a 'View more+' button, and an attention count.

Scholarship Title	Attention Count
Application Guide for Chinese Government Scholarship	1571841
Guidebook to the ASEAN-China Young Leaders Scholarship	101773
Youth of Excellence Scheme of China Program Chinese Government...	147121
China Link Scholarship Program	50339
MOFCOM SCHOLARSHIP-CSC Program (Enrollment Guide)	315319
Chinese Trade Unions Silk Road Scholarship	84066

<https://www.campuschina.org/scholarships/index.html>



# Opportunities for overseas students



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Degree:  Instruction Language:  Provinces:  University:  law

UNIVERSITY	PROGRAM	DEGREE	DURATION	INSTRUCTION LANGUAGE	TUITION FEE(RMB)
Yanshan University	* Law	Bachelor	4	Chinese	15700
Yanshan University	* Law (Non-law Majored)	Master	3	Chinese	19800
Yanshan University	* Law (Law Majored)	Master	3	Chinese	19800
Yanshan University	* Law	Master	3	Chinese	19800
Southwest University of Political Science and Law	* Electronic Commerce and Law	Bachelor	4	Chinese	20000
Southwest University of Political Science and Law	* Law	Bachelor	4	Chinese	20000
Southwest University of Political Science and Law	* Chinese Law (Juris Master)	Master	2	English	25000
Southwest University of Political Science and Law	* Law	Master	2	English	25000
Southwest University of Political Science and Law	* Law	Master	2	Chinese	25000
Southwest University of Political Science and Law	* Intellectual Property Law	Doctoral	3	English	32000

<https://www.campuschina.org/universities/categories.html>

# Legal practice and lawyers

- What do Chinese law graduates do?
  - Lawyer (law firms or companies)
  - Judges and prosecutor
  - Government officials
  - Academia
  - Others
- Chinese lawyer
  - Far from enough: 65,000 lawyers,
  - Regional inequality: 40% lawyers practising in 4 major cities
  - Qualification exam + training



# Legal practice and lawyers

- Qualification exam
  - Lawyers, judges, prosecutor, notaries, and certain government officials
  - Eligibility:
    - Chinese nationals
    - Enjoy the right to vote and the right to stand
    - Obtain a law degree
  - Form:
    - Exam 1: MCQ
    - Exam 2: MCQ
    - Exam 3: Writing, analysing and professional skills
  - Pass rate
    - 16.8% (2018-2023)
- Training
  - One year qualifying work experience in a law firm
  - Assessed by local lawyer's associations

# Non-Chinese nationals practice law in China

- Non-Chinese nationals cannot practice as a lawyers in China.
- They can provide legal service in the name of legal consultants in law firms and companies



# Recent legal developments and reforms in China

## China's Xi allowed to remain 'president for life' as term limits removed

© 11 March 2018



02:50

Should China's Xi be president for life?

## The Fifth Constitutional Amendment, 2018

- Removing the two-term limit on the presidency
- **Creating Constitution and Law Committee and activating constitutional review**
- Creating supervision commissions (fourth branch of government)

# Constitutional Review in Action

Year	Legislation reviewed after recording (pieces)	Legislation reviewed upon request (pieces)	In total (pieces)
2018	1,238	112	1,350
2019	1,485	138	1,623
2020	1,310	3,378	4,688
2021	1,921	5,741	7,662
2022	1,307	4,067	5,374
<b>In Total</b>	7,261 (Around 1,452 per year)	13,436 (Around 2,687 per year)	20,697 (Around 4,139 per year)

Source: LAC Annual Report on Recording and Review 2018-2023



# Constitutional review and the rule of law

- Consistency of the legal system
- Individual rights protection
  - Half disclosed cases are rights-related
  - Equality -- “Same lives, different prices”
  - Right to liberty -- conditional arrest
  - Privacy -- traffic accident investigation
  - Freedom of reproduction
  - Right to marriage
  - etc
- Government accountability



赔偿岂能以户口定高低

# Commitment to the CCP

- Make decisions according the CCP's policies
  - E.g. Sack employees who breach “two-kids” policy

In order to adapt to this new population and socio-economic development situation and promote long-term balanced population development, the Third Plenary Session and the Fifth Plenary Session of **the 18<sup>th</sup> CCP Central Committee have made significant adjustments to birth planning policies...** *Local legislation should actively adapt to **the spirit of the CCP Central Committee's requirement** for reforming and improving birth planning services and management... It is recommended that, **in accordance with the spirit of the CCP Central Committee** and in the light of the actual situation in the province, amendments should be made as soon as possible to relevant local regulations that contain severe control measures and penalties.*



# Commitment to the CCP

- Uphold Xi Jinping's thoughts and Party leadership -- a general principle of constitutional review
  - Article 3 of the *Working Measures for the Recording and Review of Regulations and Judicial Interpretation* (2019):

The NPCSC is to perform recording and review in accordance with the Constitution and laws, to ensure the strict enforcement of the orders and prohibitions of the Communist Party Central Committee...

- Article 1 of the *Decision of the NPCSC on Improving and Strengthening the System of Recording and Review* (2023):

In conducting recording and review according to law, the NPCSC is to follow the guidance of the Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era; implement the Xi Jinping Thought on the Rule of Law; uphold the organic unity of the Party's leadership...

## “Two masters” or “One mater”

- In many cases, the Party’s policies and the implementation are consistent with the constitution, law, human rights and the rule of law.
- But, when there is inconsistency...Party’s policies prevail

# Recent legal developments and reforms in China

- The National People's Congress enacted China's first Civil Code in 2020
- A milestone legislative development
  - Integrating previous laws on contracts, torts, family, and property.
  - Stronger privacy rights, clearer property rights, improved consumer protections.



# Recent legal developments and reforms in China

- **Data & Cybersecurity Laws**
  - **Data Security Law (2021)**: Regulates data handling, strengthens national security.
  - **Personal Information Protection Law (2021)**: Similar to GDPR, sets rules for data collection and processing.
  - **Impact**: Increased corporate compliance requirements, restrictions on data transfers.

