

# LW3605A: CONSTITUTIONAL LAW

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## Effective Term

Semester A 2023/24

## Part I Course Overview

### Course Title

Constitutional Law

### Subject Code

LW - Law

### Course Number

3605A

### Academic Unit

School of Law (FL)

### College/School

School of Law (FL)

### Course Duration

One Semester

### Credit Units

3

### Level

B1, B2, B3, B4 - Bachelor's Degree

### Medium of Instruction

English

### Medium of Assessment

English

### Prerequisites

Nil

### Precursors

Nil

### Equivalent Courses

LW2100 Constitutional & Administrative Law (LLB) (Semester A part of the old curriculum)

LW2100A Constitutional & Administrative Law (AMLLB) (Semester A part)

LW3605 Constitutional & Administrative Law (LLB) (Semester A part)

LW3605A Constitutional and Administrative Law I

LW5608 Constitutional Law

### Exclusive Courses

Nil

## Part II Course Details

### Abstract

- To examine the nature of the constitutional framework established under the Basic Law.
- To provide an understanding of the legal, political and social values underlying the Basic Law.
- To develop in the student the knowledge and skills to analyse the basic principles underlying the concept of "one country, two systems" and understand the practical significance of the concept.
- To enable the student to analyse and understand the working of the future SAR government in the light of the provisions of the Basic Law.
- To explain the legal position of Hong Kong vis-a-vis the Central Government and the Constitution of the People's Republic of China.
- To identify areas of uncertainty, conflict and problems in the Basic Law.

### Course Intended Learning Outcomes (CILOs)

	CILOs	Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	understand the working of the constitutional machinery set up under the Basic Law as one integral whole.	25	x	x	x
2	understand the relationship between the various organs of government inter se and with the People' s Republic of China.	25	x	x	x
3	appreciate the interplay of the political and legal principles underlying the Basic Law.	25	x	x	x
4	understand how the Basic Law can be used to ensure Hong Kong' s progress and prosperity within the existing social, economic and legal framework.	25		x	x

#### A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

#### A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

#### A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

### Teaching and Learning Activities (TLAs)

	TLAs	Brief Description	CILO No.	Hours/week (if applicable)
1	Tutorial	Tutorial presentation and/or debate	1, 2, 3, 4	1
2	Lecture		1, 2, 3, 4	2

### Assessment Tasks / Activities (ATs)

	ATs	CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Coursework	1, 2, 3, 4	30	
2	Tutorial and class performance		20	

**Continuous Assessment (%)**

50

**Examination (%)**

50

**Examination Duration (Hours)**

3

**Additional Information for ATs**

The use of Generative AI tools is not allowed.

Students may be required to do class work orally or in writing at different intervals of the course. Students are encouraged to read more materials apart from the reading materials listed for the tutorial to enrich their performance in the class.

To pass this course student must obtain an aggregate mark of 40% and a minimum of 30% in each of the coursework and the examination elements of the assessment. Coursework for this purpose means those ways in which students are assessed otherwise than by the end of session examination.

**Assessment Rubrics (AR)****Assessment Task**

1. Coursework

**Criterion**

research abilityinnovationaccuracy

**Excellent (A+, A, A-)**

Impressive

**Good (B+, B, B-)**

Very satisfactory

**Fair (C+, C, C-)**

Ordinary

**Marginal (D)**

Manage to present fundamental concepts only

**Failure (F)**

Fail to understand the subject

**Assessment Task**

2. Tutorial and class performance

**Criterion**

presentation skillparticipationcontent

**Excellent (A+, A, A-)**

Impressive

**Good (B+, B, B-)**

Very satisfactory

**Fair (C+, C, C-)**

Ordinary

**Marginal (D)**

Manage to present fundamental concepts only

**Failure (F)**

Fail to understand the subject

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**Assessment Task**

3. Examination

**Criterion**

presentation accuracy time management precise and the point

**Excellent (A+, A, A-)**

Impressive

**Good (B+, B, B-)**

Very satisfactory

**Fair (C+, C, C-)**

Ordinary

**Marginal (D)**

Manage to present fundamental concepts only

**Failure (F)**

Fail to understand the subject

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## Part III Other Information

### Keyword Syllabus

#### Background: Historical and Ideological

- a. History of Hong Kong as a colony of Great Britain and its political evolution up to the present including international influences on such evolution.
- b. Circumstances leading to the enactment of the Basic Law: the Sino-British Joint Declaration on the question of Hong Kong (Joint Declaration).
- c. Respective obligations of the parties under the Joint Declaration and the extent to which such obligations are reflected in the Basic Law.
- d. Ideology of “one country, two systems” under the constitutional framework.

#### Analysis

- a. Legitimacy of the Basic Law.
- b. General Principles.

- c. Basic Law under the Chinese Legal Hierarchy.
- d. Relationship between the Central Government and the SAR; Autonomy and its extent.
- e. The impact of the Basic Law on the legal system.
- f.
  - a. Central and local laws
  - b. Interpretation of the Basic Law
  - c. Amendment of the Basic Law
- g. Political structure:
  - a. The Legislature – checks and balances and election amendment
  - b. The Executive
  - c. The Judiciary
- 8. Selected Issues on the application of the Basic Law in HK.
  - a. National Security Law of the HKSAR
  - b. Issues of National Flag and National Anthem
  - c. Nationality Law of PRC
  - d. Issues of Right of Abode with case studies
  - e. Bilingualism in SAR
  - f. Fundamental Rights and Civil Liberties under the Basic Law
  - g. The Oaths Issues
- 9. Foreign, External, and Defence affairs.
  - a. Civil and Criminal Judicial Assistance
- 10. Economic, social and cultural aspects of the SAR.

**Reading List**

**Compulsory Readings**

Title	
1	Priscilla Leung, <i>The Hong Kong Basic Law: Hybrid of Common Law and Chinese Law</i> , Lexis Nexis, 2007 (For those students use the old edition in 2006, please refer to the CD Rom correction at the City U library to do the necessary update)
2	Xiao Wei Yun, <i>Introduction to the Basic Law of Hong Kong Special Administrative Region</i> , Law Press-China, 2000
3	Priscilla Leung & Ord (ed): <i>Basic Law - From Theory into Practice</i> (Butterworths Asia, 1998)
4	Yash Ghai, <i>Hong Kong’s New Constitutional Order: The Resumption of Chinese Sovereignty and the Basic Law</i> , Hong Kong University Press, Hong Kong, 1999
5	Collection of Articles 2007, <i>Seminar on Review and Prospect of the Basic Law, the 10th Anniversary of Hong Kong’s return to China</i> , One Country Two Systems Research Institute, 2010 edition
6	Johannes Chan and ors, <i>Immigration Law in Hong Kong</i> , Sweet & Maxwell Asia, 2004.
7	P.Y. Lo , <i>The Judicial Construction of Hong Kong’s Basic Law : Courts, Politics and Society after 1997</i> , Hong Kong University Press, 2014.

**Additional Readings**

Title	
1	Refer to the attached reading list