

# LW4617: FAMILY LAW IN HONG KONG

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## Effective Term

Semester A 2024/25

## Part I Course Overview

### Course Title

Family Law in Hong Kong

### Subject Code

LW - Law

### Course Number

4617

### 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

LW5617 Family Law in Hong Kong

### Exclusive Courses

LW4671 Family Law in a Comparative Perspective

## Part II Course Details

### Abstract

This module aims to teach students a working knowledge of the private law relating to the family and the consequences of family breakdown. This will cover the general principles on nullity, judicial separation and divorce, financial orders

and issues of custody, care and control and access of children of the family. Students will be introduced to the law against domestic violence and the related application for injunction against non-molestation and ouster order. Different approaches of the Alternative Dispute Resolution in resolving family problems will be explained and taught by way of introduction to the students. Topics covered include: Marriage and divorce; Financial provision and property adjustment; Children; Protection from molestation and violence; Alternative dispute resolution in divorce.

### Course Intended Learning Outcomes (CILOs)

CILOs	Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1 Analytically and critically describe and explain: - what the marriage law is in Hong Kong - the extent to which the law provides relief for domestic violence - the extent to which the law provides relief for children during a marriage and upon divorce - the relevant law for getting divorced in Hong Kong - the procedure for getting divorced in Hong Kong - the relevant law for getting ancillary relief in Hong Kong - the procedure for getting ancillary relief in Hong Kong - the role of mediation in family law disputes	70	x	x	x
2 Critically evaluate: - the relationship between the development of family law and society - the next development in family law in Hong Kong	30	x	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.

### Learning and Teaching Activities (LTAs)

LTAs		Brief Description	CILO No.	Hours/week (if applicable)
1	Lectures & structured discussions	<ul style="list-style-type: none"> <li>· Students will be introduced to the framework of the course, the key concepts, and issues.</li> <li>· The relevant law (legislation and case law) will be identified and explained.</li> <li>· The development of the law, including the institutions and procedures, within a broader demographic and social context will be demonstrated.</li> <li>· Students are given a forum for further discussion of matters covered in the lectures via assigned problems.</li> </ul>	1, 2	3 hours

#### Additional Information for LTAs

The aim of all of the learning and teaching activities is to create a learning environment to promote critical and informed discussion of the relationship between families and the state, and the interface between family law and family policy. The course provides practice in the development of several skills, such as the specific skill of locating and applying relevant statutory and case materials to legal problems which arise when family relationships break down.

#### Assessment Tasks / Activities (ATs)

ATs	CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1 Continuous Assessment: Group Assignment/ groups presentation Developing self confidence in application of legal principles and public speaking		40	

#### Continuous Assessment (%)

40

#### Examination (%)

60

#### Examination Duration (Hours)

2 or 3

#### Additional Information for ATs

Examination: 60% The course's substantive content will be assessed.  
The use of Generative AI tools is not allowed.

Grading of Student Achievement: Standard (A+, A, A-...F). Grading is based on student performance in assessment tasks / activities.

To pass this course, students 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 will be formative to enable students to demonstrate their capacity to identify, analyse and apply rules and principles and summative to assess understanding and knowledge.

The duration of the examination will be at the discretion of the course leader. The course leader will announce the duration of the examination in the first week of the course. Similarly, the course leader will announce whether the examination will be closed book or open book.

Students are encouraged to take an active approach to their learning in both self-study and the classroom. Sharing experiences, views and feelings are welcomed and may play an important part in learning and development. As in other classes, students are encouraged to form study groups and work together in their preparation though individual essays (where applicable) must ultimately be students' own work. Co-operative peer learning enhances academic achievements through working together, clarification of concepts, discussion of ideas, generation of approaches and problem-solving.

### **Assessment Rubrics (AR)**

#### **Assessment Task**

1. Group Assignment/ /groups presentation

#### **Criterion**

Original Thinking

Rational analysis

Strong conclusion

Confidence building and students' maturity

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

Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

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

Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

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

Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

#### **Marginal (D)**

Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

#### **Failure (F)**

Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

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#### **Assessment Task**

2. Examination

#### **Criterion**

Application of Law to fact scenarios

Critical analysis

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

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## Part III Other Information

### Keyword Syllabus

Family, marriage, cohabitation, nullity, domestic violence, children, divorce, ancillary relief/financial orders, mediation, developments

### Detailed Syllabus

#### (1) MARRIAGE AND DIVORCE

- Chinese Customary Marriage and Modern Marriage
- Different types of marriage existing in Hong Kong
- Divorce under the Matrimonial Causes Ordinance
- Petition and parties
- One year rule and jurisdiction
- Nullity of marriage
- Ground for Divorce and the five facts
- Separation

#### (2) FINANCIAL PROVISION AND PROPERTY ADJUSTMENT

- Ancillary financial relief
- Maintenance pending suit for a spouse and interim maintenance for children
- Ancillary relief claims
- Property transfer and sale of property
- Injunction against disposition of family assets
- Clean break
- Variation and discharge of the orders
- Pre-nuptial Agreements

#### (3) CHILDREN

- Parental rights and obligations
- The best interest principle for the children
- The welfare checklist
- Custody, care and control
- Access to the children during and after the divorce
- Removal of children out of jurisdiction

- Wardship
- Hague Convention against child abduction
- The reform for “Parental Responsibility” proposed by the Law Reform Commission

**(4) PROTECTION FROM MOLESTATION AND VIOLENCE**

- Domestic violence
- Non-molestation orders
- Parties to be protected
- Ouster order/Entry Order
- Authorization of Arrest
- Variation of custody and access rights
- Application and procedure

**(5) ALTERNATIVE DISPUTE RESOLUTION IN DIVORCE**

- Financial Dispute Resolution
- Mediation
- Less Adversarial Trial for children
- Children Dispute Resolution
- Collaborative Law Practice

**Reading List****Compulsory Readings**

	<b>Title</b>
1	Family Law Practice & Procedure in Hong Kong, Keith Hotten and Dennis Ho, 4th Edition (Student Edition), LexisNexis (2021)
2	Family Hong Kong Legal Practice Manuals, Hewitt Liu McDonagh Melloy & Warren, 2n Edition, Sweet & Maxwell (2014);
3	Bromley’ s Family Law, 9th Edition, Butterworths (1998)
4	Rayden & Jackson’ s Law and Practice in Divorce and Family Matters, 18th Edition, Butterworths, (2005);
5	Rayden and Jackson on Relationship Breakdown, Finances and Children (2016)
6	Online Resources
7	<a href="http://www.judiciary.gov.hk">www.judiciary.gov.hk</a>
8	<a href="http://www.familylawweek.co.uk">www.familylawweek.co.uk</a>
9	Ordinances
10	Marriage Reform Ordinance Cap. 178
11	Marriage Ordinance Cap. 181
12	Matrimonial Causes Ordinance Cap. 179
13	Matrimonial Causes Rules Cap. 179A
14	Matrimonial Proceedings and Property Ordinance Cap. 192
15	Guardianship of Minors Ordinance Cap. 13
16	Domestic and Cohabitation Relationships Violence Ordinance Cap. 189
17	Separation and Maintenance Orders Ordinance Cap. 16
18	Child Abduction and Custody Ordinance Cap. 512
19	Students may be referred to further ordinances on the student handouts as appropriate.

**Additional Readings**

	<b>Title</b>
1	Nil