

**City University of Hong Kong
Course Syllabus**

**offered by School of Law
with effect from Semester A 2015/16**

Part I Course Overview

Course Title: Legal Systems of Hong Kong and Mainland China

Course Code: LW5621*

Course Duration: One Semester

Credit Units: 3

Level: P5

**Medium of
Instruction:** English

**Medium of
Assessment:** English

Prerequisites:
(Course Code and Title) Nil

Precursors:
(Course Code and Title) Nil

Equivalent Courses:
(Course Code and Title) Nil

Exclusive Courses:
(Course Code and Title) Nil

* Restricted to students admitted to the Juris Doctor Programme in 2013-14 or in subsequent years

Part II Course Details

1. Abstract

This course aims to:

- encourage students to discover the meaning of the word ‘law’ and the sources of law for the legal systems of Hong Kong and mainland China
- familiarise students with the sources, classification and operation of Hong Kong law and Chinese law and other features of the legal systems in Hong Kong and mainland China
- introduce students to the legal and constitutional framework in which law is practised and administered in Hong Kong and mainland China
- introduce students to the concept of alternative dispute resolution
- encourage students to critically think about the law and institutions in Hong Kong and mainland China, motivate them to discover the legal system in which they live and work, and to effectively communicate their views and their analyses both orally and in writing

2. Course Intended Learning Outcomes (CILOs)

(CILOs state what the student is expected to be able to do at the end of the course according to a given standard of performance.)

| No. | CILOs | Weigh ting | DEC related learning outcomes (please tick where appropriate) | | |
|-----|---|---------------|--|----|----|
| | | | A1 | A2 | A3 |
| 1. | Demonstrate a sound knowledge and conceptual understanding of the law and legal systems of Hong Kong and mainland China. | 20% | ✓ | ✓ | ✓ |
| 2. | Demonstrate the skills of legal reasoning and possess an understanding of the doctrine of precedent and the approaches to statutory interpretation in Hong Kong and the skills of legal research relating to Chinese law. | 20% | | ✓ | ✓ |
| 3. | Explain the concept and functions of law, the relationship between morality, justice and the law. | 20% | ✓ | ✓ | ✓ |
| 4. | Critically evaluate the criminal and civil justice system in Hong Kong and Mainland China. | 20% | ✓ | ✓ | ✓ |
| 5. | Understand the judicial system and court structure in Hong Kong and Mainland China. | 20% | ✓ | ✓ | ✓ |
| | | 100% | | | |

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 self-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.

Alignment of CILOs with PILOs:

| PILOs | | CILOs |
|-------|--|----------|
| 1 | Explain and assess specified areas of the law and the legal system of Hong Kong, with particular emphasis on the law in action and the dynamic interplay between law and other social phenomena. | 1 |
| 2 | Assess the common law system and its values, and its interaction with the law and legal system of mainland China, the East Asian region and the wider world. | 3 & 5 |
| 3 | Explain, interpret and apply main principles of ethics, civil duty, and social and professional responsibility. | 5 |
| 4 | Critically assess the strengths and weaknesses of law as a means of regulating society in the context of competing and conflicting interests. | 3 & 5 |
| 5 | Demonstrate and apply skills of legal analysis and reasoning, of legal research, or problem solving, and of oral and written communication to a level appropriate to a graduate-entry degree in law. | 1, 2 & 3 |

3. Teaching and Learning Activities (TLAs)

(TLAs designed to facilitate students' achievement of the CILOs.)

| TLA | Brief Description | CILO No. | | | | | Hours/week (if applicable) |
|----------|--|----------|---|---|---|---|-------------------------------|
| | | 1 | 2 | 3 | 4 | 5 | |
| Lecture | Students will be introduced to the structure of the Hong Kong legal system in Hong Kong and mainland China through the lecturer as well as discussions during the lecture. | ✓ | | | | | 2 |
| | Students will read the course manual/course notes and other assigned readings for lectures to get a better understanding of the traditional principles of a common law system and the Chinese legal system. Students will be taught to locate and understand legal materials. | | ✓ | | | | |
| | Students will read the course manual/course notes and other assigned readings for lectures. | | | ✓ | ✓ | ✓ | |
| Tutorial | Students will be asked to prepare for their tutorial questions. | ✓ | | | | | 1 |
| | Students will prepare answers for their tutorial questions. This may be done in presentations or group discussion. Students will be asked to complete a research worksheet to demonstrate their research skills. | | ✓ | | | | |
| | Students will prepare answers for their tutorial questions. This may be done in presentations or group discussion. | | | ✓ | | | |
| | Students will prepare answers for their tutorial questions. This may be done in presentations or group discussion. Students will also be asked to prepare for a legco visit. | | | | ✓ | | |
| | Students will prepare answers for their tutorial questions. This may be done in presentations or group discussion. They will be assigned for a court visit to get a better understanding of the court structure in Hong Kong | | | | | ✓ | |

4. Assessment Tasks/Activities (ATs)

(ATs are designed to assess how well the students achieve the CILOs.)

| Assessment Tasks/Activities | CILO No. | | | | | Weighting | Remarks |
|--|----------|---|---|---|---|-----------|---------|
| | 1 | 2 | 3 | 4 | 5 | | |
| Continuous Assessment: 50% | | | | | | | |
| Assignment: Students are given a month to attempt an assignment question. Students are expected to conduct research for this purpose. | ✓ | ✓ | ✓ | ✓ | ✓ | 30% | |
| Participation in class: Students are expected to discuss and present their answers during tutorials. Students' performance during tutorials will be assessed. | ✓ | ✓ | ✓ | ✓ | ✓ | 20% | |
| Tutorials: Students will be asked to complete a research worksheet which will count towards their participation marks. | | | | | | | |
| Examination: 50% (duration: 2 hours) | | | | | | | |
| Students will need to show their ability to answer essay type questions. Students are also expected to demonstrate a knowledge of legal rules and principles by giving legal arguments and theories in essay type questions. These questions are all to be answered with a limited time. Students will be trained to present logical arguments. | ✓ | ✓ | ✓ | ✓ | ✓ | | |
| | | | | | | 100% | |

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

Assessment will be by continuous assessment, by coursework and by examination

The apportionment of marks will be:-

| | |
|--|----------------------|
| Performance in inter-active small group sessions | : 20% |
| Assignment | : 30% |
| Examination | : 50% |
| Examination duration | : Two hours |
| Grading pattern | : Standard (A+A...F) |

The following criteria, among others, will be considered in assessing class participation:

- Punctuality and attendance
- Effort and presentation skills
- Expression of ideas
- Contribution to presentation and discussion

The following criteria, among others, will be considered in assessing assignment

- Punctuality
- Accurate addressing of the legal issues
- Level of research
- Logical analysis and clear expression

To pass this course

Students must obtain an aggregate mark of 40% and a minimum of 40% in each of the coursework (Assignment and Participation in class) 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.

To enable the full benefit to be obtained from this course, students should attend all of the classes and activities.

Assignment/Homework

- You are required to write an essay. The topic for the essay will be given to you in week 2 or 3. Please submit your essay to the General Office of the School of Law by the submission date. Late submissions may not be accepted without a sufficient explanation and may also be marked down. There is a maximum word limit of 2000 words.

5. Assessment Rubrics

(Grading of student achievements is based on student performance in assessment tasks/activities with the following rubrics.)

| Assessment Task | Criterion | Excellent (A+, A, A-) | Good (B+, B, B-) | Adequate (C+, C, C-) | Marginal (D) | Failure (F) |
|----------------------------------|---|--------------------------|---------------------|-------------------------|-----------------|-----------------|
| 1. Group Presentation (Tutorial) | Ability to explain and present in detail the answers during the tutorials | High | Significant | Moderate | Basic | Marginal levels |
| 2. Individual Assignment | Ability to analyse the question and present a logical legal argument | High | Significant | Moderate | Basic | Marginal levels |
| 3. Final Exam | Demonstrate their ability to answer essay type questions. | High | Significant | Moderate | Basic | Marginal levels |

Part III Other Information (more details can be provided separately in the teaching plan)

1. Keyword Syllabus

law, sources of law, the rule of law, law and sociology, law and society, legal systems, constitutions and constitutional law, government, policies and policy-making, judges, courts and tribunals, trials, appeals and judicial review, alternative dispute resolution, legal personnel, law firms, and chambers, legal tradition, legal culture, comparative perspective, hierarchy of law, procedural and substantive law

Detailed Syllabus

1. Definition of law; the functions of law, law and society
2. The characteristics of a common law legal system; general principles of law in Hong Kong
3. Law-making: Authority and process
4. Shaping the institutional framework: The role of government
5. An overview of the criminal and civil justice systems
6. The delivery of legal services: The legal profession; jury system; legal aid; alternative dispute resolution.
7. A critical assessment of the current Hong Kong legal system
8. Chinese legal tradition and Chinese legal culture
9. The Constitution and the rule of law in mainland China
10. State structure and human rights in China
11. Law-making system in China
12. The judicial system in mainland China
13. Procedural and Substantive Law

2. Reading List Texts

Essential Reading

Stefan Lo & Wing Hong Chui, *The Hong Kong Legal System* (McGraw-Hill Education, 2011)

Albert Hung-yee Chen, *An introduction to the legal system of the People's Republic of China* (4th ed) (LexisNexis, 2011)

Recommended Reading:

I. Dobinson & D. Robuck, *Introduction to Law in the Hong Kong SAR* (2nd ed) (Sweet & Maxwell Asia, 2001)

P. Wesley-Smith, *An Introduction to the Hong Kong Legal System* (3rd ed) (Oxford University Press, 1998)

Y. Ghai, *Hong Kong's New Constitutional Order: The Resumption of Chinese Sovereignty and the Basic Law* (2nd ed) (Hong Kong University Press, 1999)

D.K. Srivastava, *Business Law in Hong Kong* (2nd ed) (Sweet & Maxwell, 2007)

Yuhua Wang, *Tying the Autocrat's Hands: The Rise of the Rule of Law in China* (Cambridge University Press, 2015)

Randall Peerenboom (eds.), *Judicial Independence in China* (Cambridge University Press, 2010)

Jianfu Chen, *Chinese law: Context and Transformation* (2nd ed) (Martinus Nijhoff Publishers, 2008)

Daniel C.K. Chow, *The legal system of the People's Republic of China in a nutshell* (2nd ed) (Thomson West, 2009)

Extra Reading:

Smith, Bailey & Gunn, *The Modern English Legal System* (5th ed) (Sweet and Maxwell, 2007)

John W. Head, *Great Legal Traditions: Civil Law, Common Law, and Chinese Law in Historical and Operational Perspective* (Carolina Academic Press, 2011)

Other readings will be assigned to you on a weekly basis

Online Resources

Bilingual Laws Information System – legislation reference
<http://www.legislation.gov.hk/eng/home.htm>

PKULaw
(Chinese) www.pkulaw.cn
(English) <http://en.pkulaw.cn>