

City University of Hong Kong
Course Syllabus

offered by School of Law
with effect from Semester B 2019/20

Part I Course Overview

Course Title:	Law of Evidence
Course Code:	LW5616
Course Duration:	One semester
Credit Units:	3
Level:	P5
Medium of Instruction:	English
Medium of Assessment:	English
Prerequisites: <i>(Course Code and Title)</i>	LW5621 Legal Systems of Hong Kong and Mainland, LW5622 Legal Methods, Research and Writing, LW5602 Law of Contact and LW5606A Criminal Law I
Precursors: <i>(Course Code and Title)</i>	Nil
Equivalent Courses: <i>(Course Code and Title)</i>	Nil
Exclusive Courses: <i>(Course Code and Title)</i>	Nil

Part II Course Details

1. Abstract

This course aims to:

- (i) Enable students to understand and appreciate the role and scope of the law of evidence in the adversary system.
- (ii) Develop students' understanding of the substantive rules of evidence and the principles upon which those rules are based.
- (iii) Examine the role and operation of the rules and principles of evidence in the litigation decision making process and in the provision of a fair trial.
- (iv) Cultivate awareness, appreciation and understanding of the practical application and effect of the rules of evidence.
- (v) Discuss and analyse the strengths and weaknesses of the law of evidence as it operates within the Hong Kong legal system.
- (vi) Discuss and analyse reforms and developments in the law of evidence.

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 [#]	Weighting (if applicable)	DEC related learning outcomes		
			A1	A2	A3
1.	Understand and appreciate the purpose of the law of evidence.	10%	✓		
2.	Apply the rules of evidence to the trial process.	20%		✓	
3.	Critically evaluate the law of evidence, its operation and its strengths and weaknesses.	20%	✓	✓	✓
4.	Identify and resolve problems and conflicts in the rules of evidence.	15%	✓	✓	
5.	Reason logically and apply the various rules of evidence.	20%	✓	✓	
6.	Consider and critically analyse ideas for the reform and improvement of the law of evidence and its operation.	15%	✓	✓	✓
		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, 3
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.	6
3	Explain, interpret and apply main principles of ethics, civil duty, and social and professional responsibility.	2, 4, 6
4	Critically assess the strengths and weaknesses of law as a means of regulating society in the context of competing and conflicting interests.	1, 3, 4, 6
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, 4, 5, 6

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	6	
lectures	Enable understanding of relevant legal principles and the rationales for and limitations of those principles through lectures.	✓						
lectures and tutorials	Enhance that understanding and promote critical thinking through interactive discussion, both in lectures and tutorials.		✓					
tutorials	Further enhance that understanding through discussion of actual and hypothetical scenarios in tutorials.			✓				
tutorials	Develop an understanding of the practical application of relevant principles to the trial process through discussion of hypothetical scenarios in tutorials.				✓			

4. Assessment Tasks/Activities (ATs)

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

Assessment Tasks/Activities	CILO No.						Weigh ting	Remarks
	1	2	3	4	5	6		
Continuous Assessment:							50%	
Tutorial contribution: 20% The portion of the overall mark allocated to performance in inter-active class room <u>participation</u> will be assessed on the quality of the participation. Generally, the tutorials allow students to demonstrate their capacity to understand, analyse, and apply relevant legal rules and principles. The response of students in these sessions enables tutors to assess both understanding of the law and the capacity to apply the law to real and hypothetical fact situations.	✓	✓	✓	✓	✓	✓		
Assignment/ project : 30% The <u>assignment/ project</u> is a compulsory written assignment. This will assess the students' ability to undertake research, and to synthesise primary and	✓	✓	✓	✓	✓	✓		

secondary material and formulate argument. The students will be divided into a group of 4 to do written group project. The written assignment/ project requires that the student explore evidential previously not taught to the student. It involves comparative law analysis. The student will discover new perspective of the way evidential principles work in the adversary system.									
Examination: (duration: 3 hours , if applicable)								50%	
The <u>examination</u> tests knowledge and understanding of legal rules and principles and the ability to apply those principles, within a limited time frame, to particular sets of circumstances. 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 third week of the course. The exam is an open book exam.	✓	✓	✓	✓	✓	✓			
								100%	

A student must obtain a minimum mark of 40% in both continuous assessment and examination and an overall mark of 40% in order to pass the course. Continuous assessment means those ways in which students are assessed other than by the end of session examination.

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

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-)	Fair (C+, C, C-)	Marginal (D)	Failure (F)
1. Assignment/ Project	Ability to research, explain and to suggest improvements to an individual area of the Law of Evidence	High	Significant	Moderate	Basic	Failure to reach a marginal level
2. Tutorial Contribution	Ability to research and justify an argument concerning an individual topic of the Law of Evidence	High	Significant	Moderate	Basic	Failure to reach a marginal level
3. Examination	Ability to understand and explain concisely and accurately a variety of topics of the Law of Evidence	High	Significant	Moderate	Basic	Failure to reach a marginal level

Part III Other Information (more details can be provided separately in the ‘Lecture Programme and Reading Guide’)

1. Keyword Syllabus

(An indication of the key topics of the course.)

Nature and purpose of the law of evidence; the adversarial system; types of evidence; burden and standard of proof; proof without evidence; stages in the trial process and governing principles; competence and compellability of witnesses; opinion evidence; relevance and weight; *res gestae*; hearsay rule and exceptions; evidence of bad character and similar fact evidence; privilege; discretionary exclusion of evidence.

Detailed Syllabus

Part 1: Adducing Evidence

- 1 Burdens & Standards of Proof, Circumstantial Evidence and Inferential Reasoning, Statutory and Common Law Presumptions
- 2 Relevance and Admissibility, Classification of Evidence
- 3 Forms of Evidence: Competence and Compellability of Witnesses, Protection of Witnesses, Documentary Evidence, Real Evidence
- 4 Adducing Evidence at Trial: Examination-in-Chief, Cross-Examination and Re-Examination
- 5 Identification and Identification Evidence

Part 2: Exclusionary rules and their exceptions

- 6 The Rule against Hearsay and Its Exceptions
- 7 Confession and Unconstitutionally and Unfairly Obtained Evidence
- 8 Character Evidence, Similar Fact Evidence
- 9 Opinion/Expert Evidence
- 10 Privileges and Immunities

Part 3: Others

- 11 Special topics: Confirmatory Evidence, Evidence after Conviction, Revision

2. Reading List

Legislation:

Criminal Procedure Ordinance (Cap 221)

Evidence Ordinance (Cap 8)

Magistrates Ordinance (Cap 227)

Crimes Ordinance (Cap 200)

Authorities:

To be informed during lectures, including but not limited to the following Hong Kong Court of Final Appeal Judgments:

HKSAR v Hung Chan Wa (2006) 9 HKCFAR 614

HKSAR v Dixon Tang Kwok Wah (2002) 5 HKCFAR 209

Secretary for Justice v Lui Kin Hong (1999) 2 HKCFAR 510

Lo Chun Nam v HKSAR (2001) 4 HKCFAR 1

HKSAR v Yeung Ka Ho (2013) 16 HKCFAR 609

HKSAR v Lau Shing Chung (2015) 18 HKCFAR 50

Secretary for Justice v Lam Tat Ming (2000) 3 HKCFAR 168

Tang Siu Man v HKSAR (1997-98) 1 HKCFAR 107

Nina Kung v Wong Din Shin (2005) 8 HKCFAR 387

HKSAR v Wong Chi Wai (2013) 16 HKCFAR 539

Text:

There is no prescribed textbook for this course. Students are encouraged to read the primary materials including the statutes and authorities covered in lectures. However, students are also welcome to consult the following for reference purpose.

Reference:

Mike McConville, Dimitri Hubbard and Arthur McInnes, *Hong Kong Law of Evidence* 2nd Edition 2014, (Blue Dragon Press Hong Kong).

Butterworths Hong Kong Evidence Law Handbook (4th Edition LexisNexis 2016)

Colin Tapper, *Cross & Tapper on Evidence* (12th Edition, Oxford University Press 2010)

Simon Young, *Hong Kong Evidence Casebook* (Sweet and Maxwell Asia 2011)

Richard Glover, *Murphy on Evidence* (15th Edition Oxford University Press 2017)