

**City University of Hong Kong  
Course Syllabus**

**offered by School of Law  
with effect from Semester B 2020/21**

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**Part I Course Overview**

<b>Course Title:</b>	Law of Evidence
<b>Course Code:</b>	LW5616
<b>Course Duration:</b>	One Semester
<b>Credit Units:</b>	3
<b>Level:</b>	P5
<b>Medium of Instruction:</b>	English
<b>Medium of Assessment:</b>	English
<b>Prerequisites:</b> <i>(Course Code and Title)</i>	LW5601 Hong Kong Legal System or LW5621 Legal Systems of Hong Kong and Mainland, LW5622 Legal Methods, Research and Writing, LW5602 Law of Contract or LW5602A Law of Contract I and LW5602B Law of Contract, and LW5606A Criminal Law I
<b>Precursors:</b> <i>(Course Code and Title)</i>	Nil
<b>Equivalent Courses:</b> <i>(Course Code and Title)</i>	LW4616 Law of Evidence
<b>Exclusive Courses:</b> <i>(Course Code and Title)</i>	Nil

## Part II Course Details

### 1. Abstract

*(A 150-word description about the course)*

The law of evidence underlies the whole practice of law, including, and probably most obvious, that of civil and criminal litigation, but also the various stages of the fact-finding process prior to litigation, including investigative processes and even alternative modes of dispute resolution. It is therefore imperative for legal scholars and practitioners to have a clear grasp of what constitutes relevant evidence, a thorough understanding of the rules of admissibility of such evidence, as well as the weight and tactical significance of evidence at the various junctures of a civil, criminal or other legal proceeding. Evidence generally refers to that information by which facts tend to be proved, and the Law of Evidence is that body of law and discretion regulating the means by which facts may be proved in courts of law and tribunals and arbitrations in which the strict rules of evidence apply. The Law of Evidence therefore forms part of the adjective (or adjectival) law and operates in tandem with the law of criminal and civil procedure. Upon completion of this course, students will have a thorough theoretical knowledge as well as a practical appreciation and awareness of the Law of Evidence as it is applied and developed in Hong Kong.

### 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 <sup>#</sup>	Weighting* (if applicable)	DEC related learning outcomes		
			A1	A2	A3
1.	Enable students to understand and appreciate the role and scope of the Law of Evidence in an adversary system.		✓	✓	
2.	Develop students' understanding of the substantive rules of evidence and the principles upon which those rules are based.			✓	✓
3.	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.			✓	✓
4.	Cultivate awareness, appreciation and understanding of the practical application and effect of the rules of evidence.		✓	✓	✓
5.	Discuss and analyse the strengths and weaknesses of the Law of Evidence as it operates within the Hong Kong legal system.		✓	✓	✓
6.	Discuss and analyse reforms and developments in the Law of Evidence		✓	✓	✓
		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.*

### 3. Teaching and Learning Activities (TLAs)

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

TLA	Brief Description	CILO No.						Hours/week
		1	2	3	4	5	6	
Lectures	Weekly lectures on key topics relating to the prescribed material	✓	✓	✓	✓	✓	✓	2
Contribution to discussion in class	Bi-weekly tutorials during which students will present on and discuss case studies and problem questions that are based on the course material discussed in the lectures. Students will analyse and evaluate various topics in the Law of Evidence and will have a forum for discussion where doubts and uncertainties can be identified and addressed.	✓	✓	✓	✓	✓	✓	1 (2 hours, every other week)

### 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	6		
Continuous Assessment:							50%	
Contribution to discussion in tutorials: 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 group 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 issues previously not taught to the student. It involves comparative law analysis. Students will discover new perspective of the way evidential principles work in the adversary system.	✓	✓	✓	✓	✓	✓		
Examination: (duration: 3 hours) (open book)							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 format of the examination (i.e. the number of questions) will be at the discretion of the course leader. The course leader will announce the duration of the examination in the tenth week of the course.	✓	✓	✓	✓	✓	✓		
							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).

To pass this course students must obtain an aggregate mark of 40% and a minimum of 40% in each of the coursework and the examination components of the assessment. Coursework for this purposes means all activities and assignments other than the end of semester examination.

## 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. Tutorial participation	<ul style="list-style-type: none"> <li>- Demonstration of prior preparation for tutorial discussion and to willingness to actively engage in discussion</li> <li>- Demonstration of familiarity legal doctrines and principles</li> </ul>	Strong evidence of capacity to analyse and synthesize; superior grasp of subject matter;	Evidence of analytical ability; reasonable understanding of issues; evidence of familiarity with the law.	Student who is profiting from the university experience; basic understanding of the subject; ability to develop solutions to simple problems in the material.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; an incorrect understanding or application of the law;
2. Assignment / project	<ul style="list-style-type: none"> <li>- - Demonstration of understanding of principles and concepts</li> <li>- Demonstration of research capabilities</li> <li>- Demonstration of ability to engage in argument-based analysis</li> <li>- Demonstration of ability to write and communicate ideas and arguments in a logically</li> </ul>	Strong evidence of original thinking; good organisation, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of grasp of subject, some evidence of critical capacity and analytical ability; reasonable understanding of issues; evidence of familiarity with the law and relevant literature.	Student who is profiting from the university experience; basic understanding of the subject; weakness in critical and analytical skills; ability to develop solutions to simple problems in the material.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; an demonstrably weak, incomplete or inaccurate understanding or the law; limited or irrelevant use of literature.

	coherent and persuasive manner					
3. Examination (3 hour written examination; open book)	<ul style="list-style-type: none"> <li>- Demonstration of understanding of principles, and the law;</li> <li>- Demonstration of ability to identify legal issues</li> <li>- Application of knowledge to specific fact-based and/or essay type questions</li> </ul>	Strong evidence of original thinking; good organisation, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of grasp of subject, some evidence of critical capacity and analytical ability; reasonable understanding of issues; evidence of familiarity with the law.	Student who is profiting from the university experience; basic understanding of the subject; weakness in critical and analytical skill; ability to develop solutions to simple problems in the material.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; incorrect understanding or application of the law;

**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; relevance and weight; opinion evidence; identification and identification evidence; the hearsay rule and exceptions; evidence of bad character and similar fact evidence; legal professional privilege; discretionary exclusion of evidence.

**Detailed Syllabus**

1. An Introduction to the Law of Evidence: Basic Principles, Concepts and Theory
2. Weight of Evidence, Burdens and Standards of Proof, Circumstantial Evidence and Inferential Reasoning
3. Proof without Evidence: Formal Admissions and Confessions, Judicial Notice, Procedural and Substantive Presumption of Law
4. Relevance and Admissibility: Character Evidence, Similar Fact Evidence
5. Opinion/Expert Evidence
6. Hearsay and Documentary Evidence
7. Identification and Identification Evidence
8. Issues arising at Trial: Competence and Compellability
9. Issues arising at Trial: Examination-in-Chief, Cross-Examination and Re-Examination: Vulnerable Witnesses and Special Measures
10. Unconstitutionally and Unfairly Obtained Evidence and Abuse of Process
11. Privileges and Immunities

**2. Reading List**

1.	McConville, Mike and Hubbard, Dmitri M.A. <i>Hong Kong Law of Evidence</i> 2 <sup>nd</sup> Edition (2014) Blue Dragon Asia Ltd
2.	Young, Simon N.M. <i>Hong Kong Evidence Casebook</i> (2011) Sweet & Maxwell
3.	Course, Lindy <i>Butterworths Hong Kong Evidence Law Handbook</i> 4 <sup>th</sup> Edition (2016) LexisNexis Butterworths
4.	Ordinances relevant to the study of the Law of Evidence in Hong Kong, the most important being the Evidence Ordinance (Cap 8); Criminal Procedure Ordinance (Cap 221); Magistrates Ordinance (Cap 227); Crimes Ordinance (Cap 200)
5.	Archbold Hong Kong: Criminal Law, Pleadings, Evidence and Practice (available online via the Run Run Shaw Library website)
6.	Prescribed case law

\*Cases will be prescribed on a weekly basis.