

**City University of Hong Kong  
Course Syllabus**

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

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**Part I Course Overview**

<b>Course Title:</b>	<u>Legal Systems of Hong Kong and Mainland China</u>
<b>Course Code:</b>	<u>LW5621*</u>
<b>Course Duration:</b>	<u>One Semester</u>
<b>Credit Units:</b>	<u>3</u>
<b>Level:</b>	<u>P5</u>
<b>Medium of Instruction:</b>	<u>English</u>
<b>Medium of Assessment:</b>	<u>English</u>
<b>Prerequisites:</b> <i>(Course Code and Title)</i>	<u>Nil</u>
<b>Precursors:</b> <i>(Course Code and Title)</i>	<u>Nil</u>
<b>Equivalent Courses:</b> <i>(Course Code and Title)</i>	<u>Nil</u>
<b>Exclusive Courses:</b> <i>(Course Code and Title)</i>	<u>Nil</u>

\* 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	Weighting (if applicable)	DEC related learning outcomes		
			A1	A2	A3
1.	Demonstrate a sound knowledge and conceptual understanding of the law and legal systems of Hong Kong and mainland China.		✓	✓	✓
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.			✓	✓
3.	Explain the concept and functions of law, the relationship between morality, justice and the law.		✓	✓	✓
4.	Critically evaluate the criminal and civil justice system in Hong Kong and Mainland China.		✓	✓	✓
5.	Understand the judicial system and court structure in Hong Kong and Mainland China.		✓	✓	✓
		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, 4
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 prepare answers for their tutorial questions. This may be done in presentations or group discussion.					✓	

#### 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:						20%	
Contribution to knowledge building in class (20%): Students are expected to discuss and present their answers during tutorials. Students' performance during tutorials will be assessed.	✓	✓	✓	✓	✓		
Mid-term and End-of-term Examinations: (duration: 2 hours each)						80%	
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 and by examination

The apportionment of marks will be:-

Performance in inter-active small group sessions : 20%

Examination : 80%

Examination duration : Four hours (Two hours per exam)

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
- Addressing the legal issues accurately
- 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 assessment components, namely contribution to knowledge building in class, the mid-term exam and the end-of-term exam).

To enable the full benefit to be obtained from this course, students should attend all of the classes 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. Group Presentation (Tutorial)	Ability to explain and present in detail the answers during the tutorials	High	Significant	Moderate	Basic	Marginal levels
2. Mid-term and End-of-term Exam	Demonstrate their ability to answer essay type questions, including the ability to analyse the question and present logical legal arguments	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 morality, law and justice, law and discretion, legal systems, constitutions and constitutional law, government, separation of powers, the executive and the judiciary, the process of law-making, policies and policy-making, the judiciary and the judicial method, deference, judges, courts and tribunals, trials, appeals and judicial review, civil and criminal justice, access to justice, legal aid, the Civil Justice Reform, alternative dispute resolution, legal profession, legal tradition, legal culture, comparative perspective, hierarchy of law, basic principle of laws.

#### **Detailed Syllabus**

1. The law, legal system and the rule of law
2. From colony to Special Administrative Region – the sources of law in Hong Kong
3. The Hong Kong Basic Law and the separation of powers – the executive and the legislature
4. The judiciary and the judicial method
5. The rule of law in Hong Kong and ‘one country two systems’
6. Introduction to civil and criminal justice
7. Chinese legal tradition and overview of contemporary Chinese legal system
8. The constitutional structure of the PRC
9. Human rights and the political system
10. Hierarchy of law and law-making system
11. Judiciary: judicial independence and judicial law making
12. Principles of substantive and procedural laws

#### **2. Reading List** **Texts**

##### Essential Reading

Eric C Ip, *Law and Justice in Hong Kong* (Sweet & Maxwell, 2016)

Waikeung Tam, *Legal Mobilization under Authoritarianism: The Case of Post-Colonial Hong Kong* (Cambridge University Press, 2013)

Jianfu Chen, *Chinese law: Context and Transformation* (Brill/Nijhoff, 2015)

Daniel C.K. Chow, *The Legal System of the People’s Republic of China in a Nutshell* (2nd ed) (Thomson West, 2009)

##### Recommended Reading:

Stefan Lo & Wing Hong Chui, *The Hong Kong Legal System* (McGraw-Hill Education, 2012)

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

Albert Hung-ye Chen, *An Introduction to the Legal System of the People’s Republic of China* (5th ed) (LexisNexis, 2019)

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)

James M. Zimmermann, *China Law Deskbook: A Legal Guide for Foreign-invested Enterprises* (American Bar Association, 2010)

Extra Reading:

Gu Yu, *Hong Kong's Legislature under China's Sovereignty 1998-2013* (Brill, 2013)

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