

**City University of Hong Kong  
Course Syllabus**

**offered by School of Law  
with effect from Semester B 2022/23**

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**Part I Course Overview**

<b>Course Title:</b>	<u>Law of Evidence</u>
<b>Course Code:</b>	<u>LW4616</u>
<b>Course Duration:</b>	<u>One Semester</u>
<b>Credit Units:</b>	<u>3</u>
<b>Level:</b>	<u>B4</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>LW2601 Hong Kong Legal System LW3606A Criminal Law I</u>
<b>Precursors:</b> <i>(Course Code and Title)</i>	<u>Nil</u>
<b>Equivalent Courses:</b> <i>(Course Code and Title)</i>	<u>LW5616 Law of Evidence</u>
<b>Exclusive Courses:</b> <i>(Course Code and Title)</i>	<u>Nil</u>

## Part II Course Details

### 1. Abstract

The law of evidence underlies the whole practice of law, including, most obviously, 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 law students, legal scholars and practitioners to have a clear grasp of what constitutes relevant evidence, a thorough understanding of the rules of admissibility, as well as the weight and tactical significance of evidence at the various junctures of civil, criminal or other legal proceedings. The term ‘evidence’ generally refers to that information by which disputed facts tend to be proved, and the Law of Evidence is that body of law and discretion regulating the means by which disputed facts may be proved in courts, tribunals and arbitration hearings in which the strict rules of evidence apply. The Law of Evidence therefore forms part of the adjectival law and operates in tandem with the law of criminal procedure and the law of 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)	Alignment with MILOs	DEC related learning outcomes		
				A1	A2	A3
1.	To enable students to understand and appreciate the role and scope of the Law of Evidence in an adversarial system.	1/6	1, 2, 3, 4, 5	✓	✓	
2.	To develop students’ understanding of the substantive rules of evidence and the principles upon which those rules are based.	1/6	1, 2, 3, 4, 5		✓	✓
3.	To 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.	1/6	1, 2, 3, 4, 5		✓	✓
4.	To cultivate awareness, appreciation and understanding of the practical application and effect of the rules of evidence.	1/6	1, 2, 3, 4, 5, 6, 7	✓	✓	✓
5.	To discuss and analyse the strengths and weaknesses of the Law of Evidence as it operates within the Hong Kong legal system.	1/6	1, 2, 3, 4, 5, 6, 7, 8	✓	✓	✓
6.	To analyse and propose reforms and developments in the Law of Evidence within the Hong Kong legal system.	1/6	1, 2, 3, 4, 5, 6, 7, 8	✓	✓	✓
		100%	1,2,3,4,5,6,7,8			

\* If weighting is assigned to CILOs, they should add up to 100%.

<sup>#</sup> Please specify the alignment of CILOs to the Gateway Education Programme Intended Learning outcomes (PILOs) in Section A of Annex.

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, synthesising 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	
<i>Lectures</i>	Weekly didactic lectures on key topics relating to the prescribed material. Will often include an in-class discussion component.	✓	✓	✓	✓	✓	✓	2
<i>Tutorials</i>	Small group tutorials during which students will present on and discuss court visits 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 second week)
<i>Self-Directed Study</i>	Self-directed preparation for class by reading from the compulsory and optional prescribed readings, taking notes, drafting answers to tutorial questions and assignments and reviewing class content.	✓	✓	✓	✓	✓	✓	5  (approx.)

### 4. Assessment Tasks/Activities (ATs)

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

Assessment Tasks/Activities	CILO No.						Weight	Remark
	1	2	3	4	5	6		
Continuous Assessment: 60%								
<b>Tutorial Contribution</b> The tutorial contribution mark is equally weighted between a group problem question presentation (10%), a group court visit presentation (10%) and general participation (10%). General participation will be assessed on the quality of the participation. The group tasks require public speaking and groupwork skills. Generally, the tutorials allow students to demonstrate their capacity to understand, analyse, and apply relevant legal rules and principles. The oral responses 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 factual situations.	✓	✓	✓	✓	✓	✓	30%	
<b>Assignment</b> This task involves a written group assignment. The assignment will assess the students' ability to undertake research, to synthesise primary and secondary material, to formulate an argument and to write with clarity and persuasiveness. Students will be allocated into a group of 3-4 complete the assignment. The assignment requires that the group explore evidential issues not previously taught to the class. The topic will typically involve comparative law analysis and/or legal theory. In completing the assignment, students will discover new perspectives on the way that evidential principles work in an adversarial system.	✓	✓	✓	✓	✓	✓	30%	

Examination: 40% (duration: 3 hours) (open book)								
The examination 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 factual 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 precise exam format during the final lecture of semester, which is dedicated to revision and exam preparation. Although the cohorts are taught and examined together, JD students must answer one more question than do LLB students.	✓	✓	✓	✓	✓	✓	40%	
							100%	

**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 30% in each of the continuous assessment and the examination components of the assessment. Continuous assessment 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.)*

Task	Criteria	Excellent (A+, A, A-)	Good (B+, B, B-)	Fair (C+, C, C-)	Marginal (D)	Failure (F)
1. Tutorial participation 30% (Problem Question Presentation 10%, Court Visit Presentation 10%, General Participation 10%)	<ul style="list-style-type: none"> <li>- Prior preparation on tutorial questions and to willingness to actively engage in discussion</li> <li>- Familiarity with legal doctrines and principles</li> <li>- Public speaking and group cooperation for group tasks</li> </ul>	Strong evidence of capacity to analyse and synthesise; superior grasp of subject matter; superior public speaking and groupwork dynamic.	Evidence of analytical ability; reasonable understanding of issues; evidence of familiarity with the law; reasonable public speaking and groupwork dynamic.	Student who is profiting from the university experience; basic understanding of the subject; ability to develop solutions to simple problems in the material. Some evidence of group cooperation and some ability to speak publicly.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course. Sporadic evidence of positive group dynamic.	Little evidence of familiarity with the subject matter; an incorrect understanding or application of the law; poor public speaking and an unworkable group dynamic.
2. Assignment 30%	<ul style="list-style-type: none"> <li>- Understanding of principles and concepts</li> <li>- Research capabilities</li> <li>- Ability to engage in argument-based analysis</li> <li>- Ability to write and communicate ideas and arguments in a logically coherent and persuasive manner</li> <li>- Ability to divide tasks and work effectively in a group toward criteria</li> </ul>	Strong evidence of original thinking; good organisation, capacity to analyse and synthesise; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of a grasp of the 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.
3. Examination 40% (3 hour length; open book)	<ul style="list-style-type: none"> <li>- Understanding of legal and theoretical principles</li> <li>- 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 synthesise; 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 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; 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.)

- Law of evidence
- The adversarial system
- Types of evidence
- Burden and standard of proof
- Proof without evidence
- Stages in the trial process
- Competence and compellability of witnesses
- Relevance and weight
- Opinion evidence
- Identification evidence
- The hearsay rule and its exceptions
- Evidence of bad character and similar fact evidence
- Legal professional privilege
- Discretionary exclusion of evidence.

**Detailed Weekly 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 Evidence
8. Unconstitutionally and Unfairly Obtained Evidence and Abuse of Process
9. Issues arising at Trial: Competence and Compellability
10. Issues arising at Trial: Examination-in-Chief, Cross-Examination and Re-Examination: Vulnerable Witnesses and Special Measures
11. Privileges and Immunities
12. Revision and Exam Preparation

\* Students should refer to the Lesson Plan for more detail on the specific topics to be covered each week. The above weekly syllabus is subject to change.

**2. Reading List**

1.	Simon So, <i>Law of Evidence in Hong Kong</i> (2020) Sweet & Maxwell (course textbook)
2.	Andra le Roux Kemp, <i>Hong Kong Law of Evidence</i> (2020) Wolters Kluwer (for reference)
3.	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), and Crimes Ordinance (Cap 200)
4..	<i>Archbold Hong Kong: Criminal Law, Pleadings, Evidence and Practice</i> (2022) Thomson Reuters (for reference, electronic version available via the Run Run Shaw Library website)
5.	Case law prescribed by the course leader
6.	Secondary materials prescribed by the course leader