

LW4614: DISPUTE RESOLUTION

Effective Term

Semester A 2023/24

Part I Course Overview

Course Title

Dispute Resolution

Subject Code

LW - Law

Course Number

4614

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

B1, B2, B3, B4 - Bachelor's Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

LW4114 Dispute Resolution (LLB) (from the old curriculum)

LW4114A Dispute Resolution (AMLLB) (from the old curriculum)

Exclusive Courses

Nil

Part II Course Details

Abstract

This course aims to provide an opportunity for students to develop an understanding of the variety and incidence of disputes and the various methods of resolving disputes; to obtain an overview of the operation of the various mechanisms employed in dispute resolution and to practice dispute resolution skills.

Course Intended Learning Outcomes (CILOs)

CILOs	Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	Describe and explain disputes and why and how they arise;	x	x	
2	Understand the theory and practice associated with the principal methods of resolving civil disputes;	x	x	
3	Identify and examine the various methods and mechanisms of dispute resolution;		x	x
4	Critically assess the appropriateness of each method of dispute resolution in the given situation;		x	x
5	Apply dispute resolution and dispute resolution skills;			x
6	Resolve disputes on the basis of their understanding of the course content.	x	x	x

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 real-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.

Teaching and Learning Activities (TLAs)

TLAs	Brief Description	CILO No.	Hours/week (if applicable)	
1	Lectures or interactive seminars	students will acquire basic knowledge of the concept and principles dispute resolution, including through asking or responding to questions.	1, 2, 3, 4, 5, 6	2
2	Tutorials	students will apply their understanding of legal concepts and principles to solve hypothetical situations	1, 2, 3, 4, 5, 6	1

Assessment Tasks / Activities (ATs)

ATs	CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Coursework	1, 2, 3, 4, 5, 6	50

Continuous Assessment (%)

50

Examination (%)

50

Examination Duration (Hours)

2

Additional Information for ATs

The use of Generative AI tools is not allowed.

Grading of Student Achievement: Refer to Grading of Courses in the Academic Regulations (Attachment) and to the Explanatory Notes.

Assessment will be by coursework (50%), which will comprise continuous performance evaluation and either a problem based assignment and/or a negotiation, mediation, conciliation or arbitration exercise or exercises and by examination (50%).

Grading pattern: 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 coursework 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.

The portion of the overall mark allocated to performance/participation in inter-active in class activities will be assessed on the quality of the participation. Assessment criteria for those activities, their nature and their timing will be set out in the study guide/course manual and will be further expanded upon by the course leader.

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

Assessment will be formative to enable students to demonstrate their capacity to understand, analyse and apply rules and principles and summative to assess ability to synthesise primary and secondary material to solve novel problems.

Assessment Rubrics (AR)**Assessment Task**

Coursework

Criterion

Knowledge and understanding of the subject; Original thinking and analytical skills; Organisation and writing skills.

Excellent (A+, A, A-)

Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good (B+, B, B-)

Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair (C+, C, C-)

Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal (D)

Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure (F)

Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination

Criterion

Knowledge and understanding of the subject; Original thinking and analytical skills; Organisation and writing skills.

Excellent (A+, A, A-)

Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

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Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure (F)

Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Part III Other Information

Keyword Syllabus

The following topics will be studied:-

- Conflict theory; sources, incidence and nature of disputes; the traditional resolution of disputes in and out of the courts, the incidence of unresolved disputes; the importance of the cultural context.
- Alternative or additional dispute resolution: an overview of the dispute resolution spectrum, including expert determination, early neutral evaluation, fact finding, med-arb, mini trial, neutral expert, court-annexed processes, settlement days or weeks, the multi-door facility, the neighbourhood centre.
- Negotiation theory – principled negotiation and positional bargaining, preparing to negotiate; Negotiation strategies; Practical negotiation exercises
- Mediation theory – evaluative and facilitative models, the Roles of Mediator; Mediator’s techniques; dealing with Deadlock and completing the successful mediation – the settlement agreement;
- The unsuccessful or incomplete mediation – status of parties and mediators;
- Conciliation theory – evaluative and facilitative models, the Role of the Conciliator, conducting the conciliation;

- Arbitration, the arbitration agreement; Arbitration Ordinance; powers, jurisdiction and appointment of the arbitrator; ad hoc and institutional models; Hong Kong International Arbitration Centre and other appointing bodies;
- Preliminary meetings, Orders for Directions, pleadings and other interlocutory or pre-hearing proceedings;
- The Award and its enforcement
- Appeals, misconduct setting aside awards, appealing and remitting awards rule and deductions; joint assessment; calculation of liability; personal assessment; salaries tax planning.
- International arbitrations.

Reading List

Compulsory Readings

Title	
1	BORN, Gary, International commercial arbitration (2nd ed. Wolters Kluwer Law & Business 2014)
2	YANG, Fan, Foreign-related Arbitration in China: Commentary and Cases, Cambridge University Press (2 Volume Hardback Set), 2015 (ISBN: 978-110-70821-9-9)
3	Guiguo Wang and Fan Yang (eds), Mediation and its Impact on Legal Systems in Asia-Pacific, Wolters Kluwer Law & Business and CCH Hong Kong, September 2013
4	扬帆博士译著《什么是替代性争议解决方式(ADR)?》，Chartered Institute of Arbitrators (CI Arb), August 2013 (ISBN: 978-0-9517372-8-6)
5	扬帆博士译著《商事仲裁国际理事会之1958纽约公约释义指南》，ICCA's Guide to the Interpretation of the 1958 New York Convention (Chinese-English bilingual version), International Council for Commercial Arbitration (ICCA), (ISBN: 978-908-17251-3-2)

Additional Readings

Title	
1	Jingzhou Tao, Arbitration law and practice in China, Wolters Kluwer Law & Business; Alphen aan den Rijn : Kluwer Law International, c2008. 2nd ed;
2	Choong and Weeramantry (eds), The Hong Kong Arbitration Ordinance: commentary and annotations, Hong Kong: Sweet & Maxwell/Thomson Reuters, 2011
3	Gary B. Born, International Commercial Arbitration, Wolters Kluwer Law & Business; Alphen Aan Den Rijn: Kluwer Law International, c2009, (available online from CityU e-resources)
4	Justice Geoffrey Ma; general editor, Denis Brock and a team of expert contributors, Arbitration in Hong Kong: a practical guide, Hong Kong: Sweet & Maxwell 2011. 2nd ed,
5	Redfern, Hunter, et al., Redfern and Hunter on International Arbitration, (2009); (available online from CityU e-resources)
6	David St. John Sutton, Judith Gill, Matthew Gearing, Russell on arbitration Russell, Francis, 1816-1891. London: Sweet & Maxwell, 2007. 23rd ed., (available online from CityU e-resources)
7	Lew, Mistelis, et al., Comparative International Commercial Arbitration, (2003); (available online from CityU e-resources)
8	Sarah E. Hilmer, Mediation in the People's Republic of China and Hong Kong (SAR), Eleven International Pub; Portland, c2009
9	Nadja Alexander, Mediation: process and practice in Hong Kong, Hong Kong : LexisNexis, 2010
10	Jason A Crook. 2010. What is alternative dispute resolution (ADR)?, in Julio Cesar Betancourt (ed.) London: CI Arb. 2010
11	Fenn P., Introduction to Civil and Commercial Mediation (Chartered Institute of Arbitrators Manual, 2003)
12	Goldberg, Sander & Rogers, Dispute Resolution: Negotiation, Mediation, and Other Processes (Aspen Law & Business, 3rd ed., 1999)
13	Fisher, Ury & Patton, Getting to Yes – Negotiating an Agreement Without Giving In (2nd ed., Random House, 1999)

14	Fisher & Ertel, <i>Getting Ready to Negotiate: The Getting to Yes Workbook</i> (Bantam, 1995)
15	Kaplan, Spruce & Moser, <i>Hong Kong and China Arbitration: Cases and Materials</i> (Butterworths, 1994)
16	Dejun, Moser & Wang, <i>International Arbitration in the People's Republic of China: Commentary, Cases and Materials</i> (2nd ed., Butterworths, 2000)
17	Arbitration: http://www.arbitration-icca.org
18	Mediation: http://www.mediate.com
19	Negotiation: http://www.pon.harvard.edu/