

City University of Hong Kong

**Information on a Course
offered by School of Law
with effect from Semester A in 2013/2014**

Part I

Course Title:	Family Law in a Comparative Perspective
Course Code:	LW4671
Course Duration:	One Semestre
Credit Units:	3 (one two-hour lecture and one one-hour tutorial per week)
Level:	B4
Medium of Instruction:	English
Prerequisites:	
Precursors:	Nil
Equivalent Courses:	Nil
Exclusive Courses:	LW4617 Family Law in Hong Kong

Part II

Course Aims

This course aims to

- Introduce students to key aspects of substantive and procedural family law in Hong Kong including:
 - Marriage
 - Nullity of marriage
 - domestic violence
 - legal separation
 - applications for divorce
 - children and custody issues

- other applications relating to children (relocation applications, wardship applications, and applications under the Child Abduction and Custody Ordinance)
 - financial applications and ancillary relief
 - prenuptial agreements
 - enforcement of matrimonial orders
- Introduce students to key aspects of family law in other jurisdictions, specifically the United States, United Kingdom, and, to a lesser extent, the PRC
 - Introduce students to principles underlying family law and possible reforms and changes to family law in Hong Kong by comparing with the above-mentioned jurisdictions.
 - Introduce students to mediation and collaborative practice law in the family law context in both Hong Kong and the United States (origin of collaborative practice law)

Course Intended Learning Outcomes (CILOs)

Upon successful completion of this course, students should be able to:

No.	CILOs	Weighting (if applicable)
1.	<ul style="list-style-type: none"> ➤ Understand and critically describe and explain: <ul style="list-style-type: none"> ○ what the marriage law is in Hong Kong ○ the extent to which cohabitation is legally recognised in Hong Kong compared with the United States and United Kingdom ○ what constitutes an invalid marriage ○ what domestic violence is and the extent to which the law provides relief for domestic violence in Hong Kong compared with the United States, United Kingdom, and PRC ○ the procedure for getting divorced in Hong Kong ○ the relevant law for getting divorced in Hong Kong ○ the extent to which the law provides relief for children during a marriage and upon divorce ○ the principles of custody, care and control, and access rights in HK compared to other jurisdictions, specifically England and the US ○ other applications relating to children including international child abductions and how the Hague Convention on the 	80%

	<p>Civil Aspects of International Child Abduction is applied in Hong Kong compared to the United States and the PRC</p> <ul style="list-style-type: none"> ○ the relevant law for obtaining ancillary relief in Hong Kong compared with the United States, United Kingdom, and the PRC ○ the procedure for obtaining ancillary relief in Hong Kong ○ the role of mediation and collaborative practice law in family law disputes in multiple jurisdictions 	
2.	<p>➤ Critically evaluate</p> <ul style="list-style-type: none"> ○ the relationship between the development of family law and society ○ HK family law and future reforms in the context of the international arena, specifically by comparing with family law reforms and developments in other jurisdictions 	20%

Alignment of CILOs with PILOs:

PILOs		CILOs
1	Analytically and critically describe the main substantive/procedural laws of Hong Kong family law.	1
2	Describe and compare Hong Kong's family law and Hong Kong's family legal system with the family laws and legal systems of other jurisdictions including the UK, US, and, to a lesser extent, the PRC.	1 & 2
3	Apply the law to solve legal problems.	1
4	Critically evaluate the law in action and the dynamic interplay between law and other social phenomena.	2
5	Use a range of legal or intellectual skills – such as reading and interpreting cases and statutes, identifying and evaluating relevant facts, conducting independent legal research, developing and offering solutions to legal problems, using and citing relevant authorities appropriately, drafting documents, and communicating in a coherent, cogent and persuasive manner – in performing various tasks.	1 & 2
6	Act with a strong sense of ethics and with due regard to social and professional responsibilities.	1 & 2

Teaching and Learning Activities (TLAs)

(Indicative of likely activities and tasks designed to facilitate students' achievement of the CILOs. Final details will be provided to students in their first week of attendance in this course)

CILO No.	TLAs	Hours/week (if applicable)
CILO 1 & 2	<p><i>Lectures</i></p> <ul style="list-style-type: none"> • Students will be introduced to the framework of the course and the key concepts and issues • Students will be introduced to relevant legislation and case law • Discussion in group format is carried out • Multimedia presentations and web resources are used when appropriate • Question and answer sessions <p><i>Tutorials</i></p> <ul style="list-style-type: none"> • Students are given a forum for further discussion of matters covered in the lectures • Assigned problems are discussed and analysed • Question and answer sessions • Student presentations are used • Peer and tutor feedback is given on assignment <p><i>Assignments</i></p> <ul style="list-style-type: none"> • Students develop their skills of legal research and writing, critical analysis, and presentation 	3 hours

Assessment Tasks/Activities

(Indicative of likely activities and tasks designed to assess how well the students achieve the CILOs. Final details will be provided to students in their first week of attendance in this course)

CILO No.	Type of Assessment Tasks/Activities	Weighting (if applicable)	Remarks (exam duration, etc)
CILO 1 & 2	<p><i>Tutorial assignments and participation</i></p> <p><i>Written assignment</i></p> <p><i>Final examination</i></p> <p>Students' knowledge and understanding of the substantive course content will be assessed.</p>	<p>20% of the mark</p> <p>30% of the mark</p> <p>50% of the mark</p>	3 hours

****Blackboard is heavily used in this course. The course guide, all reading assignments, lecture presentations, tutorial assignments, and course announcements will be put on Blackboard. It is essential for students to check blackboard regularly for course updates.**

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

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.

Assessment will be formative to enable students to demonstrate their capacity to understand, analyse and apply rules and principles and summative to assess understanding and knowledge.

A 3 hour open-book examination will be held during the University examination period. The examination is designed to assess students' knowledge and understanding of the course and key learning outcomes. Students are expected to read the prescribed readings, be familiar with the relevant legislation and review those materials covered in lectures and tutorials. Information on the examination is provided throughout the course and in particular during the final week of the semester.

Details of the written assignment will be provided to students by week 5 of the semester at the latest. The length of the written assignment will be stated on the written instructions but will not exceed 1,800 words in any event. The written assignment will be due in week 11. Late submission of the written assignment without prior approval of the course leader will attract a 5 mark penalty per day.

Students' participation during the interactive tutorial sessions allows them to demonstrate their capacity to understand the subject matter. Student responses in these sessions enable both the students and their tutor to assess the adequacy of their learning and how to improve it where necessary. Students receive formative feedback on their coursework and class performance.

Students are encouraged to take an active approach to their learning in both self-study and the classroom. Sharing experiences, views and feelings are welcomed and may play an important part in learning and development. As in other classes students are encouraged to form study groups and work together in their preparation though individual essays must ultimately be students' own work. Co-operative peer learning enhances academic achievements through working together, clarification of concepts, discussion of ideas, generation of approaches and problem-solving.

Part III

Keyword Syllabus

Family, marriage, cohabitation, nullity, domestic violence, separation, divorce, children, ancillary relief, mediation, collaborative practice, future of family law

Detailed Syllabus

The following programme is intended to be only a guide and is subject to variation as and when circumstances may render it necessary. Hong Kong family law will be examined in the comparative context with that of the United States, United Kingdom, and, to a lesser extent, the PRC.

Week #	Description
1	Introduction to Family Law
2	Nullity of Marriage
3	Domestic Violence – A gender based pattern of violence centred around power and control
4	Domestic Violence Law
5	Divorce law and procedure
6	Divorce law and procedure continued
7	Financial consequences of divorce; making financial application and obtaining ancillary relief
8	Ancillary relief continued
9	Children and Custody Issues including principles behind custody, care and control, and access compared to principles of parental responsibility in other jurisdictions
10	Children and Custody Issues continued
11	Other Applications Relating to Children (wardship, relocation, international parental child abduction and the application of the Hague Convention on the Civil Aspects of International Child Abduction in different jurisdictions)
12	The role of Mediation & Collaborative Law Practice in Family Law in multiple jurisdictions
13	Revision week with a focus on the comparative study of family law and its implication on future reforms of family law in Hong Kong

Ordinances

Marriage Reform Ordinance Cap. 178

Marriage Ordinance Cap. 181

Matrimonial Causes Ordinance Cap. 179

Matrimonial Causes Rules Cap. 179A

Matrimonial Proceedings and Property Ordinance Cap. 192

Guardianship of Minors Ordinance Cap. 13

Domestic and Cohabitation Relationships Violence Ordinance Cap. 189

Child Abduction and Custody Ordinance Cap. 512

Separation and Maintenance Orders Ordinance Cap. 16

Students may be referred to further ordinances on the reading assignment list as appropriate.

Required text

Philippa Hewitt, *Family Law and Practice in Hong Kong*, Sweet & Maxwell, 2011.

Students will be referred to relevant reading of texts and articles on the reading assignment list as appropriate. The reading assignment list will be posted on **Blackboard**. Materials should be read and prepared IN ADVANCE of each seminar.

Recommended reading

Peter De Cruz, *Family Law, Sex, and Society, A Comparative Study of Family Law*, Routledge (Taylor & Francis Group), 2010.

Blair, Weiner, Stark and Maldonado, *Family Law in the World Community: Cases, Materials, and Problems in Comparative and International Family Law*, 2009.

Estin and Stark, *Global Issues in Family Law*, 2007.

Treaties

1948 Universal Declaration of Human Rights (UDHR)

1966 International Covenant on Civil and Political Rights (ICCPR)

1989 United Nations Convention on the Rights of the Child

1980 Hague Convention on the Civil Aspects of International Child Abduction

The Convention on the Elimination of All Forms of Discrimination Against Women

Online Resources

www.judiciary.gov.hk

www.hkfla.org.hk

<http://www.hklii.org/>