

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: Legal Systems of Hong Kong and Mainland China

Course Code: LW5621

Course Duration: One Semester

Credit Units: 3

Level: P5

Medium of Instruction: English

Prerequisites: Nil

Precursors: Nil

Equivalent Courses: Nil

Exclusive Courses: Nil

Part II

Course Aims

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

Course Intended Learning Outcomes (CILOs)

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

No.	CILOs	Weighting (if applicable)
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.	

Alignment of CILOs with PILOs:

PILOs		CILOs
1	explain and assess specified areas of the law and legal system of Hong Kong and mainland China, with particular emphasis on the law in action and the dynamic interplay between law and other social phenomena.	1
2	assess the common law system and its values, and its interaction with the law of 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, skills of legal research, and skills of oral and written expression appropriate to the practice of Hong Kong and Chinese law, to a level appropriate to a graduate-entry degree in law.	1, 2 & 3

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	<p>Seminar (comprising of a 2-hour lecture and 1 hour tutorial)</p> <p>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.</p> <p>Tutorial Students will be asked to prepare for their tutorial questions.</p>	
CILO 2	<p>Lecture 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.</p> <p>Tutorial Students will prepare answers for their tutorial questions. This may be done in presentations or group discussion.</p>	
CILO 3	<p>Lecture Students will be taught to locate and understand legal materials.</p> <p>Tutorial Students will be asked to complete a research worksheet to demonstrate their research skills.</p>	
CILO 4	<p>Lecture Students will read the course manual/course notes and other assigned readings for lectures.</p> <p>Tutorial Students will prepare answers for their tutorial questions. This may be done in presentations or group discussion.</p>	
CILO 5	<p>Lecture Students will read the course manual/course notes and other assigned readings for lectures.</p> <p>Tutorial Students will prepare answers for their tutorial questions. This may be done in presentations or group discussion. Students will also be asked to prepare for a legco visit.</p>	
CILO 6	<p>Lecture Students will read the course manual/course notes and other assigned readings for lectures</p> <p>Tutorial Students will prepare answers for their tutorial questions. This may be done in presentations or group discussion. They will be assigned for a court visit to get a better understanding of the court structure in Hong Kong</p>	

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 1-6	<p>Examination</p> <p>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.</p> <p>These questions are all to be answered with a limited time. Students will be trained to present logical arguments.</p> <p>Assignment</p> <p>Students are given a month to attempt an assignment question. Students are expected to conduct research for this purpose.</p> <p>Participation in class</p> <p>Students are expected to discuss and present their answers during tutorials. Students' performance during tutorials will be assessed.</p> <p>Tutorials</p> <p>Students will be asked to complete a research worksheet which will count towards their participation marks.</p>	<p>50% of the mark</p> <p>30% of the mark</p> <p>20% of the mark</p>	<p>2 hours</p>

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, by coursework and by examination

The apportionment of marks will be:-

Performance in inter-active small group sessions	: 20%
Assignment	: 30%
Examination	: 50%
Examination duration	: Two hours
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
- Accurate addressing of the legal issues
- 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 coursework (Assignment and Participation in class) 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.

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

Assignment/Homework

- You are required to write an essay. The topic for the essay will be given to you in week 2 or 3. Please submit your essay to the General Office of the School of Law by the submission date. Late submissions may not be accepted without a sufficient explanation and may also be marked down. There is a maximum word limit of 2000 words.

Part III

Keyword Syllabus

law, sources of law, the rule of law, law and sociology, law and society, legal systems, constitutions and constitutional law, government, policies and policy-making, judges, courts and tribunals, trials, appeals and judicial review, alternative dispute resolution, legal personnel, law firms, and chambers, legal tradition, legal culture, comparative perspective, hierarchy of law, procedural and substantive law

Detailed Syllabus

1. Definition of law; the functions of law, law and society
2. The characteristics of a common law legal system; general principles of law in Hong Kong
3. Law-making: Authority and process
4. Shaping the institutional framework: The role of government
5. An overview of the criminal and civil justice systems
6. The delivery of legal services: The legal profession; jury system; legal aid; alternative dispute resolution.
7. A critical assessment of the current Hong Kong legal system
8. Chinese legal tradition and Chinese legal culture
9. Contemporary Chinese legal system: sources of law; law-making process; hierarchy of law; interpretation of law; etc.
10. The Constitution and the rule of law in mainland China
11. The judicial system in mainland China
12. Procedural Law
13. Substantive Law

Readings

Texts

Essential Reading

Stefan Lo & Wing Hong Chui, *The Hong Kong Legal System* (McGraw-Hill Education, 2011)

Albert Hung-yea Chen, *An introduction to the legal system of the People's Republic of China* (4th ed) (LexisNexis, 2011)

Recommended Reading:

I. Dobinson & D. Robuck, *Introduction to Law in the Hong Kong SAR* (2nd ed) (Sweet & Maxwell Asia, 2001)

P. Wesley-Smith, *An Introduction to the Hong Kong Legal System* (3rd ed) (Oxford University Press, 1998)

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

D.K. Srivastava, *Business Law in Hong Kong* (2nd ed) (Sweet & Maxwell, 2007)

Jianfu Chen, *Chinese law: Context and Transformation* (2nd ed) (Martinus Nijhoff Publishers, 2008)

Daniel C.K. Chow, *The legal system of the People's Republic of China in a nutshell* (2nd ed) (Thomson West, 2009)

John W. Head, *China's Legal Soul: The Modern Chinese Legal Identity in Historical Context* (Carolina Academic Press, 2008)

Extra Reading:

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

Online Resources

Bilingual Laws Information System – legislation reference

<http://www.legislation.gov.hk/eng/home.htm>

PKULaw

(Chinese) www.pkulaw.cn

(English) <http://en.pkulaw.cn>