

City University of Hong Kong

**Information on a Course
offered by the School of Law
with effect from Summer Term in 2014**

Part I

Course Title: Common Law Legal Method

Course Code: LW5653

Course Duration: One Semester

Credit Units: 3

Level: P5

Medium of Instruction: English

Prerequisites: Nil

Precursors: Nil

Equivalent Courses: LW5622 Legal Methods, Research and Writing

Exclusive Courses: Nil

Part II

Course Aims

This course aims to encourage and inspire students to have an attitude of curiosity, critical thinking, analytical reasoning and innovative problem solving in the context of real-life problems within the common law legal system through strong legal research, analysis and writing skills.

A second core component of the course is to develop in students a strong working foundation in core skills such as the ability to conduct legal research, to find, interpret, analyse, and apply primary sources of law as well as to find, critically review, analyse, synthesize and use secondary sources of law in order to solve real-life problems. An important aspect of this component is to critically assess the theoretical and normative aspects of the common law system, both in terms of content and tradition and recommend ways in which law can be further reformed for the benefit of society.

A third core component of the course is to provide students an opportunity to translate the discovery of legal research and issues into tangible accomplishments in the form of case summaries, statutory interpretation analysis, constructing and presenting effective and reasonable solutions or new legal processes to solve real-life problems involving legal issues, and two significant mini-projects, one of which entails the integration of research, analysis, and reasoning into a written persuasive argument presented in a mini-moot and the second which integrates all the skills learned in the course to produce a predictive writing brief on behalf of a fictitious client.

Students will be introduced and allowed to practice a variety of critical legal skills used within the common law tradition, skills which provide ample opportunity to achieve these course aims and CILOs. Students will be required to present and debate their findings in the form of a mini-moot as well as to communicate their legal knowledge clearly and appropriately both orally and in writing, thus instilling in students a mindset of discovery and innovation that can be used throughout their academic and professional careers.

Course Intended Learning Outcomes (CILOs)

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

No.	Description	Weighting
1	Display and demonstrate an attitude of discovery, curiosity, critical thinking, analytical thinking and innovative problem-solving towards understanding, articulating and solving legal issues within the common law tradition	15%
2	<p>Demonstrate the ability to:</p> <ul style="list-style-type: none"> • explain and understand the basic framework of the Hong Kong legal system and discover how this may be different in other jurisdictions; • describe both primary and secondary sources of law, their particular characteristics and how they relate to each other in the context of solving real-life legal problems; • understand and explain the means by which law is made, amended, repealed, and developed; • define, understand and use a wide range of legal terms and appreciate critiques of the language of the law; • find, understand, analyse, and use both primary and secondary sources of law from Hong Kong and related jurisdictions such as China; • understand and apply the use of legal reasoning in problem solving, the limits of legal solutions and how to evaluate and respond to legal arguments. 	25%
3	<p>Use analytical and critical thinking skills to:</p> <ul style="list-style-type: none"> • distil legal principles/ratio from case law or multiple decisions by identifying the judicial reasoning used and offering a critique of those decisions; • conduct statutory analysis using the common law principles of statutory interpretation and constitutional interpretation; • apply principles of law and equity to understand judicial decisions as well as analyse legal issues from a multidisciplinary perspective • construct innovative and/or creative solutions to legal issues by applying the principles of legal reasoning, statutory interpretation, and logic, where applicable, in a mini-moot which encourages students to scrutinise, evaluate and analyse legal issues • investigate the effect of Common Law values on the development of the law, legal process, and institutions; • analyse and evaluate the theoretical framework of the Common Law in order to critique it for further appropriate developments. 	15%

4	<p>Accomplish and present written evidence of:</p> <ul style="list-style-type: none"> • Case briefs (summaries) using the prescribed format which demonstrates the ability to understand, analyse, critically evaluate and synthesise knowledge from case law • Statutory interpretation analysis which demonstrates the ability to apply the canons of statutory interpretation as well as principles of constitutional interpretation to dissect and critically evaluate ordinances and related legislation. • IRAC analysis of legal issues • Persuasive writing brief and oral presentation which demonstrate the ability to use skills such as IRAC to present clear, concise, cogent, and legally sound analysis of legal issues, arguments, and counter-arguments in the form of a mini-moot • Predictive writing brief and presentation in team presentations which demonstrate the ability to discover and take disparate and wide areas of knowledge, extract potential legal issues, analyse the legal implications, synthesise case law and ordinances and present a clear, concise, cogent, and legally sound analysis of issues, arguments, and propose innovative or creative solutions 	45%
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Alignment of CILOs with PILOs

PILO	Description	Insert each CILO number in appropriate square →
JD PILO 1	Explain and assess specified areas of the law and legal system of Hong Kong, with particular emphasis on the law in action and the dynamic interplay between law and other social phenomena	2
JD PILO 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	1,2
JD PILO 3	Explain, interpret and apply main principles of ethics, civil duty, and social and professional responsibility	1, 2,3
JD PILO 4	Critically assess the strengths and weaknesses of law as a means of regulating society in the context of competing and conflicting interests	2,3
JD PILO 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, 3,4

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)

Duration of course: 1 semester. One 3-hour class per week

Course teaching methods: This course will use a discovery-enriched, interactive, seminar-based approach that integrates topic instructions, in-class discussions, out-of-class assignments, mobile learning (e.g., use of iPad, app technology, and peer opinion surveys), and independent as well as team projects. The course contains formative and summative assessment tasks designed to allow students full opportunity to achieve the CILOs of the course. Students will be required to attend library sessions which allow them to become familiar with the library facilities and to develop their research skills.

The course will be based on an active learning approach where students will be encouraged to participate and use critical analysis and problem solving methods. Students will be encouraged to participate in group discussions, individual exercises and team presentations. A student's *meaningful* participation in classes will be taken into account in the overall assessment for the course. Meaningful participation includes, but is not limited to, participation which adds value to the class, contributes to the class' understanding of course materials, and demonstrates the student's own understanding and application of the course materials.

To ensure students obtain the full benefit of this course, students should attend all classes and engage fully in all activities. In addition, students are encouraged to form study groups with their classmates. Students must ensure that all work for assessment purposes is their own.

CILO No.	TLAs
1	Class Discussions and Individual Presentations: <ul style="list-style-type: none">• In-class discussions and analysis of the course topics using the Socratic method (where applicable) designed to encourage students to develop an attitude of curiosity, critical thinking, analytical reasoning and creative problem-solving;• Individual and team presentations on select issues designed to encourage students to analyse ideas and articulate legal issues both orally and in writing, thus fostering a mindset of continuous discovery and innovation.

<p>2</p>	<p>Topic Discussions:</p> <ul style="list-style-type: none"> • Students will be introduced to theoretical essays and principles related to Common Law and the common law legal system; • Students will be encouraged to actively participate during in-class discussions on evaluating, critically analysing, and developing a working knowledge of how to conduct legal research, analysis, reasoning and writing as well as discussing key concepts, issues, and developments within the law. <p>Readings:</p> <ul style="list-style-type: none"> • Weekly readings will be assigned in preparation for class; • Library assignments may by the law library be given to increase knowledge of finding and using primary and secondary sources of law; <p>Exercises and Group Discussions:</p> <ul style="list-style-type: none"> • Assigned problems are discussed and analysed; • Role play and student presentations may be used; • Peer feedback may be given on assignments.
<p>3</p>	<p>Topic Discussions:</p> <ul style="list-style-type: none"> • Students will be introduced to methods for critically evaluating case law, Hong Kong ordinances, and other legislation, extracting key legal principles, extracting the ratio of a case, and applying both statutory and case law authority to the analysis of legal issues; • Students will be introduced to topics that intersect with law and legal skills which are critical to fully appreciate, apply, and succeed within the common law system, such as ADR and ethics <p>Readings:</p> <ul style="list-style-type: none"> • Weekly readings will be used in preparation class; <p>Exercises and Team Presentations:</p> <ul style="list-style-type: none"> • Students will draft case briefs (case summaries) and make presentations • Students will draft statutory interpretation analysis exercises and make presentations • Students will have the opportunity to actively participate in mini-moots that allow them to analyse, scrutinise, and evaluate legal issues and present legal arguments in both oral and written formats
<p>4</p>	<p>Individual and Team Assignments/Group Presentations:</p> <ul style="list-style-type: none"> • Case briefs • Statutory interpretation analysis • IRAC analysis of legal issues • Persuasive writing assignment • Predictive writing assignment • Assigned problems will focus on increased progression of legal analysis, legal writing, legal reasoning, presentation, and project management skills; • Group presentation projects will increase students’ ability to work collaboratively (and in teams) to discover relevant legal issues, present structured legal arguments, and contribute to innovation in resolving legal issues, thereby demonstrating a comprehensive understanding of the course materials.

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)

Grading of student achievement is based on the City University of Hong Kong's assessment policy as outlined in the *University Assessment Policy and Principles for Taught Programmes* as well as other relevant academic regulations. Grading is based strictly on student performance in assessment tasks / activities. The assessment strategy includes both formative and summative assessment tasks designed to ensure that students have sufficient opportunities to develop and demonstrate their accomplishment of the CILOs.

Assessment for this course is as follows:

AT No.	Type of Assessment Tasks/Activities	Weighting (if applicable)	CILO Assessed	Remarks
AT 1	Participation	25%	1-4	
AT 2	Mid-semester Assignment	25%	2-4	Distributed Week 4 and due Week 9
AT 3	End of Semester Assignment	50%	1-4	Distributed Week 9 and due Week 13

NOTE: To pass this course, students must obtain an aggregate mark of 40% across the entire course **and** a minimum of 40% in each of the above assessment tasks for this course.

Plagiarism in Academic Assignments

Warning: You must **not** plagiarize. Plagiarism is **not** acceptable and will result in a significant penalty or no credit for academic assignments. Plagiarism includes, but is not limited to, (1) paraphrasing of another person's words or the use of another person's ideas without proper referencing in footnotes; and (2) quoting of another person's words without placing the quote within quotation marks and without proper referencing in footnotes. Any plagiarism will be penalized in accordance with the Academic Regulations, Code of Student Conduct and Disciplinary Procedure and the Guidelines on Academic Honesty. All students are required to complete the online **Academic Honesty tutorial** by Week 2. Please ensure that you take appropriate steps to understand and avoid potential plagiarism in your work or seek further guidance.

AT1 – Participation:

Participation is worth 25% of the final course grade. Active participation is an integral part of accomplishing the CILOs under a discovery-enriched framework. Regular class attendance is an important part of the course. Participation also ensures that students more fully integrate the knowledge and skills of the course. In addition, active participation allows

the course leader to assess the skills development level of students, evaluate performance, and provide additional assistance and instruction, where necessary. *Meaningful* participation is encouraged and will count towards a student's overall grade in this course. *Meaningful participation* includes, but is not limited to, participation which adds value to the class, contributes to the class' understanding of course materials, and demonstrates the student's own understanding and application of the course materials and course CILOs.

AT2 – Mid-Semester Assignment:

The mid-semester assignment is worth 25% the final course grade. It is an individual assessment task designed to assess how a student is doing at a select point during the semester. The mid-semester assignment may include, but is not limited to, case readings, case summaries, and statutory interpretation exercises. **The mid-semester assignment will be discussed and distributed at the beginning of Week 4 and due at the end of Week 9. The assignment must be submitted through the appropriate submission folder in Blackboard or as advised by the Course Leader.**

A mid-semester assignment which includes a deadline for submission **must be submitted on time , consistent with the instructions provided.** Failure to submit the mid-semester assignment on time will result in significant penalties consistent with the relevant late submission guidelines.

AT3 – End of Semester Assignment:

The end of semester assignment is worth 50% of the final course grade. This assignment will test your knowledge, understanding, and application of the variety of skills discussed in the course, including but not limited to the common law legal method, ability to apply principles of case briefs, , applying the ratio of the case, and statutory interpretation to solve a sample problem.

This end of semester assignment will be discussed and distributed at the beginning of Week 9 and due by the end of Semester (Week 13). The assignment must be submitted through the appropriate submission folder in Blackboard or as advised by the Course Leader.

An end of semester assignment which includes a deadline for submission **must be submitted on time, consistent with the instructions provided.** Failure to submit the end of semester assignment on time will result in significant penalties consistent with the relevant late submission guidelines.

Part III

Keyword Syllabus

Academic honesty and avoiding plagiarism; Common Law tradition, sources of law, Common Law values and processes, legal terminology, case law, statutes, legislation, judicial reasoning, custom, conventions, legal reasoning, legal interpretation, statutory interpretation, legal problem solving, legal rules, binding precedent, legal research, legal writing, case analysis, law reports, codified and uncodified, hierarchy of the courts, equity, classification of law, ratio decidendi, abstraction of judicial reasoning, obiter dicta, stare decisis, Common Law presumptions, legal argument

Detailed Syllabus for Semester A 2012/13

A detailed weekly course programme for Semester A 2012/13 will be provided in Week 1 of the course as part of the Course Manual. The major topics covered in the course include, but are not limited to, the following:

- ◆ Course introductions
- ◆ Course Manual and course structure
- ◆ Course Pack and other resources
- ◆ Course assessment
- ◆ Origins of Common Law
- ◆ Learning Legal Skills
- ◆ Legal research skills and legal research tasks
 - Finding and using primary sources of authority
 - Finding and using secondary sources of authority
 - Finding and using legal reference sources
- ◆ Overview of the Hong Kong Legal System and Political Framework
- ◆ Understanding the elements of a case
- ◆ Reading case law
- ◆ Conducting case law analysis
- ◆ Writing case law summaries
- ◆ Understanding statutory interpretation
- ◆ Conducting statutory interpretation analysis
- ◆ Writing statutory interpretation analysis summaries
- ◆ Integrating statutory interpretation with case law analysis
- ◆ Understanding and using canons of statutory interpretation
- ◆ Overview of constitutional interpretation
- ◆ Use of legal reasoning and argumentation skills
- ◆ Integration of Logic skills into legal reasoning, analysis and argumentation
- ◆ Law in Practice: Overview of effective legal writing and interviewing for a profitable practice
- ◆ Law in Practice: Overview of ADR (Negotiation / Mediation / Arbitration)

Course Pack

A Course Pack containing the required readings for the Course, prepared by CityU, will be provided for this course. As the materials are copyright protected, there will be a fee for the purchase of the Course Pack. It is **strongly recommended** that students purchase the Course Pack to ensure they have the required readings for the course. In addition to the course pack, there are several other recommended readings and texts that will be provided for your benefit. These will be placed on Course Reserve at the Run Run Shaw Library.

Students will be given further readings from a variety of sources, where applicable. Where appropriate, copies of readings will be made available to the students either through the library catalogue, internet links or by lodging materials with the library's semi-closed collection.

Recommended Reading and Texts (on Reserve)

Students may choose to purchase one of several textbooks. The following are suitable textbooks for purchase.

- Hanson, S, *Legal Method & Reasoning* (2nd edn, London: Cavendish Publishing 2003)
- McLeod, I, *Legal Method* (7th edn Basingstoke: Palgrave MacMillan 2009)
- Stychin, C. & Mulcahy, L. *Legal Method: Text and Materials* (2nd edn London: Sweet & Maxwell 2003)
- Neumann Jr, Richard K, *Legal Reasoning and Legal Writing: Structure, Strategy, and Style* (6th edn, New York: Wolters Kluwer Law & Business 2009)
- Wong, Bobby K.Y., *Hong Kong Statutory Interpretation Handbook* (Hong Kong: LexisNexis, 2008)

Students will be given the option of further reading from a variety of sources, including those from the sources listed above. Many of these have been placed on course reserve. Where appropriate, copies of readings will be made available to the students either through the library catalogue, internet links or by lodging materials with the library's semi-closed collection. The following may be taken as examples of indicative reading:

Wesley-Smith, P. *An Introduction to the Hong Kong Legal System*, Hong Kong, Oxford University Press

Glanville Williams. *Learning the Law* 13th edn (2006) London: Sweet and Maxwell.
Dobinson, I. & Roebuck D. *Introduction to Law in the Hong Kong SAR*, Hong Kong, Sweet & Maxwell

Cottrell, J. *Legal Research: A Guide for Hong Kong Students*, Hong Kong, Hong Kong University Press

Baker, J.H. *The Common Law Tradition: Lawyer, Books and the Law*, London: Hambledon Press

R. Cotterrell, *The Politics of Jurisprudence*, London: LexisNexis

Twining, W. *Legal Theory & the Common Law*, Oxford: Blackwell

Bradney, A., Cownie, F., Masson, J., Neal A. & Newell, D. *How to Study Law*, London, Sweet & Maxwell

Fox, M & Bell, C. *Learning Legal Skills*, London, Sweet & Maxwell

Holland, J.A. & Webb, J.S. *Learning Legal Rules*, London, Blackstone

Zander, M. *The Law Making Process*, London, Butterworths

Cross and Harris, *Precedent in English Law*, Oxford University Press

Dane, J. & Thomas, P.A. *How to Use a Law Library*, London, Sweet & Maxwell

Twining, W. & Meirs, D. *How to Do Things with Rules*, Weidenfeld & Nicolson

Students are advised that since law changes over time, textbooks can go out of date quite quickly. For this reason, it is not always advisable to buy second-hand copies of old editions of any given text because the information contained therein may have been overtaken by changes in the law and will therefore become incorrect.

Access to Library Resources

Students will have the opportunity to attend a tour of the library during the first few weeks of the course. Students should take full opportunity to take a library tour. The legal research skills elements of the course will involve extensive use of the library and its materials. The law library will instruct students on how to access other libraries and facilities within and outside Hong Kong.

The Law Library has an excellent collection of legal materials in print copy and electronic format. Some important databases include:

- BLIS (Bilingual Laws Information System) which contains the statutory Laws of Hong Kong and selected constitutional documents.
- Lexis/Nexis
- Westlaw
- Law Library Electronic Databases that include Index to Legal Periodicals and Index to Foreign Legal Periodicals, Latest Judgement Alert, Hong Kong Premium Service, Hansard U.K

CD-ROM's include British Hansard, LEXIS/NEXIS, the Laws & Regulations of China, and the European Union Laws Library. There are also databases in Chinese as well as print format copies of Chinese law.