

City University of Hong Kong
Course Syllabus

offered by School of Law
with effect from Semester A 2020/21

Part I Course Overview

Course Title:	Family Law in Hong Kong
Course Code:	LW5617
Course Duration:	One Semester
Credit Units:	3
Level:	P5
Medium of Instruction:	English
Medium of Assessment:	English
Prerequisites: <i>(Course Code and Title)</i>	LW5621 Legal Systems of Hong Kong and Mainland China or LW5601 Hong Kong Legal System, LW5622 Legal Methods, Research and Writing and LW5602 Law of Contract or LW5602A Law of Contract I
Precursors: <i>(Course Code and Title)</i>	Nil
Equivalent Courses: <i>(Course Code and Title)</i>	LW4617 Family Law in Hong Kong
Exclusive Courses: <i>(Course Code and Title)</i>	Nil

Part II Course Details

1. Abstract

This course aims to acquaint students with the law relating to marriage, nullity, separation, divorce, children and other ancillary matters such as financial orders to be made on separation and divorce and to examine the application of the law and practice. This will cover the general principles on nullity, judicial separation and divorce, financial orders and issues of custody, care and control and access of children of the family. There will be discussion on reform on child custody and access. It will look at the application for avoidance of disposition of family assets, injunction against taking children out of the jurisdiction, wardship proceedings and Hague Convention against abduction of children. Students will be introduced to the law against domestic violence and the related application for injunction against non-molestation and ouster order. Different approaches of the Alternative Dispute Resolution in resolving family problems will be explained and taught by way of introduction to the students. Topics covered include: Marriage and divorce; Financial provision and property adjustment; Children; Protection from molestation and violence; Alternative dispute resolution in divorce.

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#	Weigh ting	DEC related learning outcomes		
			A1	A2	A3
1.	➤ Analytically and critically describe and explain:	70%			
	○ what the marriage law is in Hong Kong		✓	✓	✓
	○ the extent to which the law provides relief for domestic violence		✓	✓	✓
	○ the extent to which the law provides relief for children during a marriage and upon divorce		✓	✓	✓
	○ the relevant law for getting divorced in Hong Kong		✓	✓	✓
	○ the procedure for getting divorced in Hong Kong		✓		✓
	○ the relevant law for getting ancillary relief in Hong Kong		✓	✓	✓
	○ the procedure for getting ancillary relief in Hong Kong		✓	✓	✓
	○ the role of mediation in family law disputes		✓	✓	✓
2.	➤ Critically evaluate	30%	✓	✓	✓
	○ the relationship between the development of family law and society				
	○ the next development in family law in Hong Kong				
		100%			

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 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 (if applicable)
		1	2	
<i>Seminars</i>	<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. • Application of the relevant law will be discussed and explained. • Practice and Procedure will be introduced and discussed. Reading cases, other materials and research. • Students are given a forum for further discussion of matters covered in the lectures. • Assigned problems are discussed and analysed. • Question and answer sessions. 	✓	✓	3 hours

The aim of all of the teaching and learning activities will be to facilitate and motivate students to gain an extensive knowledge base and understanding of family law and develop the capacity to analyze and synthesize family law materials. In this process students will have an opportunity to demonstrate original thinking which will be discovery based.

4. Assessment Tasks/Activities (ATs)

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

Assessment Tasks/Activities	CILO No.		Weighting	Remarks
	1	2		
Continuous Assessment: <i>Assignment (40%)</i>			40%	
Examination: (duration: 2 or 3 hours)			60%	
Students' knowledge and understanding of the substantive course content will be assessed.				
			100%	

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 40% 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.

The duration of the examination will be at the discretion of the course leader. The course leader will announce the duration of the examination in the first week of the course. Similarly the course leader will announce whether the examination will be closed book or open book.

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.

5. Assessment Rubrics

(Grading of student achievements is based on student performance in assessment tasks/activities with the following rubrics.)

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B, B-)	Fair (C+, C, C-)	Marginal (D)	Failure (F)
1. Assignment	Original Thinking Rational analysis Strong conclusion	Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.	Student who is profiting from the university experience; understanding of the subject; 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; weakness in critical and analytic skills; limited, or irrelevant use of literature.
2. Examination	Application of Law to fact scenarios Critical analysis					

Part III Other Information (more details can be provided separately in the teaching plan)

1. Keyword Syllabus

(An indication of the key topics of the course.)

Family, marriage, cohabitation, nullity, domestic violence, children, divorce, ancillary relief/financial orders, mediation, developments

Detailed Syllabus

(1) MARRIAGE AND DIVORCE

- Chinese Customary Marriage and Modern Marriage
- Different types of marriage existing in Hong Kong
- Divorce under the Matrimonial Causes Ordinance
- Petition and parties
- One year rule and jurisdiction
- Nullity of marriage
- Ground for Divorce and the five facts
- Separation

(2) FINANCIAL PROVISION AND PROPERTY ADJUSTMENT

- Ancillary financial relief
- Maintenance pending suit for a spouse and interim maintenance for children
- Ancillary relief claims
- Property transfer and sale of property
- Injunction against disposition of family assets
- Clean break
- Variation and discharge of the orders
- Pre-nuptial Agreements

(3) CHILDREN

- Parental rights and obligations
- The best interest principle for the children
- The welfare checklist
- Custody, care and control
- Access to the children during and after the divorce
- Removal of children out of jurisdiction
- Wardship
- Hague Convention against child abduction
- The reform for "Parental Responsibility" proposed by the Law Reform Commission

(4) PROTECTION FROM MOLESTATION AND VIOLENCE

- Domestic violence
- Non-molestation orders

- Parties to be protected
 - Ouster order/Entry Order
 - Authorization of Arrest
 - Variation of custody and access rights
 - Application and procedure
- (5) ALTERNATIVE DISPUTE RESOLUTION IN DIVORCE
- Financial Dispute Resolution
 - Mediation
 - Less Adversarial Trial for children
 - Children Dispute Resolution
 - New Ways
 - Collaborative Law Practice

2. Reading List

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

Separation and Maintenance Orders Ordinance Cap. 16

Child Abduction and Custody Ordinance Cap. 512

Students may be referred to further ordinances on the student handouts as appropriate.

Recommended reading

1. Family Hong Kong Legal Practice Manuals, Hewitt Liu McDonagh Melloy & Warren, 2nd Edition, Sweet & Maxwell (2014);
2. Family Law Practice & Procedure in Hong Kong, Keith Hotten and Dennis Ho, 3rd Edition (Student Edition), LexisNexis (2018e Divorce & Separation in Hong Kong, Elizabeth Frances and Sarah Warren, Oxford University Press (1995);
5. Bromley's Family Law, 9th Edition, Butterworths (1998)
6. Rayden & Jackson's Law and Practice in Divorce and Family Matters, 18th Edition, Butterworths, (2005);
7. Rayden and Jackson on Relationship Breakdown, Finances and Children (2016)

Online Resources

www.judiciary.gov.hk

www.familylawweek.co.uk