Syllabus for Hong Kong Legal System

1. Development of the Hong Kong Legal System 1842-1997

Reception of English Law - Captain Elliot’s Proclamation - Supreme Court Ordinance 1843 - Application of English Law Ordinance - Sino-British Joint Declaration and the Resumption of Exercise of Chinese Sovereignty - Localization and Adaptation Exercises - Continuity of Previous International Treaties - Reunification Ordinance - Application of legislation to “State” - Impact of the change of sovereignty on the legal system – continuation and development of the previous legal system after 1997;

2. Sources of Hong Kong Law

Laws previously in force in Hong Kong - Legislation, common law and equity, customary law - Special position in New Territories land - Imperial enactments - Prerogative power - Legislation and restriction on law making powers –National Laws - NPCSC’s interpretations - PRC Constitution;

3. Doctrine of Stare Decisis


4. Hong Kong Court System

Hierarchy of courts - Jurisdiction and its constitutional limits - Role of the Court of Final Appeal - Appointment and tenure of judges - Judicial independence under the Basic Law - Judicial immunity and judicial accountability - Jury system;

5. The Law-making Process

The role of the HKSAR Government and the Chief Executive – The role of the Legislative Council – The process of law-making;

6. Access to Justice

Forms of legal aid - Operation of legal aid - Characteristics of legal aid services in Hong Kong - Legal aid and resources – Duty Lawyer Service –Legal Aid Services Council Independence of Legal Aid Authority - Legal profession - Regulating the legal profession;

7. The Common law System and the PRC Legal System: A Comparative Overview

The essential differences between the common law system and the PRC legal system;

8. The Civil and Criminal Justice System

Fundamentals of civil and criminal litigation – Alternative Dispute Resolution
9. **Interface between the two systems**

Concurrent jurisdictions - Mutual judicial assistance - enforcement of judgments and arbitral awards – extradition/rendition - cross-border crimes and jurisdiction - cross-border insolvency - Conflicts between the two systems - Admissibility of documents issued in the Mainland – Taking evidence in the PRC;

10. **Introduction to Legal Research: Sources and Skills**

Law reports and judgment – reported and unreported judgments

11. **Enforcing the Law**

Police Powers – Director of Public Prosecutions – Independent Commission Against Corruption - The Ombudsman.
Recommended Reading List for Hong Kong Legal System

Texts and Materials


Ian Dobinson and Derek Roebuck, *Introduction to Law in the Hong Kong SAR*, 2nd ed., Sweet & Maxwell, Hong Kong, 2001

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

(2007) 37 (Special Anniversary Issue) *Hong Kong Law Journal* (articles by Sir Anthony Mason, the Hon Wong Yan Lung, Denis Chang, Yash Ghai, Johannes Chan, Po Jen Yap, Benny Tai and Wang Zhenmin and Ling Bing)

Sir Anthony Mason, ‘The Role of the Common Law in Hong Kong’, in *The Common Law Lecture Series 2005* (Faculty of Law, The University of Hong Kong, 2006), pp 1-26

James Crawford, ‘Rights in One Country: Hong Kong and China’, *Hochelaga Lectures 2004* (Faculty of Law, The University of Hong Kong, 2005)


Further reading


Johannes Chan & Yash Ghai (eds.), *Hong Kong’s Constitutional Debate: Conflict over Interpretation* (Hong Kong University Press, 2000)


Sources

The Basic Law of the Hong Kong Special Administrative Region (1990)
Hong Kong Reunification Ordinance (110 of 1997)
Sino-British Joint Declaration 1984