

# Legal Education in Hong Kong\*

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## 1. HISTORY

In the 1960s full time law teachers were recruited by the Department of Extra-Mural Studies at the University of Hong Kong to teach students preparing for the external LLB degree offered by the University of London. Prior to that initiative, Hong Kong students wishing to study law in a university had to go overseas, where they studied the law of some jurisdiction other than Hong Kong. The London degree was, of course, a degree in English law. But in 1969 the Department of Law at HKU was established and the students were enrolled for a local law degree: local in the two senses that the studies were carried out locally and that the law studied was the law of Hong Kong. The Department, now the Faculty of Law with the two departments of Law and Professional Legal Education, was staffed by full-time academic lawyers whose principal tasks were to research into and to teach Hong Kong law. This entailed a very considerable effort in finding out the law, systematizing it, preparing materials on it, and developing courses in it. The *Hong Kong Law Journal* was established in 1971 to publish the results of the research, and it has continued to appear three times a year ever since. Periodical literature on local law continues to be produced, supplemented more and more now by textbooks.

## 2. THE NATURE OF LEGAL EDUCATION

This was not, in fact, the first time that law had been taught in the University of Hong Kong; in the 1960s George Keeton, subsequently a renowned figure in

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\* Publica-se o texto em língua inglesa por ter sido essa a língua em que o mesmo foi apresentado.



law teaching in England, had taught comparative law in the context of a general degree. The intention then was to study general concepts of law as a means of preparing students, both local and from China, for careers in government and industry and commerce. But the establishment of a department of law in 1969 had a more mundane, or at least more professional, purposes to prepare students for the practice of law in Hong Kong. The LLB curriculum, studied over three years, consisted entirely of law subjects, and was followed by a one year Postgraduate Certificate in Laws (PCLL) which took the place of professional examinations. The research degrees of Mphil and PhD were available from the beginning, though few students took advantage of them, and later the coursework LLM and Postgraduate Diplomas, designed primarily to attract practitioners, were offered. This remains the system of legal education at the University of Hong Kong, and has been largely duplicated at the City University.

As in most law schools in the common law world, the Faculty of Law has witnessed the tension between the teaching of law as a means to a “liberal” education and teaching law as a professional discipline. Although, in my somewhat eccentric view, there is in theory no such tension — since what lawyers primarily need is the ability to think critically and independently about the law, which is the goal of a liberal education in law — in practice some teachers eschew this notion and wish to impart the basic knowledge which a lawyer is thought to require in order to provide a service to clients. Nevertheless the Faculty of Law at HKU has formally agreed that a liberal education is the purpose of the LLB degree. This ought to be reflected in the subjects offered, the teaching methods, the syllabuses, the contents of examinations, and so on. For our graduates ought to be able to pursue careers in public service, in business, in government law work, and other areas in addition to private practice of the law, and this is more important as time goes on and constitutional changes in Hong Kong occur.

The sole purpose of the PCLL, on the other hand, is to equip graduates with whatever is suitable for those who wish to qualify as solicitors or barristers in the territory. Here again, however, there is considerable debate about what is suitable. Should it be the acquisition of knowledge in areas which are of primary significance to practitioners, such as conveyancing or taxation law, or should it be the development of professional skills such as interviewing, taking instructions, preparing documents and advocacy? The PCLL is followed by a period of apprenticeship — a two year traineeship for intending solicitors or a one year unpaid pupillage for barristers — which was traditionally the time when the practical skills were supposed to be acquired. Can these skills be taught at all in the classroom and, if so, can they taught better there than in the solicitor’s office or the barrister’s chambers? These are questions of great moment to those who teach in the PCLL and they occasion much dispute and, alias, some rancor.



### 3. THE FUTURE

The present system of legal education is not expected to change significantly. There are considerable changes, being imposed on the University of Hong Kong as a whole in order to make the institution and its teachers more accountable to the public; thus, for example, our research is being assessed for its quality and worth, our success as teachers is to be subjected to increasing scrutiny, and our systems for reviewing staff progress are to become more sophisticated. These will have their effect on the law school. But the content of our programmes will not be greatly affected. As new areas of legal importance develop, and the interests of staff vary, new courses will be offered and no doubt some old one will decline. Student demands will be reflected in the same way.

I do not anticipate that Hong Kong's re-absorption by China will have much effect on what we do. We already teach some Chinese law and there may be a modest expansion in such courses, though there is little room in the LLB and PCLL for new subjects. Hong Kong law students or lawyers who wish to qualify for the practice in law in China will have to go elsewhere than HKU. I do not believe that People's Republic of China teaching methods have much to offer us. It is unlikely that the government of the Special Administrative Region will require the universities to teach particular subjects, or to change the language of instruction. We teach (in English) the law of a common law jurisdiction, and there is no reason why this function should be affected by the impending change in sovereignty: it would be in no one's interests to change it. Academic freedom is guaranteed in the Basic Law, though there may well be informal pressures to tailor the research topics we choose, the subject-matter of our seminars, and the content and style of some of our courses to the supposed views of the new regime. This cannot be predicted. Any such pressures will no doubt be resisted. But the context of what we do will be different in the post-1997 period, and it will be fascinating to observe what effect this has on the internally-generated developments of our research and teaching.

## APPENDIX

## BACHELOR OF LAWS

STUDENTS MUST PASS IN SUBJECTS TOTALING AT LEAST 25 UNITS IN VALUE AS FOLLOWS:

**a) the following are two-unit subjects:**

- Constitutional & Administrative Law
- Criminal Law
- Law and Society
- Law of Contract
- Law of Tort
- The Legal System
- Property Law

**b) the following are one-unit subjects:**

- Legal Writing and Research
- Introduction to Legal Theory

**c) one of the following subjects (all one-unit subjects except for Human Rights Law, two units):**

- Comparative Law
- Criminology
- The Hong Basic Law
- International Human Rights
- International Organizations
- Introduction to Chinese Law
- Law in East Asia
- Law, Justice and Ideology
- Legal History
- Medico-legal Issues
- Public International Law
- Sociology of Law

**d) subjects selected from the following within a total unit value of not less than eight (all one-unit courses except for Guided Research and Human Rights Law (both two units):**

- Administrative Law
- Admiralty
- Alternative Dispute Resolution
- Bank Security
- Banking Law
- Business Associations
- Civil Litigation
- Commercial Law I

- Commercial Law II
- Company Law
- Comparative Law
- Copyright Law
- Criminology
- Current Legal Controversies
- Equity and Introduction to Trusts
- Fundamentals of Evidence and Trial Procedure
- Guided Research
- Human Rights in Hong Kong
- Human Rights Law
- Insolvency Law
- International Commercial Litigation
- International Human Rights
- International Organizations
- International Trade Law I
- International Trade Law II
- Introduction to Chinese Law
- Introduction to Private International Law
- Issues in Evidence and Trial Procedure
- Issues in Family Law
- Issues in International Property Law
- Labour Law
- Law in East Asia
- Law, Justice and Ideology
- Law of Agency
- Legal History
- Medico-Legal Issues
- People's Republic of China Civil and Commercial Law
- Planning and Environmental Law
- Principles of Family Law
- Public International Law
- Selected Problems of International Law
- Shipping Law
- Sociology of Law
- Succession
- The Child and The Law
- The Hong Kong Basic Law
- The Use of Chinese in Law
- Trusts



## POSTGRADUATE CERTIFICATE IN LAWS

STUDENTS MUST PASS THE FOLLOWING SUBJECTS:

- Accounts and Financial Management
- Advocacy
- Civil and Criminal Procedure
- Commercial Law and Practice
- Conveyancing and Probate Practice
- Professional Practice
- Revenue Law

Up to two units may be earned by taking subjects offered by another department of the university or another university.