

## REGULATIONS FOR THE DEGREE OF JURIS DOCTOR (JD)

*These regulations apply to students admitted to the JD curriculum in the academic year 2013-14 and thereafter.*

*(See also General Regulations)*

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### Eligibility for admission

- LL99. To be eligible for admission to the degree of Juris Doctor, a candidate shall
- (a) comply with the General Regulations;
  - (b) hold a degree in a non-law subject with at least second class honours or equivalent awarded by a recognised university; or
  - (c) hold a law degree from a non-common law jurisdiction with at least second class honours or equivalent awarded by a recognised university.
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### Language requirement

LL100. Applicants who do not have a degree awarded by an institution with English as the medium of instruction shall be required to take either IELTS or TOFEL for admission to the programme:

IELTS: a minimum overall band score of 7.5, with no individual score below 6.5 and a minimum band score of 7.0 in the academic writing module.

TOEFL: a minimum score of 600 on the paper-based test (or 250 on the computer-based test or 100 on the internet-based test)

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### Qualifying Examination

LL101.

- (a) A qualifying examination may be set to test the candidates' formal academic ability or his or her ability to follow the courses of study prescribed. It shall consist of one or more written papers or their equivalent.
  - (b) A candidate who is required to satisfy the examiners in a qualifying examination shall not be permitted to register until he or she has satisfied the examiners in the examination.
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## **The curriculum**

LL102. The curriculum for the degree of Juris Doctor shall normally be completed in two academic years. The Board of the Faculty of Law can extend the period of study beyond two years, but under no circumstances shall the curriculum be extended beyond four academic years.

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## **Completion of the curriculum**

LL103. To complete the curriculum a candidate shall

- (a) comply with the General Regulations
- (b) follow instruction and attend classes as required, and complete all coursework requirements; and
- (c) pass courses totalling at least 144 credits in value, in the manner specified below, unless the candidate has received advanced standing credits pursuant to LL104, in which case the student shall pass courses totalling 132 credits in value.

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## **Advanced Standing**

LL104. The Board of the Faculty of Law may grant advanced standing to a candidate for up to 12 credits of courses in recognition of an equivalent course or equivalent courses completed successfully in another degree programme, where such a course is or such courses are completed no more than 5 years prior to the candidate's commencement of the JD programme. Where advanced standing credits are granted, the Board of the Faculty of Law shall specify from which course or courses the candidate is exempted in the curriculum. Advanced standing credits shall not be included in the calculation of the cumulative GPA, but the credits may be recorded on the transcript of the candidate.

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## **Exemption of courses**

LL105. The Board of the Faculty of Law may grant exemption to a candidate for up to 12 credits of courses in recognition of an equivalent course or equivalent courses completed successfully in another degree programme, where such a course is or such courses are completed no more than 5 years prior to the candidate's commencement of the JD programme. Where an exemption is granted, the Board of the Faculty of Law shall specify from which course or courses the candidate is exempted in the curriculum, and the candidate shall select a course or courses of an equivalent number of exempted credits.

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## **Selection of courses**

LL106. A candidate shall select his or her courses in accordance with the recommended sequence of the curriculum during the course selection period as specified by the University. Such selection shall be subject to approval by the Board of the Faculty of Law. Changes to the selection of courses may be made, with the approval of the Board of the Faculty of Law, during the add/drop period of respective semesters, and such changes shall not be reflected in the transcript of the candidate. Requests for changes after the respective add/drop period shall not normally be considered.

LL 107. Withdrawal from courses beyond the designated add/drop period will not be permitted, except for medical reasons and with the approval of the Board of the Faculty of Law. Withdrawal without permission will result in a fail grade in the relevant course(s).

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### **Dissertation**

LL108. A candidate shall submit the title of his or her dissertation no later than six months prior to presenting the dissertation for examination. The dissertation shall be presented for examination by June 30 of the final year of study.

LL109. Under exceptional circumstances a candidate may apply to the Board of the Faculty of Law for an extension of the deadline by which the dissertation must be presented for examination.

LL110. The candidate shall submit a statement certifying that the dissertation represents his or her own work undertaken after registration as a candidate for the degree. The examiners may require an oral examination on the subject of the dissertation.

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### Assessment

LL111. The courses will be assessed with a wide variety of methods, including (but not exclusively) traditional examinations, research papers, class performance and take-home examinations. A candidate shall pass a course if the Board of Examiners is satisfied by the candidate's performance in the assessment.

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### Grades

LL112. The grades, their standards and the grade points for assessment shall be as follows:

<i>Grade</i>	<i>Standard</i>	<i>Grade Point</i>
A+		4.3
A	Excellent	4.0
A-		3.7
B+	Good	3.3

B		3.0
B-	Borderline Average	2.7
C+	Satisfactory	2.3
C		2.0
C-	Borderline Satisfactory	1.7
D+		1.3
D	Pass	1.0
F	Fail	0

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**Failure to pass a course**

LL113.

- (1) Any candidate who fails to pass a course or courses in the manner provided for in these Regulations may be permitted or required by the Board of Examiners
    - (a) to repeat the course or courses by following instruction and taking the prescribed examination (or any relevant assessment), or by taking the prescribed examination (or any relevant assessment) without following instruction when the course is or the courses are next offered; or
    - (b) to undertake the study of any alternative course or courses which will enable the candidate to complete the curriculum.
  - (2) Where a candidate is permitted or required to repeat a course or undertake the study of an alternative course under (1), both the new grade and the previous F grade shall be included in the calculation of the cumulative GPA, and both grades shall be recorded on the transcript.
  - (3) Where a candidate who has failed to present a satisfactory dissertation, the Board of Examiners may permit the candidate, subject to his or her performance in other examinations, to either revise the dissertation and re-present it, or present a new dissertation, for examination within a specified period determined by the Board of Examiners.
  - (4) The maximum number of attempts for a particular course or requirement, including retakes and re-examinations, is three.
  - (5) A candidate who is not permitted to present himself or herself for re-examination in any course(s) in which he or she has failed to satisfy the examiners, or is not permitted to present a new dissertation or re-present a submitted dissertation, shall be recommended for discontinuation of studies under General Regulation G 12.
  - (6) A candidate shall not be permitted to repeat a course for which he or she has received a pass grade for the purpose of upgrading.
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## **Overall pass**

LL114. Subject to LL104, a candidate who has passed courses totalling 144 credits in value shall be awarded the degree of Juris Doctor.

## **Absence from an examination**

LL115. Any candidate who is absent from an examination in the manner provided for in LL116 and LL117 may be permitted by the Board of Examiners to sit a supplementary examination. Any supplementary examination shall be part of that academic year's examination, and the provisions made in the regulations for failure at the first attempt shall apply accordingly.

LL116. A candidate who becomes aware of his or her inability to sit an examination, on medical or other grounds deemed acceptable by the Board of Examiners, may apply, not later than two weeks of the first day of the candidate's absence from any examination, for permission to sit a supplementary examination at a later time pursuant to LL115.

LL117. Where the Board of Examiners is satisfied that a candidate's failure to obtain permission prior to his or her absence from an examination is justified by extenuating circumstances, the Board of Examiners may waive the requirement to obtain prior permission under LL115 and grant the candidate permission to sit a supplementary examination at a later date pursuant to LL114.

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## **Examination results**

LL117. At the conclusion of the examinations, a pass list shall be published in alphabetical order.

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## **SYLLABUS FOR THE DEGREE OF JURIS DOCTOR**

1. Students are required to complete a total of 144 credits within a period of 24 months, including the summer semester:

### First year (66 credits):

JDOC1008	The legal system (6 credits) (block teaching before the beginning of the term)
JDOC1009	Constitutional law (6 credits)
JDOC1001	Law of contract I (6 credits)
JDOC1002	Law of contract II (6 credits)
JDOC1005	Law of tort I (6 credits)
JDOC1006	Law of tort II (6 credits)

JDOC1003	Criminal law I (6 credits)
JDOC1004	Criminal law II (6 credits)
JDOC1007	Legal research and methods (6 credits) (block teaching at the beginning of term plus classes during term time)
JDOC3093	Administrative law (6 credits)
JDOCxxxx	Elective (6 credits)*

Second year (78 credits)

JDOC1010	Commercial law (6 credits)
JDOC1011	Dissertation (6 credits)
JDOC2003	Land law I (6 credits)
JDOC2004	Land law II (6 credits)
JDOC2001	Equity and trusts I (6 credits)
JDOC2002	Equity and trusts II (6 credits)
JDOCxxxx	Electives (30 credits)*

*Summer semester*

JDOCxxxx	Electives (12 credits)*
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\* There are 48 credits of electives in total. Students must take one 6-credit elective course listed under “International, Comparative and Theoretical Perspectives in Law (“ICT”)”. Students must also take one 6-credit elective course listed under “Chinese Law”. To proceed to the PCLL, students will need to devote 30 elective credits to PCLL pre-requisites. They are:

JDOC3015	Company law (6 credits)
JDOC3102	Evidence (6 credits)
JDOC3097	Civil procedure (6 credits)
JDOC3099	Criminal procedure (6 credits)
JDOC3105	Land law III (conveyancing) (6 credits)

2. The curriculum may include an internship which will not be credit-bearing. Students may choose to do an elective mooting course<sup>1</sup>.
3. The law electives are listed in the course descriptions.

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<sup>1</sup> The Mooting course shall be graded with pass/fail and shall not be counted in the calculation of the cumulative GPA (CGPA).

## COURSE DESCRIPTIONS

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The courses available to students are listed below. Where two courses are described as “I and II” (12 credits), this means that they may either be taught separately in two semesters in the same academic year or be taught as one combined course in one semester, and may either be examined separately or at the same time.

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### *Compulsory courses:*

#### **JDOC1001 and JDOC1002                      Law of contract I and II (12 credits)**

Contract is a compulsory subject in the JD degree. A sound knowledge of the principles of the law of contract is an essential element of any legal education. The principles of contract law govern many important areas of daily life and of the national and international economy. They also constitute an essential building block for other branches of the law, especially commercial law.

This course is concerned with the principles relating to the law of contract generally, rather than to the rules dealing with contracts of a particular subject matter, such as those applicable to the sale of goods (whether domestic or international), to insurance contracts, to land contracts, to agency or to contracts of employment. The law applicable to these contracts is studied in other subjects, some of which (like sale of goods and agency in commercial law) are also compulsory. The study of contracts in specified contexts assumes knowledge of the general principles that we study in this course.

Along with tort and unjust enrichment (also known as restitution), the law of contract forms part of the law of obligations, the part of law that identifies the situations in which one person becomes liable in private law to another person. That liability is, generally, to pay damages. Unlike tort and unjust enrichment (where liability is commonly said to arise simply by operation of law), the liability that arises in contract originates in the parties' consent, which generally finds expression in an agreement between the parties. The consensual nature of the contractual obligation has a determining effect on the nature of the obligation between the parties and on the remedies that arise for its breach. It also stresses the need for care in the drafting of contracts.

In origin, the law of contract is the creation of the common law courts. Throughout its long historical development, the law of contract has been influenced by commercial practice, both national and international, and by the rules of other systems of law. This continues in today's globalised world, and not only in common law systems of law. A telling example is the adoption, in recent Chinese codifications of contract law, of principles developed either in other systems of law or in international legal instruments.

While the law of contract in Hong Kong (as in most countries that have adopted the common law) remains uncodified, statute now plays an important role in the development

of contract law – for example, in protecting consumers. This course focuses on the most important principles and rules of contract law, as found in case law, statute and international legal instruments.

*Semester 1*

Mid semester examination: 50%

Written assignment: 50%

*Semester 2:*

Mid semester assignment: 50%

Final examination: 50%

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**JDOC1003 Criminal law I (6 credits)**

This course introduces students to the principles of Hong Kong criminal law and liability. Topics include the nature and classification of crime, elements of criminal procedure in Hong Kong, the burden of proof and the impact of constitutional human rights, and the general principles of criminal responsibility, including criminal defences and degrees of participation. Offences considered will include homicide and theft.

[Co-requisite: JDOC1004 Criminal law II]

Assessment: Semester 1: 30% mid-term exam; 10% magistrate's court report, Semester 2: 10% group presentation; 50% final examination

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**JDOC1004 Criminal law II (6 credits)**

This course examines further aspects of criminal law and liability in Hong Kong, including additional criminal defences and inchoate liability. It will examine the application of the general principles of criminal responsibility in selected criminal offence areas, including homicide, assaults, sexual offences, and theft and deception. Where possible, students will be encouraged to consider alternative approaches to the principles of liability, and to develop social policy analysis skills.

[Prerequisite: JDOC1003 Criminal law I]

Assessment: Semester 1: 30% mid-term exam; 10% magistrate's court report, Semester 2: 10% group presentation; 50% final examination

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**JDOC1005 and JDOC1006 Law of tort I and II (12 credits)**

Tort is one of the first subjects undertaken in the JD degree. Along with contract and unjust enrichment (also referred to as restitution), it forms part of the law of obligations, which covers the situations in which one person may be liable to another person in private



(or civil) law. In tort, that liability is, generally, to pay damages as compensation for a 'wrong'. The law of tort defines the circumstances in which an individual incurs responsibility for conduct that the law classifies as 'wrongful'. In this sense, tort may be regarded as the private law equivalent of criminal law, which is, however, generally enforced against individuals by the State, rather than by another individual.

Private law extends beyond the law of obligations to include the law of property and the law of succession. Historically, it may have included much more than this (for example, it could be regarded as having included family law). A common aspect of the development of private law is that, in origin it was the creation of the common law courts, and therefore found, primarily, in case law.

Case law remains an important source of tort law, but, as with most other areas of law today, statute law now overshadows much of it, and this is likely to increase further in the future. A study of tort law is still, however, an excellent vehicle for the study of common law method. Students who study this course will, therefore, be required to read closely a number of cases and statutes for every seminar.

While the formal legal sources of tort law are easy to identify, the policies underlying the law, which focus on the role that tort plays in society, are extremely controversial. A profound understanding of these controversies is essential for a thorough knowledge of tort law and of the way in which it is developing globally in the twenty-first century.

Assessment: Semester 1: 50% examination, 50% written assignment, Semester 2: 50% examination, 50% written assignment

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### **JDOC1007 Legal research and methods (6 credits)**

Case reading: distinguishing law/fact; learning the structure and language of common law judgments; identifying relevant facts; identifying and defining legal issues, ratios, arguments, reasoning with precision; learning the ways in which judges in one case treat the judgments in earlier cases; precedent in action.

Basic legal writing skills using short weekly marked up and graded writing assignments in the format of case briefs, letters to clients, closed internal memoranda. Emphasis will be placed upon correct use of general English and appropriate legal terminology, clarity of expression and logical, effective organisation of ideas and arguments.

Learning skills: pre-class preparation; in class exercises, participation in class discussions using group and Socratic methods.

Assessment: 3 assessed assignments (25% / 25% / 50%)

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### **JDOC1008 The legal system (6 credits)**

An overview of major legal systems in the world (common law, civil law, socialist law,

religious law), including a brief overview on a comparison between the common law system and the PRC legal system; the ideology of the common law system and the rule of law, justice and separation of powers; development of the Hong Kong legal system; classification of law, sources of Hong Kong law; law making process; Hong Kong court system; doctrine of stare decisis; access to justice and legal aid; legal profession and legal services; jury system; law reform; Government lawyers and organization of Government legal services; the language of the law; interface between the PRC legal system and the Hong Kong legal system.

Assessment: The best 4 out of 5 grades they have (1 assignment, 1 mid-term assessment, 3 in-hall exam questions)

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### **JDOC1009 Constitutional law (6 credits)**

Constitutional law is a core component of a legal system. It also constitutes the foundation of a legal system, because it stipulates what are the sources of law in the legal system and how the law is made; it establishes, empowers and constrains the legislative, executive and judicial branches of government; and it regulates the relationship between these organs of government as well as the relationship between the government and the people. From the perspective of the people, constitutional law guarantees and protects their human rights and fundamental freedoms.

In Hong Kong, constitutional law also performs the important function of regulating the relationship between Hong Kong as a Special Administrative Region of the People's Republic of China (PRC) and the Central Government Authorities of the PRC. Constitutional law in Hong Kong is therefore the legal foundation of 'One Country, Two Systems'. It is also an area of the law which is often the focus of public and media attention. Constitutional law cases and controversies often appear in the Hong Kong press as frontpage news stories. The outcomes of constitutional litigation sometimes not only change the lives of the parties to the case, but also have wide and deep impact on the Hong Kong community and its public and social policies, or the political relationship between Hong Kong and mainland China.

Constitutional law is closely related to politics, political philosophy and history, which some of you may have encountered in your previous studies. Some constitutional controversies in Hong Kong are covered in our course on Hong Kong's legal system. We hope that this course on constitutional law will provide for you the opportunity to study the subject more systematically and intensively. However, as it is only a one-semester course, it can do no more than opening the door for you, so that those of you who are interested in a broader and deeper understanding of the subject may acquire a solid foundation for your future studies in this interesting, exciting and challenging domain of public law.

Assessment: 100% Open-book final examination

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## **JDOC1010 Commercial law (6 credits)**

With respect to substantive law, students will consider a range of issues including:

1. The Law of Agency
2. Sale of Goods, including
  - The *nemo dat* rule and its exceptions
  - Duties of seller and buyer
  - Implied terms
  - Passing of property and risk
  - Remedies
3. Credit and Security, including
  - Fixed and floating charges, registration, priorities

Assessment: 100% Open book in-hall examination

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## **JDOC1011 Dissertation (6 credits)**

An individual research project on an approved topic carried out under the supervision of an assigned teacher, resulting in the submission of a research paper not exceeding 8,000 words (excluding tables of cases and statutes, notes, appendices and bibliographies. Footnotes or endnotes should not exceed 1,000 words.).

Instructions will be given on the principles of legal writing and in legal research methodology.

Assessment: 100% written assignment (ie. dissertation)

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## **JDOC2001 and JDOC2002 Equity and trusts I and II (12 credits)**

History and nature of equity; equitable obligations (fiduciary obligations, breach of confidence other than trade secrets); equitable remedies (account, rescission, compensation, Lord Cairns' Act, injunction).

History and nature of trusts; creation of express trusts (the three certainties, formal requirements, constitution of trusts); offshore trusts; pension trusts in Hong Kong; administration of trusts; variation of trusts; the duties of trustees and rights of beneficiaries; liability for breach of trust, personal and proprietary; resulting and constructive trusts.

Assessment: 70% In-hall examination, 30% mid-term test

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**JDOC2003 and JDOC2004****Land law I and II (12 credits)**

This course aims at introducing students to the fundamental legal concepts and principles relating to property rights in land and the definition, acquisition and transfer of such rights. We seek to achieve five primary objectives.

First, student will study the nature and rationale of private property, and the social, legal and historical context in which it operates. This provides the foundation for the topics to be covered throughout the course and beyond, and should help the study of a wide range of courses such as succession law, trusts, conveyancing, land use planning, family law, natural resources, environmental law, commercial law, oil and gas law, and tax law, jurisprudence and legal history. The idea is that a sound theoretical base is essential for an understanding of specific rules.

Second, the course introduces students to the legal doctrine that regulates rights in land in Hong Kong. The fundamental rules and principles governing the acquisition, transfer and use of land are examined in detail.

Third, where appropriate, students will consider the policy considerations that underpin property (which includes land) doctrine, and evaluate these policies and the ways in which they are given effect in the law. Policy is considered because it affects judicial decision making and the formulation of legislation. It also helps students understand the "why" of specific property laws and encourages critical evaluation of the law. An examination of policy necessarily requires an understanding of, and sensitivity to, the socio-economic context of the law. This provides the foundation for further research into land and related topics, should you wish to pursue these topics further in the Guided research course.

Fourth, where relevant some attention will be paid to general issues of legal process as issues of legal process can affect the content of substantive law, including land law.

Fifth, to acquire some knowledge of conveyancing practice as this brings the conceptual land law to life and helps students gain a better understanding of how the various topics/issues fit together. However, students will not learn the intricate mechanics of conveyancing transactions eg the process of drafting assignment and raising requisitions on title etc as these will be covered in Land law III and the PCLL. Instead, a general picture of the practice of the transfer of land will be provided.

The course is divided into 7 topics. Students will be given separate handouts for each topic. The topics to be covered are as follows:

1. The concepts of tenures, estates, land and property, ownership and possession
2. Leases (with some discussion on licences)
3. Easements
4. Mortgages
5. Acquisition of rights in land
6. Protection of land rights and priority
7. Co-ownership in land

The first topic sets out the ground work by introducing the concept of property, the classification of property interests and the changing nature of the law of property. Issues of process, policy and critical analysis are introduced in this topic and will be carried through in subsequent topics where appropriate. The second to fourth topics deal with interests in land. Topic 5 covers the acquisition of these interests and topic 6 deals with the question of protection of these interests and priority where there is a competing claim between two or more interests in land. The last topic deals with the question of co-ownership of interests in land.

Assessment: 50% in-hall examination at the end of Semester 1, 50% in-hall examination at the end of Semester 2

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*Electives (including ICT and Chinese law):*

### **JDOC3001 Introduction to legal theory (6 credits)**

This course encourages critical reflections on the nature of law, the central issues of jurisprudence and the concepts and techniques used in the operation of legal systems. Topics to be covered may include some of the following: the relationship between law and morality; natural law; legal positivism; Ronald Dworkin's jurisprudence; utilitarianism and economic analysis of law; justice; liberty; rights; the Rule of Law; punishment; adjudication and legal reasoning; legal realism; sociological jurisprudence; critical legal studies; feminist jurisprudence; postmodern jurisprudence.

Assessment: 25% in-class group presentation, 75% closed book examination

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### **JDOC3003 Law and society (6 credits)**

This course aims to capture the dynamics between law and society, namely, how law is shaped by social changes, perception and thought, and how society is moulded by legal rules and norms. Broad interdisciplinary knowledge and perspectives relevant to the study of the relationship between law and society will be discussed. Theoretical, empirical and policy considerations will be taken into account.

General themes chosen to highlight the above dynamics will include the relationship between law and political power, law and economic development, law and history, law and family, and law and social life. Specific topics covered may vary from year to year and may include the following: the rule of law and the liberal constitutional state; law and economic development in the age of globalisation; the anthropology of law; law and culture; law and morality; the historical and philosophical foundations of western and Chinese law; current socio-legal issues in Hong Kong.

Assessment: 10% continuous assessment, 90% examination

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### **JDOC3008 Bank security (6 credits)**

Lending and securities: the role of banks in trade and other financing; lending criteria; forms of securities; securities over goods and documents of title to goods including pledges, hypothecation and liens; financing of international trade including letters of credit, documentary bills of exchange, letters of guarantee and performance bonds; effect of Bills of Sale legislation; guarantees and sureties; set-off; fixed and floating charges; enforcement and realization of securities; general discussion of loan documentation.

Duties of banker in taking securities: undue influence; mistake; misrepresentation; duties to inform or disclose to customer and third parties.

Court proceedings affecting banker: garnishee proceedings; Mareva injunctions; disclosure orders; insolvency of customer; banker's liability as constructive trustee; jurisdiction and conflict of laws especially in regard to international banking.

(*Note:* Unless exempted, candidates are required to have taken Banking law before taking this course.)

Assessment: 100% examination

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### **JDOC3010 Business associations (6 credits)**

This course introduces students to the law of business associations. The two main forms of business association to be covered in the course are partnerships and companies, with a predominant focus on the latter. The course covers basic issues in company law, including its formation and its status as a separate legal entity, the relationship between the company and outsiders, the relationship among shareholders of a company, and the termination of a company. This course focuses on Hong Kong law, and by extension, English law.

The course adopts the usual seminar format. The seminars are highly interactive and students are expected to come prepared and to participate actively in discussions. There is no prescribed textbook for the course, although a list of references is provided above. Materials (“DMs”) will be to students on a weekly basis prior to the lecture.

Assessment: 100% examination

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### **JDOC3015 Company law (6 credits)**

This course introduces students to the study of Company law. The course covers the fundamental legal concepts and principles relating to the incorporation, governance and regulation of limited liability companies in Hong Kong, including the relationships amongst the principal stakeholders in the company and the relationships of the company with outsiders. The course focuses on Hong Kong law and, by extension, English law, but also draws on the laws of other jurisdictions where relevant.

The course also includes one lecture on partnership law, a pre-requisite for eligibility for enrolment in the PCLL.

The course adopts a seminar format. Seminars will comprise a mix of formal teaching and interactive discussions. Students are expected to come prepared and to participate actively in discussions.

Assessment: 100% in-hall examination

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### **JDOC3018 Criminology (6 credits)**

Criminology involves a study of the phenomenon of crime and will involve a consideration of the following areas: the definition and nature of crime; the justification and theories of punishment; the various schools which provide perspectives on the understanding of the etiology of crime; the treatment of the offender and crime prevention and control.

Assessment: 100% research paper

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### **JDOC3020 Economic analysis of law (6 credits)**

This course introduces students to the economic analysis of the law as a set of tools for analyzing laws and understanding the effect legal rules have on the way people behave. This course also explores the extent to which the principles of economics can be used to explain the workings of the legal system itself. Students will learn how to construct and critique basic economic models of the incentive effects of different legal rules and institutions.

The topics covered in this course include the Coase theorem, the choice between property and liability rules, the allocative effects of alternative liability rules (e.g., strict liability versus negligence); the determination of damages for breach of contract; the economics of legal procedure; and public choice. Particular attention is paid to applying economic analysis to contemporaneous law and policy controversies in Hong Kong and East Asia.

The course neither presumes nor requires a background in economics.

Pre-requisites: Law of contract

Assessment: 70% examination, 30% class participation (including in-class group activities)

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### **JDOC3023 Insolvency law (6 credits)**

The course to provide students with a basic and clear understanding of the issues confronting financially distressed companies. To that end, the options available to insolvent companies,

the intricacies of corporate restructuring and insolvency, and the various elemental aspects of the reorganization and insolvency procedures will be explored and examined. Relevant and highly pragmatic issues such as forensic accounting, cross-border and transnational insolvencies will also be introduced to students who are interested in choosing a professional career as private insolvency practitioners.

Pre-requisite: Having taken and passed Business associations

Assessment: 100% take-home examination

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### **JDOC3025 International commercial litigation (6 credits)**

The course will examine in depth a number of important public and private international law issues from the perspective of international commercial litigation.

The areas to be covered may include: introduction to litigation and procedure in Hong Kong, Mareva injunctions and Anton Piller orders, the jurisdiction of Hong Kong courts over persons, firms and corporations, extended jurisdiction under HCR, Order 11, the exercise of discretion on the grounds of *lis alibi pendens* and *forum non conveniens*, choice of jurisdiction clauses, and *res judicata*. Reference will be made to the position in other countries, e.g. Australia, Canada, the USA and Mainland China, as well as in Europe under the Brussels and Lugano Conventions.

The course will also deal with the issue of state immunity, the taking of evidence in other jurisdictions, and the enforcement of foreign judgements and arbitral awards in Hong Kong under the common law and statutory regimes.

Assessment: 100% continuous assessment

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### **JDOC3026 International human rights (6 credits)**

The course will include a common element and an optional component. The common element is divided into two parts: (a) conceptual issues and (b) modalities for prescribing, invoking, appraising and implementing human rights. The first part will include an introduction to the concept of human rights and development of international human rights law. The second part will examine the techniques and procedures in protecting human rights, including reporting procedure, fact-finding commission, role and functions of various official institutions and non-governmental organizations, domestic absorption of international standards, sanctions and humanitarian intervention.

The optional component will vary from year to year, depending on teachers' expertise and students' interest. It will cover one or more of the following areas: (a) an in-depth study of one of the human rights conventions, such as the European Convention on Human Rights, the Convention Against Torture or the Inter-American Convention of Human Rights, their *modus operandi*, cases and practices, and a critical appraisal of the system; (b) a study on contemporary international human rights issues, such as protection of minorities, non-



discrimination, nationality and refugees; (c) a comparative study of constitutional protection of human rights in selected countries.

Assessment: 100% research paper

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### **JDOC3032 Issues in family law (6 credits)**

This course examines current controversial issues pertaining to family law. Topics examined include rights and obligations of husband and wife during marriage, on divorce and protection for children and the weaker spouse.

(*Note:* Students enrolling for Issues in family law should preferably have taken Principles of family law.)

Assessment: 30% continuous assessment, 70% research paper

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### **JDOC3033 Issues in intellectual property law (6 credits)**

This course examines current controversial issues and problems in intellectual property law in the context of the circumstances of Hong Kong, with reference but not limited to the following areas:

Passing off action and other economic torts.  
Registration of trademarks relating to goods and trademarks relating to services.  
Copyright and designs: protection and infringement.  
Protection of confidence and privacy.  
Patents: requirements for grant and infringement.

Assessment: 30% optional research paper, 70 or 100% examination

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### **JDOC3034 Labour law (6 credits)**

This course is intended to provide an introduction to the major issues in labour and employment law in Hong Kong. It is concerned with the law governing the workplace: the common law of the contract of employment, the statutory provisions regulating the contract of employment and governing the rights and obligations of workers and employers, workers' entitlements under legislation, workplace safety, the right to compensation for work-related injury, protection against discrimination, and collective rights such as the right to form trade unions, to bargain and to strike. International law, in the form of the International Labour Organisation conventions as well as the major UN conventions on human rights, and their interface with domestic law, will be considered.

Assessment: 30% continuous assessment, 70% research paper

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### **JDOC3035 Law in East Asia (6 credits)**

This course will be the first opportunity for students in this Faculty to learn about the legal systems of the East Asian countries. The course will be taught thematically and comparatively from among the following topics:

An introduction to the historical foundations of the modern legal systems of Japan, South Korea and Taiwan;

Legal institutions: structure of state, courts, legal professions;

Codification of law, especially the institutions of private law;

Civil and commercial law;

Civil process and mediation;

Rights of the accused person;

Human rights and the legal status of women;

Framework for foreign trade and investment.

These topics will be examined from a comparative perspective with reference to the law in Hong Kong. The law will be analysed in the context of its history as well as its economic, political and cultural foundations.

Assessment: 100% research paper

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### **JDOC3040 Medico-legal issues (6 credits)**

This course examines how the law regulates medical practice. Topics examined include consent to medical treatment, abortion, pre-natal injuries, death and withholding life sustaining treatment, euthanasia, organ transplant, confidentiality and access to medical records.

Assessment: 50% research paper, 30% quiz, 10% presentation, 10% attendance and participation

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### **JDOC3041 PRC civil and commercial law (6 credits)**

This course will begin with a discussion of the political economy of China's legal change. It will then examine the specific areas of the law from both a theoretical and practical approach. Topics addressed in the course include: contract law, the law on secured transactions, corporate law, securities regulation, and the foreign trade regime in the People's Republic of China.

Assessment: 100% examination

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### **JDOC3042 Planning and environmental law (6 credits)**

#### *Planning and land use*

The government lease and land use control; Town Planning; Protecting the non-urban environment: country parks, marine parks, wetlands and the harbour; Environmental impact assessment;

#### *Pollution control*

Air, noise, water pollution and waste; legislation and common law;

#### *The wider context*

International environmental law as it applies to Hong Kong; Trade and the environment.

Assessment: 100% continuous assessment

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### **JDOC3048 and JDOC 3121 Law of restitution I and II (12 credits)**

This course covers the following topics: theory and history of restitution; basic concepts in the law of restitution; restitution for money paid and benefits obtained upon grounds such as mistake, undue influence, compulsion, necessity, failure of consideration; absence of consideration; and defences for claims in restitution; restitution of unlawful tax payments; restitutionary claims from ‘third parties’ (knowing receipt, common law & equitable tracing); restitutionary remedy for torts, breaches of contracts, and equitable wrongs; *in personam* and *in rem* rights in restitution; concurrence of claims in restitution and contract; and restitutionary claims in insolvency proceedings.

Assessment: 100% continuous assessment

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### **JDOC3049 Law of the sea (6 credits)**

The law of the sea is a cornerstone of public international law that is fraught with complexity from detailed treaties and elaborate custom that has been interpreted by numerous international courts and tribunals over a relatively long period of time. This course explores the key rules and principles of this legal regime primarily through a critical assessment of past efforts at dispute settlement, with the aim of developing sufficient problem-solving skills in this realm to successfully tackle future disputes as they arise. Topics to be addressed include: nationality of vessels and jurisdiction of the flag state; baselines and maritime boundaries; territorial seas, contiguous zones, straits, archipelagic waters, continental shelves and exclusive economic zones; the deep seabed; marine pollution; and living resources of the high seas.

Assessment: 100% continuous assessment

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### **JDOC3051 Selected problems in international law (6 credits)**

A detailed examination of selected issues of international law in areas such as international environmental law, international criminal law, law of treaties, international economic law, law of the sea, law of war and humanitarian law, air and space law, international organizations and settlement of international disputes.

Assessment: 100% research paper

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### **JDOC3053    Sociology of law (6 credits)**

The main objective of the course is to provide a general introduction to the sociological study of law. It attempts to develop an understanding of law in its social context by examining social theories of law and empirical research relating to law in contemporary industrialized societies, including Hong Kong.

In seeking to explore the operation of law in action, the course first explores the theories and typologies of Durkheim and Weber with particular emphasis on problems of legitimacy, ideology, and social solidarity. Specific sociologically significant features of the law are then considered. These include: the legal profession; the functions of courts; the enforcement of law by the police; the Rule of Law.

Assessment: 100% research paper

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### **JDOC3054    Succession (6 credits)**

The law relating to the validity, construction, revocation and operation of wills and the rules governing intestate succession; family provision, the nature and purpose of the office of executor and administrator.

Assessment: 100% continuous assessment

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### **JDOC3055    Use of Chinese in law I (6 credits)**

The course aims at developing the proficiency and confidence of law students in expressing and applying their legal knowledge in the Chinese language. It will be taught in Chinese (Cantonese).

Lectures will cover the following topics: use of English-Chinese law dictionaries and glossaries of legal terms, characteristics of the Chinese language, Chinese drafting for legal purposes, translation of English legal documents into Chinese, how to explain to lay clients in Chinese the legal issues identified in a legal transaction or a litigation case, and the history and development of the bilingual legal system in Hong Kong.

One-on-one or small-group tutorials constitute a distinctive feature of this course. The tutor marking each assignment in great detail will act as the student's personal Chinese

coach. The applicants for enrolment in this course are required to take a pre-class aptitude test for screening purposes.

Assessment: 100% continuously by class drills and exercises, written assignments and participation

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### **JDOC3058 International mooting competition (6 credits)**

Students who have been selected as members of the team to represent the University of Hong Kong in one of the international mooting competitions listed below (or any other mooting competition approved by the Faculty Board) are eligible to enrol in this course.

The competitions are the William C Vis International Commercial Arbitration Moot (takes place in Vienna), the International Environmental Law Moot Court Competition, the Telders International Human Rights Law Moot, the Cardozo International Intellectual Property Moot, and the Manfred Lachs Space Law Moot Competition.

These competitions involve the preparation as members of a team of substantial written memorials, as well as participation in oral rounds.

A member of the Faculty will act as supervisor for those enrolled in the course. Assessment for the course may include components for written work, oral advocacy, and a brief individual research paper.

With the Programme Director's permission, it is possible to take this course on a non-credit earning basis.

Assessment: 100% continuous assessment

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### **JDOC3059 Jessup international law moot court competition (6 credits)**

The Philip C. Jessup International Law Moot Court Competition is an international mooting competition in the field of public international law. Teams of up to five members prepare written memorials on a problem involving contemporary issues of international law, and participate in the Hong Kong regional mooting competition; the winner of the regional round is entitled to participate in the international rounds held in the United States. The deadline for the submission of the written briefs is normally early January; the oral rounds normally take place in February (Hong Kong) and late March/early April (international rounds).

Eligibility for enrolment in the course is limited to those students who have been selected as members of the team to represent the University of Hong Kong. A member of the Faculty will act as supervisor for those enrolled in the course. Assessment for the course may include components for written work, oral advocacy, and a brief individual research paper.

With the Programme Director's permission, it is possible to take this course on a non-credit earning basis.

Assessment: 100% continuous assessment

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### **JDOC3062 Human rights in China (6 credits)**

This course will examine the international and domestic dimensions of the protection of human rights in the People's Republic of China. It will examine the applicability of international human rights standards to the PRC, the stance of the PRC in relation to international national mechanisms for the protection of human rights, and the place of international standards in domestic law. The course will consider the theoretical debates about the origin and contingency of human rights standards, questions of priorities in human rights, and the issue of rights in Chinese cultural contexts. It will also examine the extent of human rights protections available under the Chinese constitution and other laws, and will focus on selected issues, which may include the criminal justice system, freedom of expression, freedom of association, freedom of religion, labour rights, gender discrimination, and minorities/self-determination. The course will also examine the social and political forces that may contribute to the improvement of human rights in China.

Assessment: 100% research paper

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### **JDOC3065 Information technology law (6 credits)**

This course examines the legal and policy issues brought forth by technological advances in information technology. Topics to be covered include, but are not limited to, the following:

Copyright protection for computer programs and databases.

Patent protection for computer-related inventions.

Semiconductor chip designs protection.

Legal issues on the Internet.

Electronic transactions and public key infrastructure.

Computer crimes.

Data protection.

Assessment: 100% research paper

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### **JDOC3072 Principles of Hong Kong taxation on income (6 credits)**

This course concentrates on the principles of law governing Hong Kong taxes on income: profits tax, salaries tax and property tax. Both the scheme of the relevant statutes and the ways in which case law has interpreted the relevant statutory provisions will be examined. On a practical level, relevant practices of the Inland Revenue Department will also be highlighted. Having acquired a sound knowledge of the law and practice, students will be expected to apply that knowledge to simulated but realistic situations commonly encountered in Hong Kong. Tax policy issues, including an analysis of Hong Kong's source-based jurisdiction of tax, capital taxation, broadly-based indirect taxation and taxation compliance will be covered. Where appropriate, these matters will be contrasted with the taxation system of Mainland China as well as other Asian jurisdictions.

Assessment: 20% take home assessment, 20% In-class test, 10% self-assessment learning log, 50% final examination

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### **JDOC3080 Governance and law (6 credits)**

This course seeks to understand why the state regulates certain activities and behaviour in society, what different forms of regulation exist, when and what kind of legal regulation is deemed necessary, how legal regulation is enforced, and checks balances against abuse in enforcement. This course is jointly taught by staff from the Department of Politics and Public Administration and the Department of Law. The main objective of the course is to explore the interface between the study of Politics and Law in understanding governance. Relevant case studies will be included for illustration and discussion. To take this course, student must have successfully completed POLI1002 Fundamentals of Public Administration and JDOC3093 Administrative law.

Assessment: 50% continuous assessment, 50% examination.

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### **JDOC3081 PRC commercial law (in Putonghua) (6 credits)**

In this course, students will be introduced to the fundamental legal concepts and principles of commercial laws in Mainland China. The course provides students further with the knowledge of commercial law reforms in Mainland China against its development of a market economy as well as their implications in Hong Kong.

The aim of the course is to enable students to develop their basic understanding of the fundamental principles and rules of contract law, company law, partnership law, and their dispute resolutions. The primary focus of the course is to examine these laws promulgated by the state legislature and pertaining judicial interpretations by the Supreme People's Court. Ancillary state policies and administrative notices will be introduced in class as well.

As a feature of this course, despite that Mainland China follows civil law tradition and mainly use statutes as legal authorities, cases relating to the topic will be discussed to help

understand the legal principles. Another feature of the course is that pertaining regulations and practices in Hong Kong will be outlined and compared to for more impressive learning.

Pre-requisite: completion of Introduction to Chinese law or the equivalent and sufficient Chinese proficiency.

Assessment: 100% continuous assessment.

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### **JDOC3093 Administrative law (6 credits)**

The course will introduce Hong Kong's law on judicial review of administrative action. Topics that may be covered in any particular year include: grounds of judicial review (errors of law and fact; procedural impropriety; errors in the exercise of discretion; legitimate expectations); public-private divide; the application procedure for judicial review; and non-curial means of control and scrutiny of administration action (Ombudsman, Administrative appeals, public enquiries). The course will guide students on how to apply the law in factual scenarios and encourage students to reflect upon various theoretical issues in Administrative law, including: the suitability of ultra vires as a theoretical basis for judicial review in Hong Kong; whether the jurisdictional and non-jurisdictional divide should be abolished; whether a sliding scale of standard of review on the ground of irrationality is desirable; whether judicial recognition of new grounds of review (e.g. fairness) is desirable; what the relationship between judicial review and good governance is; and how the application procedure for judicial review should be reformed.

Assessment: 50% open-book final examination; 30% research paper; 20% group presentations

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### **JDOC3097 Civil procedure (6 credits)**

The conduct of civil litigation in the High Court and District Court: considerations prior to commencement of action; jurisdiction of courts; parties and joinder; commencement of proceedings; service of process; pleadings (Statement of Claim, Defences and Counter-Claims; Reply); summary disposal of actions; interlocutory proceedings; discovery; further and better particulars; interrogatories; admissions; pre-trial security; compromises and settlements; aspects of the civil trial and costs; enforcement of judgements and appeals.

Assessment: 100% examination

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### **JDOC3099 Criminal procedure (6 credits)**

The conduct of criminal cases in Magistracies, District Courts and the High Court. Police powers including arrest, detention, search and seizure; questioning; remedies for abuse of police powers; bail; jurisdiction of criminal courts; formulation and amendment of charges; commencement of criminal proceedings; transfers and committals; indictments;



preparation for trial and discovery in criminal proceedings; pleas; plea bargaining; juries and aspects of criminal trials; costs; sentencing options; criminal appeals.

Assessment: 100% final examination

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### **JDOC3100 Current issues in comparative commercial law (6 credits)**

Consumer protection: product liability; statutory duties; exemption clauses and control thereof.

Personal property security interest: retention of title, hire purchase, finance lease, sale and mortgage hire back, chattel mortgage, etc.

Carriage and storage of goods: general introduction with emphasis on carriers and warehousemen as bailees.

Assessment: 100% continuous assessment

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### **JDOC3102 Evidence I (6 credits)**

What may be proved: facts in issue; relevance; admissibility and weight.

Functions of judge and jury: who decides; judicial discretion.

Burden of proof: standard of proof; presumptions.

Methods of proof: oral testimony; documentary evidence; real evidence, proof without evidence.

Oral testimony: competence, compellability of witnesses; questioning of witnesses including rules *re* previous consistent statements, refreshment of memory and collateral issues; corroboration of witnesses; identification evidence.

Hearsay: scope, rationale, problem areas.

Common law exceptions to hearsay: informal admissions especially confessions; other common law exceptions.

Statutory exceptions to hearsay.

Evidence of character of parties.

Exclusion of evidence; self-incrimination; confession; unlawfully obtained evidence and human rights violation.

Privilege and public interest immunity.

Similar fact evidence.

Opinion and expert evidence.

Assessment: 70% examination, 25% take home mid-term test, 5% district court visit report

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### **JDOC3103 Evidence II (6 credits)**

The course is intended to provide an opportunity for (a) in depth study of specialist areas

of the law relating to evidence and procedure and (b) introducing students to different approaches towards problems of proof suggested by scholars in other disciplines.

Topics for study will be selected on a yearly basis from the following list: expert evidence; similar facts evidence; police practices and a fair trial; public interest immunity; interrogatories and other forms of admission; the use of forensic science; probability theory and proof; comparative evidence and procedure; admissibility/relevance of the confessions of third persons; evasions of the hearsay rule; features and problems of identification testimony; pre-trial and trial experiments; reforms; codification, together with any current controversies or developments in the general area of evidence and procedure the teachers or students find appropriate or interesting.

(*Note:* Students enrolling for this course must have completed Evidence I or an equivalent course.)

Assessment: 25% continuous assessment, 75% examination

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### **JDOC3105 Land law III (conveyancing) (6 credits)**

Government leases and Conditions; sale and grant of land by Government; sectioning and subdivision of land; duration of leases; compliance with Conditions; certificate of compliance; user restrictions in Government leases and Conditions; waiver of restrictive covenants

Deeds of mutual covenant; nature of co-owners' interests; common terms in deeds of mutual covenants; allocation of shares; basis principles governing building management; enforcement of covenants in deeds of mutual covenant;

Special features of the New Territories: small house policy and tsos and t'ongs

Planning: Outline Zoning Plans; planning permission; planning through building controls; Land (Compulsory Sale for Redevelopment) Ordinance

Termination of Government leases and Conditions; resumptions by the Government and assessment of compensation;

Remedies; specific performance; rescission, damages; other express remedies in sale and purchase agreements

Land titles system

Assessment: 100% examination

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### **JDOC3107 PRC civil law (6 credits) (in Putonghua)**

This course will introduce the fundamental legal concepts relating to civil relations and transactions in the PRC as well as the principles underlying the areas of law, including

property, torts, and contracts. Both a descriptive account of the law and interdisciplinary methods of studying some areas of the law such as tort law and contract law of the PRC will be provided. Through the study of the above specific areas of law, students will be provided with the necessary analytical skills and judgmental power which are essential to their future work.

Assessment: 100% examination

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### **JDOC3116 Selected legal issues in commercial practice (6 credits)**

This course seeks to discuss selected topics of law that are fundamental and practical to commercial practice. Its objects are two-fold: (1) to provide a fresh and perhaps practical perspective on certain topics in contracts, torts, and commercial transactions generally; (2) to introduce new topics that help students plug gaps of knowledge in important commercial areas.

The topics intended to be covered are :-

1. Mistake
2. Illegality
3. Liability for misrepresentations
4. Liability for non-disclosure
5. Estoppel
6. Assignment of choses in action
7. Set-off
8. Subrogation
9. Resulting trusts
10. Constructive trusts

The course will be conducted through seminars. It will not cover the whole of the 10 topics listed, but specific themes within those areas. The approach will be practical, as well as theoretical.

Assessment: 30% continuous assessment, 70% research paper

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### **JDOC3120 Introduction to international human rights law (6 credits)**

This course will introduce 3<sup>rd</sup> and 4<sup>th</sup> year undergraduates to basic principles of human rights. It will be jointly taught by several members of staff, each teaching different aspects of human rights. The subjects covered can range from the basic philosophical foundations of human rights to the United Nations and Human Rights, to regional mechanisms for human rights protection, to international humanitarian law to fair trial and due process rights to the state of human rights in specific countries or regions.

Assessment: 100% continuous assessment.

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**JDOC3141 Law and film (6 credits)**

This elective course introduces students to the cultural study of the law by considering the multiple responses of cinematic texts to legal events. How are lawyers and legal institutions represented on the screen, and what does that tell us about the law? Is there a jurisprudential subtext to film? How do films attempt to capture traumatic events and human rights violations? Readings in jurisprudential theory and film theory will inform our discussion.

Assessment: 40% continuous assessment, 60% research paper

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**JDOC3142 Law and politics of constitutions (6 credits)**

Almost all modern states are constitutional states in the sense that they, in one form or the other, have a constitution. A constitution is not only a legal document; it is also a political instrument. For what purpose was the constitution made; for what functions could it serve; and on which it can be sustained are questions that cannot be answered without considering the interaction between law and politics in the making, implementation and development of the constitution.

This course applies an interdisciplinary approach and a comparative perspective to analyze intertwining issues of law and politics concerning constitutions like: constitutional interpretation theories, the roles of political parties, religion, judiciary and the public in the constitutional processes, and the significance of dialogue in constitutional deliberation.

Assessment: 50% open book examination, 30% research paper, 20% group project presentation

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**JDOC3143 Topics in law and literature: Flaubert and Eliot (6 credits)**

This elective course is designed to introduce students to the major debates in ‘law and literature’ studies through the works of two writers who helped to define literary realism, Gustave Flaubert and George Eliot. We will pay special attention to the law’s reaction to the publication of literary works, and to the writers’ response to changes in the law. Texts include Flaubert’s *Madame Bovary*, and Eliot’s *Adam Bede* and *Felix Holt*. Enrolment is limited to 16.

Assessment: 40% continuous assessment, 60% research paper

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**JDOC3187 Mooting and Dispute resolution (capstone) (6 credits)**

The course is designed to introduce students to:

- i. appellate advocacy in the form of a ‘moot court’ exercise. Students are required, in

- teams of two, to assume the role of counsel for one of the parties in an appeal from a fictional trial decision. They are required to prepare and submit to the ‘court’ a skeleton of their legal arguments, and a list of authorities, and to make oral argument before the court. It builds upon what has been learnt in LRW II;
- ii. dispute resolution methods including mediation, negotiation and litigation.

Assessment: i) Prepare and submit a skeleton argument and undertake a moot to a satisfactory level, ii) Attend a local court and produce a report of the event with a comparative commentary on alternative methods of dispute resolution.

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### **JDOC3197 Internship (no credit)**

This internship programme serves to give students the opportunity to put into practice what they have learned in the classroom, and to develop their work-related competence.

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### **JDOC3205 Advanced legal theory (6 credits)**

This course will provide a sustained and in-depth analysis of a central overarching theme in legal theory. The theme may vary from year to year. The inaugural theme is ‘Law and the common good’.

The theme will be explored through a range of material and disciplinary approaches. These will include conventional scholarly texts in law, politics and philosophy, but will also draw on non-standard resources including art, poetry, film, and literature.

The purpose of the thematic approach is to provide a coherence to the study of several perennial problems in legal theory. By working in a sustained way through a range of questions and perspectives associated with the overarching theme, students will gain a deeper knowledge of legal theoretical issues.

The theme ‘Law and the common good’ has been chosen to allow students to engage with certain key claims that are made on behalf of contemporary law and legal institutions, namely that they strive to or do in fact embody a common good or set of goods. Whether and how that embodiment operates, according to what conditions and under what limitations are questions to be explored through a series of engagements with texts, contexts, representations and contestations.

Topics to be covered under the theme may include: historical lineages of law and the common good: Aristotle and Aquinas; measuring the common good: rights v utility; how can law reflect the common good?; pluralism, democracy and the common good; contesting commonality: whose commons, which goods?; identity and voice: protest and political trials; overcoming social division: memory and the politics of reconciliation; authority, obligation and allegiance; the ‘new commons’ and the global public good. This list is not exhaustive.

As this is an advanced level course it is expected that students will normally have already studied some aspect of legal theory or a cognate subject. However, this is not a prerequisite.

Assessment: 80% research essay, 20% oral presentation

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### **JDOC3206    Advanced law of obligations (6 credits)**

This is an advanced-level course that explores the framework of legal obligations. It seeks to deepen students' appreciation of the nature of and relationship between various branches of the law of obligations, and in doing so equip them with the knowledge and skills to master complex transactions in their future practice, where various branches of the law of obligations often overlap.

The course comprises four parts: (1) overview of the nature and foundation of Torts, Contracts, Unjust Enrichment and Equitable Obligations; (2) selected topics to plug gaps of knowledge in important Commercial areas; (3) comparative overview of remedial principles in various branches of the law of obligation; and (4) case studies of hypothetical scenarios where these branches of law interact with each other. The case studies will be based on the topics learned in Part 2, and seek to apply knowledge of these topics to practical fact scenarios.

Assessment: 70% term paper, 30% in-class test

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### **JDOC3207    Arms control and disarmament law (6 credits)**

This course will explore all aspects of arms control and disarmament law, including international law-making, supervision, interpretation, dispute settlement and enforcement efforts. By "arms control law," it is meant the rules and principles that regulate weapons and weapon-related material, which does not necessarily include the actual reduction or removal of those weapons or materials. By "disarmament," it is meant the rules and principles for the reduction and eventual removal of weapons and weapon-related material. Particular emphasis will be put on weapons of mass destruction (WMD), which include nuclear, chemical, and biological agents and the means to deliver them, inasmuch as the UN Security Council repeatedly has noted that WMD proliferation is a serious threat to international peace and security. International and regional efforts to respond to these threats will be evaluated from a critical perspective. This course also will focus on the international law relating to conventional weapons, including arms trade generally, weapons with non-detectable fragments, landmines, incendiary weapons, laser weapons, riot-control agents, cluster munitions, exploding bullets, expanding bullets and other questionable methods and means of warfare, all of which will be evaluated from a critical perspective. The interaction between this branch of public international law and others will be explored, including the interaction with international humanitarian law, international human rights law, international trade law, air and space law, collective security law, the law of international organizations, the law of state responsibility and the law of the sea, among others. All of this and more will be analyzed through various case studies and with

a critical eye in assessing whether the current legal regime is adequate in meeting the needs of the international community. Potential reforms to the system will be explored through discussion and debate.

Assessment: 80% research paper, 20% attendance and general participation in in-class debate and discussion

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### **JDOC3208 Law and practice of investment treaty arbitration (6 credits)**

This course is about a form of arbitration which is specific to disputes arising between international investors and host states – i.e. investor-state disputes – involving public, treaty rights. In contrast, international commercial arbitration typically deals with the resolution of disputes over private law rights between what are usually private parties.

It will be of interest to those interested in arbitration, or the law of foreign investment.

The course will be taught from the viewpoint of a commercial law practitioner, and international lawyer and former treaty negotiator who has drafted such treaties.

Assessment: 50% take home examination, 50% research paper

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### **JDOC3211 Critical theory in legal scholarship (6 credits)**

This course will review the most important developments in critical theory as it relates to law and jurisprudence. We will critically engage with the works of the thinkers connected with the critical tradition in Western philosophy including those by Friedrich Nietzsche, Soren Kierkegaard, Sigmund Freud and Michel Foucault. We will then look at the influence of this critical tradition in Western legal theory including the American legal realists, Critical Legal Studies and the emergence of identity based critical movements. Some of the central questions which we will analyse include: What is critique and why do it? What is the role of critique in social movements lawyering? How to apply critical approaches to the understanding of contemporary legal issues?

Assessment: 65% research paper; 25% class presentation; 10% class participation

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### **JDOC3213 ASEAN law (6 credits)**

The significance of this course lies in the formation of the ASEAN Community in 2015. ASEAN has become more formalistic and legalistic in the last decade: while there will not be an ‘EU-style community’ in place by 2015, a formal community will be declared. There is a rapidly growing parallel demand from a variety of stakeholder groups (private sector, academia, diplomats, donor organisations etc.) for authoritative information. What exactly has ASEAN agreed on? What is implemented and how does it affect us?

The Association of Southeast Asian Nations (ASEAN) is a regional community established in 1967 by Indonesia, Malaysia, the Philippines, Singapore, and Thailand to promote political and economic cooperation, and regional stability. By 1999, it has expanded to ten members to include Brunei, Vietnam, Laos, Burma and Cambodia. The ASEAN Declaration in 1967, the association's founding document, formalized the principles of peace and cooperation to which ASEAN is dedicated. With the ASEAN Charter entering into force on 15 December 2008, ASEAN established its legal identity as an international organization and took a leap into a community-building process with the aim of moving closer to 'an EU-style community'. The Charter is an important step towards creating a single free-trade area (FTA) for the region encompassing 500 million people. The ASEAN region has a total area of 4.5 million square kilometers, a combined gross domestic product of almost US\$700 billion. China together with Japan and South Korea participate in the forum ASEAN Plus Three (APT) that functions as a coordinator of cooperation between the ASEAN and these three East Asia nations.

This course will cover the following topics:

1. How community law is derived from soft law.
2. ASEAN's internal rules of conduct.
3. International treaties: Treaty of Amity and Cooperation (TAC), Southeast Asia Weapons Free Zone, Haze Agreement etc.
4. Dispute Settlement mechanisms.
5. Economic integration: PTA, FTA and the proposed Customs Union.
6. The new legal structure under the ASEAN Charter.
7. Towards community law under the ASEAN Community Blueprints.
8. The ASEAN Human Rights mechanism.
9. The role of external actors (EU, US, Japan, Australia) in the creation of community law.

Assessment: 50% in-class examination, 50% written assignment

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### **JDOC3214    Advanced topics in constitutional law (6 credits)**

This course will examine the study of constitutionalism at a more advanced level, particularly from both theoretical and comparative perspectives. It builds upon the knowledge that students would have gained after completing a basic course on constitutional law.

We will begin this course with an exploration of constitutional theory. We will examine (i) the nature and rationale for constitutional review, and the various judicial review models available in the common law world e.g. Canadian Charter of Human Rights and Freedoms and the United Kingdom Human Rights Act, (ii) the varying modes of constitution interpretation applied by courts e.g. originalism, textualism, structuralism, "living tree" constitutionalism etc., (iii) the relevance of foreign law in constitutional interpretation, and (iv) the legitimacy and role of judicial "balancing" in rights-adjudication.

In the 2nd half of this course, we will also examine the adjudication of specific



constitutionally enshrined rights from a comparative perspective. These would include i) due process rights, ii) right to equality, iii) freedom of expression, and iv) freedom of religion. Jurisdictions to be surveyed would include the United States, Canada, South Africa, New Zealand, the United Kingdom, India, Singapore, Malaysia and Hong Kong.

This course will seek to demonstrate how judicial review can and should promote a form of deliberative democracy, a model which eschews the rule of judges as philosopher kings and also one that holds the promise of transformative change beyond the confines of the ballot box. It celebrates a model of judicial ‘penultimacy’ whereby courts are engaging in a continuing constitutional colloquy with the political institutions and the society at large, and participating in a dynamic process in which constitutional meanings have evolved conversationally and are not perfected unilaterally.

Assessment: 50% take home examination, 50% mid-term essay

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### **JDOC3215    Luxury brands and trademark law (6 credits)**

The luxury industry plays an important role in many contemporary western and eastern societies. Economically, it is estimated that global luxury goods sales in 2011 reached around \$250 billion. Culturally, as status symbols, luxury goods function to define class, social distinction, and personal beliefs and values. This seminar explores the rise of luxury brands and the role of trademark law in creating, sustaining, and regulating this industry. It examines landmark cases concerning trademark protection of luxury brands. Moreover, the seminar discusses the social, cultural, and political dimensions of luxury brands. It critically considers the public interest and social concerns arising from this rapidly developing area of economy and law.

Assessment: 80% two essays, 20% class participation

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### **JDOC3216    Justice (6 credits)**

This course is about justice. It begins with a treatment of John Rawls’ justice as fairness and the related debates. Implications of justice as fairness to constitutional regimes will be analyzed. The course also involves a discussion of distributive justice and corrective justice and their implications to selected branches of law such as tax law, tort law, contract law, and property law.

Assessment: 70% research paper, 20% presentation, 10% class participation

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### **JDOC6002    Credit and security law (12 credits)**

The legal aspects of supplying and securing credit in respect of individuals and companies; the legal means of taking security over different types of property.

Aspects of law that are particularly relevant to non-corporate credit and security are: charges, mortgages, hire-purchase, bills of sale, pledges and liens, and assignments of choses in action.

The areas of law that are particularly relevant to corporate credit and security include floating and fixed charges, conditional sales, trusts, and hire-purchase.

Topics to be studied include: the concept of security, the role of equity in security transactions, real and personal securities, types of business finance, insolvency, drafting of documentation to achieve particular purposes, and remedies.

Assessment: 10% class participation, 25% short note, 65% take home examination

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### **JDOC6005 Hong Kong intellectual property law (6 credits)**

A comparative study of the Hong Kong law relating to patents, copyright, registered designs, trademarks, trade secrets, trade descriptions, common law remedies including and akin to passing off and injurious falsehood, and associated rights in information. Previous study or practice in the area of intellectual property would be an advantage but is not essential provided some preliminary private study is undertaken.

Assessment: 0% or 30% optional assignment, 100% or 70% take home examination

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### **JDOC6006 International commercial transactions (6 credits)**

The topic of International commercial transactions touches on a number of legal frameworks that govern international business. The various frameworks consist of a patchwork of national and international, governmental and private-sector laws, agreements and mandatory or voluntary codes of conduct. This course will be presented in four parts, and in each part, relevant laws and decisions of tribunals in various jurisdictions in Asia are comparatively considered to present a range of issues arising in contemporary practice. It will begin with an introduction and examination of commercial and legal implications of terms-of-art frequently used in international sales agreements, shipping contracts, insurance and financing arrangements, and customs documentation. International efforts to unify or harmonize definitions and their legal implications, as well as rules that govern the interpretation of contractual terms, such as the 2000 Inco-terms, ICC Uniform Customs and Practice for Documentary Credits, 1980 Vienna Convention on the International Sale of Goods, and UNIDROIT principles, will be discussed. Agency, distribution, technology and intellectual property transfers, and e-commerce, as widespread and emerging modes of conducting international business, the legal issues inherent in each form, and associated regulation will be considered. Issues related to international investment agreements involving governments will be examined. Special problems related to corruption and money-laundering will be discussed. Significant attention will be paid to the settlement of international commercial and investment disputes, which will include an examination of special problems associated with the recognition and enforcement of awards and judgments.

Assessment: 100% continuous assessment

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**JDOC6008 Introduction to Chinese law and legal system (6 credits)**

The objective of this course is to introduce students to the study of Chinese law as a developing legal system. Law as contemporary lawyers understand it didn't emerge spontaneously in traditional Chinese society. It has developed in China as part of the modernization project since the second half of 19th century. Since 1978, in order to initiate and carry out economic reforms, within a short period of time the Chinese Party-State has generated an extraordinary outpouring of laws. However, China has not been widely recognized as a "rule of law" society until now, due to the lack of some key institutional values that are "essential" to such a society. This seminar shall examine the traditional Chinese ways of governing before China encountered modernity, the structure and roles of contemporary Chinese legal institutions, constitutional law, administrative law, criminal justice and civil procedure from historical and comparative perspectives.

Assessment: 10% class participation, 90% take home examination

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**JDOC6021 Advanced administrative law (6 credits)**

This is an advanced course in administrative law which focuses on the decision-making process of administrative bodies. Topics covered include theories of administrative decision making, the procedure and content of administrative decision making, judicial (*ultra vires*, procedural fairness, estoppel and other limits on the exercise of discretionary power) and extra-judicial (ombudsman and other non-curial bodies) control of administrative action, the practical and procedural aspects of bringing an application for judicial review under Order 53 of the Supreme Court Ordinance, access to information (including the right to be given reasons and use of discovery proceedings), *habeas corpus* and remedies (including restitution). Emphasis will also be placed on subordinate legislation and the operation of some administrative tribunals.

Assessment: 100% continuous assessment

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**JDOC6022 Advanced research methodology (6 credits)**

This is an introductory course focusing on how to conceptualize and execute both doctrinal and empirical legal research projects. Students will briefly examine the philosophical issues that undergird such research, along with the nuts and bolts of actual research methods. At the end of this course, students should have a good sense of a range of research methods (both qualitative and quantitative) as well as a sense of how to think about the kinds of research problems that will provide the core of a RPG thesis.

The main intellectual agenda will be to develop a sophisticated and rigorous sense of how to ask-and answer-a scholarly research question concerning the workings of law, using both legal doctrine and social science and related data.

Students should note that this course includes a practicum, where they will be asked to write a research proposal and to execute a small pilot study of their proposed research.

The assigned reading materials are included in the course reader. The materials include both descriptions of legal research methods along with sample articles/chapters demonstrating the implementation of these methods in practice.

Assessment: 100% research prospectus

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### **JDOC6023 Arbitration law workshop (6 credits)**

The arbitration law workshop is intended to introduce students to the practice of arbitration. The workshop adopts a different approach than traditional arbitration courses which tend to focus in the abstract upon institutional rules. The workshop emphasizes a problem solving approach to learning about arbitration instead. The change is accomplished by running the workshop around a single model case study. The case study is entitled the *Sanctuary House Case*. It has been developed by Mark Cato, an experienced arbitrator and author. The case study unfolds in story form from the introduction of individuals through interlocutories to hearing and award to illustrate all the principal elements of arbitration law, practice and procedure in both a readable and entertaining way. In this manner the workshop highlights arbitration problems and teaches about practical solutions. The workshop's objective is thus to close the gap between the theory of arbitration and knowledge of the rules with actual management of an arbitration case in practice.

Assessment: 100% continuous assessment

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### **JDOC6024 Banking law (6 credits)**

This course is intended to provide an introduction to the major issues in banking law in Hong Kong. It is concerned with the law governing the banker-customer relationship: the nature of the relationship, the banker-customer contract and termination of the relationship; legal issues arising in relation to special types of accounts such as joint accounts, trust accounts, and accounts of infants, professionals and various types of business associations; banker's duties including confidentiality and the duty of care and fiduciary duties in relation to ordinary banking transactions, lending and investment services; banker's rights including appropriation of payment, lien and set-off; the customer's duties to the bank; banker's liability as constructive trustee.

The course will include an in-depth study of the law relating to negotiable instruments, predominantly focusing on cheques.

In the financing area, there will be an introduction to the key issues relating to bank loans and banker's security, and an in-depth study of autonomous payment obligations including

guarantees, standby letters of credit and performance bonds.

Students who enroll in this course are expected to be familiar with the common law of contract and trust.

Assessment: 70% take-home examination; 30% 1 written assignment

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**JDOC6025 Company law and securities regulation in the People's Republic of China (6 credits)**

This course covers both company law and securities regulation in the People's Republic of China. The part on company law involves an examination of the legal framework governing the structure and organization of business corporations and the responsibilities of and protection afforded various groups participating in a corporation's affairs, in particular, shareholders, creditors and management. The basic conceptual framework reflected in modern corporate legislation, and especially recent Chinese statutes is emphasized, with particular attention to the concept of corporate entity, scope of business activities, shareholders' rights and responsibilities, directors' duties, the governance of joint stock companies, management and control of limited companies. Limited companies and joint stock companies as vehicles for direct foreign investment will also be briefly discussed. The part on securities regulation involves an analysis of the scheme of securities regulation in the PRC. Topics covered will include efficient capital markets, types of securities and capital structure, agency theory, portfolio theory, regulation of primary market offerings, trading in secondary markets, inside trading, mergers and acquisitions, stock exchanges, and securities market professionals. Implications on portfolio investment by foreign investors in Chinese companies through the purchase of B-shares, H-shares and N-shares will also be covered. A reading knowledge of simplified Chinese characters would be desirable.

Assessment: 20% class participation and presentation, 80% research paper

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**JDOC6027 Construction law (6 credits)**

The purpose of this course is to provide an introduction to the subject of construction law in Hong Kong. It will consist of three main areas: (a) an introduction to the topic and the importance of the sector to the local economy; the professionals engaged in construction and their regulation; the forms of contract and standard forms of agreement in use locally; (b) the legal framework for construction activities in Hong Kong including the relevant legislation e.g. Buildings Ordinance, Town Planning Ordinance etc; contract law and procedures; substantive law issues, and dispute resolution; and (c) construction practice for solicitors with attention to drafting, project structures and general advice for construction clients.

Assessment: 100% continuous assessment

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### **JDOC6029 Commercial dispute resolution in China (6 credits)**

This course takes students to the areas of significance in the field of dispute resolution in Mainland China, particularly with respect to resolving business and commercial disputes. All major methods of dispute resolution will be examined, including civil litigation, commercial arbitration, and mediation in Mainland China. Some topical issues such as corporate disputes, securities enforcement, private international law, civil justice reform, and cross-border judicial assistance on commercial matters with Hong Kong, Macau and Taiwan will be looked into as well.

Assessment: 10% class participation, 20% in-class presentation, 70% research paper

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### **JDOC6030 Equality and the law (6 credits)**

Significant protection against discrimination under the law of Hong Kong has been available only since the enactment of the Hong Kong Bill of Rights Ordinance in 1991 and the passage of sex and disability discrimination legislation in 1995. These focused considerable attention on the existence of patterns of discrimination in Hong Kong.

The purpose of this course is to explore the theoretical foundations and practical efficacy of the models of equality and non-discrimination underlying Hong Kong's anti-discrimination laws. The course will examine from a historical perspective the existence of institutionalised discrimination in Hong Kong and the reasons for its persistence, as well as the failure of the common law to address these issues. The background to the enactment of anti-discrimination and equal opportunities laws in Hong Kong will also be examined. Aspects of the substantive law of non-discrimination -- including comparative and international material will also be considered. Finally, the efficacy of law (and of the Hong Kong law and institutions in particular) as an instrument for addressing inequality will be discussed. The course will focus on different aspects of the problem of inequality and the role of law from year to year.

Assessment: 100% continuous assessment

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### **JDOC6031 Hong Kong and international law (6 credits)**

The course is divided into two parts: (a) international law -- a conceptual review and (b) application of international legal norms in the Hong Kong context. The topics covered in the first part include the nature, origin and basis of international law; sources of international law; international legal personality; jurisdiction; international responsibility; international intercourse (treaties); and international disputes (peaceful and forcible means of dispute settlement). The issues to be studied under the second part of the course are: the place of international law in the Hong Kong legal system; Hong Kong as an 'international legal person' (including 'autonomy' and 'internal self-determination'); jurisdiction in a 'highly autonomous region' -- the case of Hong Kong; Hong Kong's international obligations (e.g. treatment of aliens, environmental protection); international treaty law as applied in Hong Kong; and 'one country, two systems' as a model of peaceful settlement

of disputes.

Assessment: 100% continuous assessment

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### **JDOC6032 Hong Kong Basic Law (6 credits)**

Topics to be covered include: the background to the Basic Law: the Sino-British negotiations, the Joint Declaration, the process of drafting and agreeing on the Basic Law; basic Chinese and British constitutional concepts relevant to an understanding of the structure and orientation of the Basic Law; the relationship of the Basic Law to the Constitution; the relationship of the Hong Kong Special Administrative Region and the Chinese central government; the institutional structure of the Hong Kong SAR, especially the relationship between the executive and the legislature, and the concept of 'executive-led government'; the concept and special aspects of 'one country, two systems' - especially the preservation of the Hong Kong economic system in the Basic Law; the legal system under the Basic Law; human rights, judicial review and constitutional litigation; the Bill of Rights and the Basic Law; nationality issues under the Basic Law; interpretation of the Basic Law; transitional issues (at least the first time the course is taught - the relationship between the Provisional Legislature and the Basic Law etc.).

Assessment: 100% continuous assessment

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### **JDOC6033 Hong Kong environmental law (6 credits)**

Introduction: the Hong Kong environment; contextual factors affecting the environment and environmental law in Hong Kong. Overview of Hong Kong's environmental law, strategy and techniques. Techniques of environmental protection I: traditional approaches including the common law, nuisance, *Rylands v Fletcher*. Techniques of environmental protection II: the criminal law, interpretation of legislation, penalties. Techniques of environmental protection III: licensing and permits. Techniques of environmental protection IV: standards, objectives, technical memoranda, codes of practice, how they are used, what is their legal force, how they compare with international standards. Techniques of environmental protection V: Planning - territorial planning, town planning. Techniques of environmental protection VI: Environmental impact assessment. Techniques of environmental protection VII: Preventing pollution, energy conservation. Expanding liability: the liability of Directors, the liability of lenders. Conservation and the law. Rounding up.

On the whole the emphasis will not be on medium (water, air, waste etc.), but rather on techniques, since many of the same techniques, and similar issues of statutory interpretation, enforcement etc., occur across media. But examples and issues will be drawn from a variety of contexts. It would be possible to look at one problem (water or air or chemical waste for example) in detail.

Assessment: 100% continuous assessment

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### **JDOC6034 Human rights in Hong Kong (6 credits)**

History of enactment, the Bill of Rights Regime, ICCPR, implementation of human rights treaties, Basic Law, interpretation, scope of application, inter-citizen rights, locus standi, permissible limitations, derogation and reservation, enforcement and remedy.

Study of selected rights, including civil and political rights, economic, social & cultural rights and people's rights. Topics covered include impact on civil and criminal process, right to a fair and public trial, arrest, search and seizure, torture and degrading treatment, liberty and security of person, freedom of association and assembly, freedom of expression, right to nationality, right to family, right to political participation, discrimination and equality, right to housing, social security, education and the environment.

Assessment: 30% assignment, 70% research paper

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### **JDOC6035 International air law: structure and organisation (6 credits)**

This course deals comprehensively with the treaty structure in international air law. As such, it stands alone as a basic introduction to international air law.

More specifically, the course encompasses a study of the basic organization of international air law : Chicago convention and ICAO; the 'crime' treaties governing offences on board and against aircraft as well as hijacking; the liabilities regime of treaties; international controls/treaties concerning commercial operations, IATA and bilateral air services agreements.

It is envisaged that this course should deal with not only international law, but how these treaties etc are implemented in both Hong Kong and PRC law.

Assessment: 100% continuous assessment

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### **JDOC6036 International criminal law (6 credits)**

This course explores the rationale, origins, normative development, institutional mechanisms and role of international criminal law. To do this, we trace the roots of international criminal law in customary laws of war and early attempts to enforce rules prohibiting war crimes, before reviewing the operation of the Nuremberg and Tokyo International Military Tribunals that were established after the Second World War. We then take account of the Geneva Conventions, 1949, and the rise of international human rights law, focusing on the crimes of aggression, genocide, war crimes and crimes against humanity. We then delve into the law and practice of the ad hoc International Criminal Tribunals for the former Yugoslavia and Rwanda and relate their establishment and operation to the emerging system of international criminal law, and the process under way to establish the International Criminal Court. Other problems of international crime, including terrorism, drug-trafficking, hostage-taking and hijacking, also will be considered



against the backdrop of the domestic and international socio-political realities of our time.

Assessment: 20% class participation and discussions, 80% research paper

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### **JDOC6037 International environmental law (6 credits)**

The past few decades has witnessed the rise of Asia as one of the world's most economically vibrant regions. Asia's economic boom has unfortunately been accompanied by severe environmental degradation. Air pollution, deforestation, biodiversity loss, are just some of the many environmental problems that Asia faces today. In addition, global environmental problems such as climate change are at the top of the international agenda. No longer considered solely the purview of the environmentalist or social activist, environmental regulation and law touch upon nearly all aspects of social, economic and political life.

This course aims to provide students with a contextual understanding of the key global environmental issues of the day and the legal solutions. After a broad survey of the field of international environmental law, this course will focus on some key areas which provide fertile ground for exploring the major innovations and controversies in international environmental governance. These key areas will include hazardous waste, and the illegal wildlife trade.

Classes will be conducted largely in a seminar format. Preparation and participation are crucial. A background in subjects such as Public international law, Global administrative law and Environmental law will be helpful but there are no prerequisites for this course.

Assessment: 20% class participation, 30% take home examination, 50% research paper

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### **JDOC6038 International humanitarian law (6 credits)**

International Humanitarian Law (IHL), also known as the Law of Armed Conflict, is the body of rules and principles that govern how forces are to act once hostilities have broken out. The IHL regime is designed to make armed conflict less barbaric by protecting certain groups, such as civilians, wounded, sick, shipwrecked, prisoners of war, and religious personnel, and by prohibiting certain methods and means of warfare. This course critically explores these rules and principles, as well as their application in various situations, with the aim to better promoting the objectives of this regime. Emphasis also is placed on developing creative ways to improve this legal regime.

Assessment: 100% continuous assessment

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### **JDOC6041 Legal Chinese in commercial transactions (6 credits)**

This course is taught in Putonghua (Mandarin). It combines the study of substantive Chinese law with the development of practical linguistic skills useful for conducting legal

business in the PRC. Using original materials (statutes, Supreme People's Court and administrative documents, case reports and commentaries), the course will explore how the law in China operates in its indigenous environment, in both domestic and foreign/Hong Kong-related cases. Students are required to learn to discuss, in Putonghua, selected PRC civil and commercial law topics and to practise drafting legal documents in Chinese as well as English-Chinese and Chinese-English translation. Classes will consist of alternate lectures and group discussion/evaluation sessions.

Examination will be conducted in Chinese. A reading knowledge of Chinese and basic Putonghua comprehension are required.

Assessment: 100% continuous assessment

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### **JDOC6042 Legal fictions: representations of the law in literature, philosophy and cinema (6 credits)**

This course will examine the representation of law in a variety of contexts: literary, philosophical and cinematic. Issues such as justice, rights, the rule of law, positivism, the language of the law, the trial and the role of the profession will be canvassed through 'texts' as varied as Plato's *Republic*, Sophocles's *Antigone*, Mary Shelley's *Frankenstein*, Melville's *Bartleby the Scrivener*, Dickens's *A Tale of Two Cities* (or, alternatively, *Bleak House*), Kafka's *The Trial* (or *Before the Law*), Dworkin's *Law's Empire*, Foucault's *Discipline and Punish*, *Witness for the Prosecution*, *Judgement at Nuremberg* and perhaps a sampling of various television series ('Rumpole', 'L.A. Law', 'Perry Mason', 'Street Legal' and possibly the OJ Simpson trial).

How the law is 'imagined' by these various 'texts' constitutes an important social document, unlocking, to a certain extent, the values -- moral, political, juridical -- of the culture that produced the document. But this course will argue that these representations of the law do more than just 'hold up a mirror to nature'; indeed, they force us to rethink the law, reconceiving it, as well, as a representation -- in short, a text, subject to the same conventions of aesthetic representation. So the course will conclude by examining actual legal judgements, and how those judgements are informed by narrative conventions, plot structures, novelistic characterisation and constitutive metaphors.

Assessment: 100% continuous assessment

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### **JDOC6043 Liabilities in international aviation (6 credits)**

This course encompasses a study of all aspects of air carriage liabilities.

In particular, there will be close examination of air carrier liabilities (passengers and freight), manufacturers liability, airport liabilities, governmental liability (certification/security), pilot and other alternative liabilities in the event of loss or damage being caused in the course of air carriage.

Assessment: 100% continuous assessment

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### **JDOC6045 Postmodern legal theory (6 credits)**

This is a course in legal theory examining the impact upon that field of ‘post-modernism’, a philosophical and aesthetic movement which has influenced not only the law but art, architecture, cinema studies, politics, literary criticism, history, anthropology and philosophy.

The perspective of the course will be, by necessity, interdisciplinary and will address, initially, a variety of general issues which the term ‘postmodernism’ has raised: namely, the issue of language, of subjectivity, of the body, of the unconscious, of politics and of ‘system’ in general. Specific topics will include: deconstruction (Derrida), psycho-analysis (Lacan, Klein, Zizek), feminism (Irigaray, Cixous), post-Marxism (Althusser, Laclau and Mouffe), New Historicism (Foucault) and post-colonialism (Bhabha and Spivak).

Each of these broad theoretical topics and issues, however, will be connected with those practical questions posed by the law. So, for example, issues of deconstruction will be addressed in the context of judicial interpretation; psycho-analysis, in terms of the split subjectivity -- conscious and unconscious -- of the subject of law, the ‘reasonable man’ or the rights-bearer; New Historicism and/or feminism in terms of the body constructed by the legal regulation of sexuality (abortion, pornography, homosexuality, medico-legal discourse, etc).

Assessment: 100% continuous assessment

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### **JDOC6046 Privacy and data protection (6 credits)**

This course will consider the question of protection of privacy by the common law, bills of rights, the constitution, with particular reference to electronic surveillance and the conflict between privacy and free speech, including problems related to the Internet. Specific issues to be discussed will include: the concept of ‘privacy’ and the genesis and development of its common law protection, especially in the United States; the social need for ‘privacy’ and its political, philosophical and economic underpinnings, background to the legislation; existing common law and statutory protection : the equitable remedy for breach of confidence, defamation, copyright, the intentional infliction of emotional distress, the public interest, remedies; electronic surveillance, interception of communications, the Interception of Communications and Surveillance Ordinance; the protection of ‘personal information’: the data protection principles, data matching and PINS, access rights, transborder data flow; the Privacy Commissioner: powers, functions, exemptions, from the principles, the sectoral codes; the international dimension : UN Guidelines, Council of Europe Convention, and OECD Guidelines, Council of the EC draft directive, Articles 17 and 19 of the ICCPR, Article 14 of the BORO, Article 8 of the ECHR; and the Internet and the protection of personal information.

Assessment: 40% essay assignment, 60% take home examination

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### **JDOC6048 PRC security and insolvency law (6 credits)**

This course will focus on both security and insolvency issues in the People's Republic of China, with reference to both PRC foreign investment enterprises and state-owned enterprises and companies. The options available to creditors for protecting their interests under Chinese law will be a central feature of both parts of this course.

Aspects of security law to be covered include the five forms of security - guarantees, mortgages, pledges, liens and deposits, with an emphasis on mortgages and guarantees. Topics to be studied include : the concept of security, Chinese attitudes towards security, the selection of security providers and of security vehicles, real and personal security, types of business finance, creating security (investigation, negotiation and documentation), the approval process, the recording system, and remedies.

The insolvency portion of the course will focus on the insolvency of foreign investment enterprises and state-owned enterprises and companies. The PRC Bankruptcy Law and related legislation at both the national and local levels will be considered. Topics to be studied include insolvency principles, the economic and political ramifications resulting from the insolvency of state-owned enterprises and companies, an overview of the insolvency process, commencement of insolvency cases, property available for distribution to creditors, representatives of the estate, and liquidation procedures generally. Cross-border insolvency issues, especially in relation to co-operation with the Hong Kong SAR, will also be considered. A reading knowledge of simplified Chinese characters would be desirable.

Assessment: 30% mid-term assignment, 60% research paper, 10% class attendance

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### **JDOC6049 Securities regulation (6 credits)**

The overall aim of the course is to develop an understanding of the regulation of securities markets in Hong Kong.

The course will examine key securities laws and regulations, the functions of and nature of regulatory bodies such as the SFC and HKMA, and the way securities markets such as The Stock Exchange of Hong Kong operate. The impact of regulation on corporate transactions and the general practices of the market and its intermediaries will be studied. The course will consider the benefits and drawbacks of regulation for the market and briefly review the general position of Hong Kong in the global context.

The course is structured in four conceptual parts. (1) Orientation: the nature of regulation and the products, players and marketplaces with which the course will be concerned. (2) Framework: the core laws, regulations and regulators comprising the regulatory framework. (3) Application: how regulation interacts with the business of effecting transactions in the marketplace. (4) Perspective: HK in the global context; assessing the

impact and effectiveness of regulation; where is regulation heading?

Assessment: 75% take home exam; 25% coursework

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### **JDOC6050 Taxation in the People's Republic of China (6 credits)**

This course provides a comprehensive study of the taxation system of the PRC. Particular attention is placed on cross-border taxation problems.

Specifically, emphasis is given to inbound and outbound investment and the principles of tax efficient structuring for investors from high tax jurisdictions, as well as low tax jurisdictions such as Hong Kong. The major PRC taxes to be studied include the foreign investment enterprises and foreign enterprises income tax law, the individual income tax law, the tax administration and collection law and various indirect taxes, particularly VAT, business tax and land value appreciation tax. The structure and use of the PRC double tax treaties are examined in depth.

An integral part of the course involves case studies of cross-border business activity in the PRC and Hong Kong, and if time permits, a typical OECD taxing jurisdiction.

A reading knowledge of simplified Chinese characters would be desirable.

Assessment: 100% continuous assessment

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### **JDOC6055 Law of international finance I (6 credits)**

Law of international finance I is an overview course for postgraduate students dealing with transnational financial transaction formation and its relationship with financial innovation, market practice and financial regulation. The aim of the course is to foster an understanding from first principles of major capital market transactions. This will include consideration of the parties involved and their motives, contract formation, why transactions succeed or how they may fail, applicable regulatory settings, and the legal documentation involved in structuring transactions and allocating risks. Four generic transactions will be covered using recent examples of applications: international syndicated loans, major currency bond issues and issuance programmes, asset-backed securities, and interest rate and currency swaps. Standard documentation and interdisciplinary materials will be used whenever relevant.

Assessment: 100% take home examination at end of semester

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### **JDOC6056 Law and development in the PRC (6 credits)**

“Law and Development” broadly refers to the theory and practice of advancing economic and social progress through legal reform and institutional capacity building. The beauty of

this particular area of scholarship and practice lies in the fact that hardly anyone can disagree with the goal of building a neutral, fair, and universally accessible institutional framework which is meant to benefit all people in equal terms. Nevertheless, how to achieve this goal is an unsettled question. Even the causal relationship between rule of law and economic development is under dispute.

China presents a uniquely rich case for law and development study. While responses towards China's economic development range from outright pessimism about China's future to fear of China as "superpower", what is undeniable is the rapid economic growth of China over the past three decades. Meanwhile, few would deny that China has grown economically without an effective legal system.

This perplexity can be decomposed into a number of questions, for example: is corruption not just a by-product but rather a necessary component in the current mode of "doing business in China"? Has the economic development in China deterred the democratization of Chinese politics (by providing an alternative basis of legitimacy for the Communist Party)? Is economic development sustainable in China given the rapidly degrading environment and how should law do about it? Insights on each of these questions can be drawn from the rich literature which we are going to read for this course and generated in our class discussions. While these insights are recomposed into the broader picture, we'll have a clearer idea on the complex relationship between rule of law and social/economic development.

Assessment: 20% Class participation and presentation, 80% research paper

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### **JDOC6057 International securities law (6 credits)**

International securities law is a topical introductory course dealing with the related subjects of cross-border equity new issues, financial derivatives instruments and practice, and the law and regulation of stock markets and other organised exchanges.

It is intended for postgraduate students who have completed Law of international finance I or an appropriate equivalent, and for final year undergraduates who have successfully completed Law of Business associations. The course will be taught from both academic and practitioner perspectives.

The course aims to develop a usable understanding of law, practice and regulation of cross-border equity capital market new issues, financial derivatives transactions and the law and regulation of organised exchanges. This will include consideration of the parties involved and their motives, contract formation, why new equity issues succeed or fail, the documentation involved in structuring transactions and allocating risks, the functioning and legal foundations of organised exchanges, and the impact of regulation on transaction design and execution.

Pre-requisite: Business associations

Assessment: 100% three take home examinations spread evenly over the semester

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**JDOC6058 Armed conflicts, humanitarian law and human rights (6 credits)**

This course will examine the international standards regulating the conduct for armed hostilities and the use of weapons in both international and non-international armed conflict, the Hague Convention, the 4 Geneva Conventions on the Law of War 1949 and their Optional Protocols 1977, treatment of prisoners of war, humanitarian intervention, the principles of international humanitarian law, peace-keeping, and disarmament and the regulation of minefields. The course will deal with situations of conflict in the Asian region and elsewhere. It will also consider the interaction between international humanitarian standards and human rights standards, their adequacy for addressing the types of armed conflict in the region, the flow of people they produce, and their aftermath.

Assessment: 100% continuous assessment

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**JDOC6059 Criminal justice and human rights (6 credits)**

This course will examine the international standards relating to the different dimensions of the criminal justice process and their implementation at the national level through constitutional, legislative, judicial and other means. Topics covered are likely to include pre-trial and administrative detention, procedural and substantive guarantees at trial (e.g., the right to be presumed innocent and the right to a fair hearing), sentencing, and the rights of prisoners.

Assessment: 100% continuous assessment

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**JDOC6060 Current issues in human rights (6 credits)**

This course will explore in depth a limited number of issues which are of contemporary interest in the field of international human rights law. In 2006-2007, the topics will include the protection of minority rights, self-determination, indigenous rights, and in-depth consideration of the moral and legal scope of so-called “humanitarian” intervention. Prerequisite: completion of either JDOC6068 (Human rights: history, theory and politics) or JDOC6072 (International and regional protection of human rights).

Assessment: 100% continuous assessment

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**JDOC6061 Development and human rights (6 credits)**

This course will consider the concept of the right to development, the recognition and scope of this third generation of rights, the principles governing international trade and those governing respect for human rights, trade sanction and conditionalities in aids, particularly in light of global standards set by international bodies such as World Bank and

the GATT/World Trade Organization, standards developed by other bodies such as the International Labour Organization, bilateral arrangements such as the most favoured nations clause and the moral, political and economic dimensions of such arrangement and their implications for human rights protection, the control on freedom of movement and brain drain, and autonomy on the use and disposition of natural resources.

Assessment: 100% continuous assessment

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### **JDOC6062 Economic, social and cultural rights (6 credits)**

This course will first examine the historical and conceptual evolution and recognition of economic, social and cultural rights, followed by an examination of various international and regional instruments governing economic, social and cultural rights, and in particular, implementation and enforcement of these instruments. There will then be a study of selected rights, including the right to food, the right to work, the right to housing, the right to medical care, the right to education, the right to trade union and collective bargaining, the right to social security, the right to preserve cultural heritage, and minority rights.

Assessment: 10% participation, 20% case comment, 70% research paper

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### **JDOC6063 Equality and non-discrimination (6 credits)**

This course will consider theories of equality, international standards on equality and non-discrimination, and their implementation in national laws and practice. The course will examine (with an emphasis on inequality issues of relevance to Asia) different forms of discrimination and inequality, which may include discrimination on the basis of race, class, ethnicity, sex, disability and other grounds.

Assessment: 25% class participation, 75% research paper

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### **JDOC6064 Ethnicity, human rights and democracy (6 credits)**

Most of the world's conflicts since the end of the Second World War involve ethnic groups against their own country's government, often claiming oppression or violation of their rights by these same authorities. The course examines the causes of this rise of ethnicity, and how majoritarian and liberal democracies – and other forms of government – at times seem to clash with international human rights standards in relation to these ethnic groups. It seems recent developments in the understanding and application of human rights and international law respond to this clash: the rise of rights of indigenous peoples, new modes of expression of self-determination, developments in the rights of minorities, various forms of autonomy to respond to collective claims, and the adaptation of human rights in order to better reflect and protect individuals belonging to ethnic groups facing a non-neutral state.



Assessment: 100% continuous assessment

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**JDOC6065 Freedom of speech and the press (6 credits)**

This course will examine the theoretical justifications for freedom of expression and freedom of the press, the role of the press in modern democracy, the scope of expression, the problem of inflammatory speech and hostile audience, prior restraint, the regulation of free speech by way of the common law of defamation, restriction by official secrets law, access to information and personal privacy, free speech and the judicial process, obscenity, television and broadcasting, and disclosure of sources of information.

Assessment: 100% continuous assessment

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**JDOC6066 Gender issues in human rights (6 credits)**

This course will address the role that gender has played in the conceptualisation, interpretation and implementation of international human rights standards. The topics considered will include feminist critiques of the claimed and rocentrism of human rights guarantees, the guarantees against sex discrimination under international and regional systems, the Convention on the Elimination of All Forms of Discrimination against Women, and the extent to which recent developments in human rights law and practice address the problem of discrimination against women. Specific topics addressed may include violence against women (e.g. issues such as female infanticide, sexual harassment, marital rape, and dowry deaths), the enjoyment by women of economic, social and cultural rights, and the relationships among culture, tradition, religion and women's equality.

Assessment: 100% continuous assessment

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**JDOC6067 Globalisation and human rights (6 credits)**

The course explores the relationship between rights and globalisation. Globalisation is a complex process whereby ideas, technologies, people, and capital move from one place to another, resulting in the greater integration of the world. The spread of the idea of human rights itself, particularly under the aegis of the United Nations, is itself a consequence of globalisation. At the same time, there are other trends in globalisation which threaten the enjoyment of rights: the rise of corporate power, the weakening of state authority, the dominance of the market as the matrix for social, political and economic power, and the downgrading of social rights. Globalisation enables us to explore the connections between political and economic rights, the limitations of rights as applied only against state authorities, and the debate on universalism versus relativism as different cultures are juxtaposed with the movements of peoples and cultures.

Assessment: 100% continuous assessment

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### **JDOC6068 Human rights: history, theory and politics (6 credits)**

This course will consider the evolution of concepts of human rights from historical, political, theoretical and philosophical perspectives. The Western traditions of human rights and the challenges to them will be examined, especially following the Universal Declaration of Human Rights. The issue of universal standards and cultural relativism and the political economy of human rights will also be examined, including the challenge to the dominant Western paradigms by the proponents of Asian values in interpreting and implementing human rights. There will be stress on the exploration of the philosophical roots of Western concepts of human rights and whether these can claim universal validity alongside other philosophical systems such as Confucianism, Islamic thought or Buddhism. Attention will also be paid to feminist and postmodern critique of human rights.

Theoretical and practical questions relating to violations of human rights by non-State actors will also be considered, as will the impact of globalisation on the enjoyment of human rights. This aspect of the course will stress political style analysis of the contexts in which human rights come to be violated and the limits as well as the strengths of the mechanisms which exist nationally and internationally to defend rights in a world system still overwhelmingly dominated by states. The struggle for democracy in the Middle East will receive attention.

Assessment: 90% written assignment and 10% class participation, through introducing texts for discussion.

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### **JDOC6069 Human rights and governance (6 credits)**

This course will examine the international and regional guarantees of the right to self-determination, its relationship with the democratic process and other democratic rights, sovereignty and self-determination, and the rights of minorities. The course may include particular emphasis on the relationship between human rights and the process of democratisation or transition from authoritarian regimes to democratic governments.

Assessment: 100% take home essay

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### **JDOC6070 Human rights in the People's Republic of China (6 credits)**

This course will examine the international and domestic dimensions of the protection of human rights in the People's Republic of China. It will examine the applicability of international human rights standards to the PRC, the stance of the PRC in relation to international national mechanisms for the protection of human rights, and the place of international standards in domestic law. The course will consider the theoretical debates about the origin and contingency of human rights standards, questions of priorities in human rights, and the issue of rights in Chinese cultural contexts. It will also examine the extent of human rights protections available under the Chinese constitution and other laws, and will focus on selected issues, which may include the criminal justice system, freedom

of expression, freedom of association, freedom of religion, labour rights, gender discrimination, and minorities/self-determination. The course will also examine the social and political forces that may contribute to the improvement of human rights in China.

Assessment: 100% research paper

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### **JDOC6071 Indigenous peoples and human rights (6 credits)**

This course will examine the international law status of indigenous peoples and population and the relationship between the rights of indigenous peoples and the rights of minorities. The work of the International Labour Organisation and the United Nations in the field will be considered. Taking case studies from the Asia-Pacific region as a particular focus, issues addressed may include the definition and legal status of indigenous peoples, their rights to land and resources, their linguistic and cultural rights, and their rights to self-determination, autonomy and self-government.

Assessment: 100% continuous assessment

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### **JDOC6072 International and regional protection of human rights (6 credits)**

This course will examine the evolution of international standards of human rights within the United Nations system and the mechanisms established to promote their enjoyment. The topics to be covered will include the development and content of the International Bill of Rights, the major United Nations human rights treaties and the work of the United Nations treaty bodies. The Charter-based mechanisms of the United Nations will be examined, including the Commission on Human Rights and its thematic and country-specific procedures. Particular attention will be given to the relevance of these mechanisms to the Asian-Pacific region.

The European, Inter-American and African regional systems for the protection of human rights will also be considered, in particular the work of their supervisory organs. The possibilities for an Asian regional or sub-regional human rights machinery for the protection of human rights will also be examined.

Assessment: 100% continuous assessment

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### **JDOC6073 International protection of refugees and displaced persons (6 credits)**

This course will examine the various international attempts to address the problem of the forced movements of people due to persecution, armed conflict or natural disaster. It covers international efforts in protecting aliens and refugees, the definitions of refugees in international and regional instruments, the principle of non-refoulement, the 1951 Convention on Refugees, the work of the United Nations High Commissioner for Refugees, and national responses to the flow of refugees.

Assessment: 80% two short essays; 20% in-class quiz

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**JDOC6074 Labour rights and human rights (6 credits)**

This course will focus on the International Labour Organisation and its various agreements. Topics to be covered include historical development of the ILO, the institutional framework and the complaint mechanism, collective bargaining, freedom of association and workers' and employers' organisations, closed shop system, right to strike and other industrial action, restrictions on working conditions, child labour and wage negotiation.

Assessment: 100% continuous assessment

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**JDOC6075 National protection of human rights (6 credits)**

This course will examine the range of methods of ensuring the protection of human rights at the national level and will seek to identify the conditions that are conducive to the full enjoyment of fundamental human rights. The topics to be covered will include the relationship between international law and national law; the use of international standards in national decision-making and policy making; constitutional foundations and judicial review; models of constitutional and legislative protection and enforcement of human rights; and the role of national human rights institutions, such as the public service, human rights commissions, and non-governmental organizations in the promotion and protection of human rights. The course will primarily focus on case studies from the Asian-Pacific region, but will also include material relating to other countries.

Assessment: 70% research paper, 20% presentation of research paper, 10% class participation - two response papers and discussion

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**JDOC6076 Seminar in human rights research, sources and methodology (6 credits)**

This course will provide an introduction to the methodology of, and sources for, rights research. The seminar will examine the various purposes of human rights research and sources and research strategies appropriate for different purposes. The topics covered will include international sources, comparative national material, non-governmental organisation material, and will include both legal sources and resources from other disciplines. The use of electronic resources and search strategies, including the use of the Internet and World-Wide Web, will also form part of the seminar.

Assessment: 100% continuous assessment

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**JDOC6077 The rights of the child in international and domestic law (6 credits)**

This course will examine the concept of children's rights within the Asia-Pacific region as a general theoretical issue, as well as consider selected issues of domestic law and practice in the light of the minimum standards mandated by international human rights law. The second part of the course will seek to apply these theoretical models to the concrete legal situations in the region. It will consider international instruments such as the United Nations Convention on the Rights of the Child, the African Charter on the Rights and Welfare of Children, and the Hague Conventions on Child Abduction and Inter-country Adoption, as well as other regional or bilateral arrangements.

Assessment: 100% continuous assessment

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### **JDOC6082 Corporate governance and shareholder remedies (6 credits)**

This course aims to investigate competing approaches to the concept of corporate governance explored in comparative literature and to canvass major debates on corporate governance reform among academic, business, and policy circles in selected jurisdictions, primarily Hong Kong and mainland China. The course will examine important corporate governance institutions in the selected jurisdictions, particularly the legal standards and arrangements for shareholder protection and remedies, as well as regulatory initiatives in promoting good corporate governance practices and addressing corporate governance failures. Useful examples from overseas jurisdictions, such as the United States and United Kingdom will also be drawn on to illustrate international experience in corporate governance reform.

Assessment: 100% research paper, subject to prior approval of research proposal

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### **JDOC6084 Cross-border insolvency law (6 credits)**

The aim of the course is for students to consider how best to resolve cross-border insolvency issues. The course will begin with an analysis of the transnational aspects of Hong Kong and United States law and, to a lesser extent, of the law of the United Kingdom, Australia, and perhaps other jurisdictions. Also discussed will be some recent proposals to foster cross-border co-operation in insolvency including proposals by the International bar Association and UNCITRAL, as well as the European Union Insolvency Convention on Insolvency Proceedings. Much time will be spent analysing the choice of law questions that arise in transnational insolvencies.

Assessment: 100% continuous assessment

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### **JDOC6086 Current issues in corporate law (6 credits)**

Topics likely to be covered include theories of regulation, concept of control, acquisition of shares including takeover offers, disclosure in takeovers, purchase of own shares and financial assistance in takeover, compulsory acquisition, defending against unwanted takeovers, use of litigation in takeovers, role of SFC and the takeover panel, judicial

review of regulator's powers, the need for insider dealing law, concept of insider dealing, role of Insider dealing Tribunal.

Assessment: 100% continuous assessment

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### **JDOC6087 Current issues in insolvency law (6 credits)**

Insolvency cases in Hong Kong are at an all-time high and the entire insolvency legal regime - including the bankruptcy of individuals and the liquidation and rescue of companies - is in transition. This course will cover both personal and corporate insolvency and will address the ongoing initiatives to reform Hong Kong law.

Detailed knowledge of insolvency law is not a prerequisite. The *Hong Kong Corporate and Personal Insolvency Manuals* will be assigned and will provide students with both an overview of insolvency law in Hong Kong and a detailed analysis of practical considerations. Discussions in class will consider the adequacy of existing insolvency laws and procedures in Hong Kong and evaluate the strengths and weaknesses of the law reform amendments and proposals. Comparisons will be made with insolvency law developments in other jurisdictions.

There will be four primary areas covered: (1) personal insolvency law (both bankruptcy and voluntary arrangements); (2) corporate liquidation; (3) corporate rescue (including out-of-court rescues and the proposed Provisional Supervision procedures); and (4) cross-border insolvency.

Assessment: 100% essay

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### **JDOC6088 Derivatives: law and regulation (6 credits)**

Covers the historical and market developments of swaps and derivatives, market innovations as to financial, capital market and commodities based derivatives, use of derivatives in emerging economies, regulatory and supervisory concerns, and selective case studies of regulatory and litigation issues as to derivative arrangements.

Assessment: 100% continuous assessment

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### **JDOC6093 Regulation of financial markets (6 credits)**

Designed for students considering or planning to work in the financial sector, this is an overview perspective course, for LLM (and JD) students without financial background. Specifically, the course will examine, from legal and policy perspectives, the fundamentals respecting regulation of the primary financial intermediaries and markets: i.e., money and banking, investment banking, and asset management and insurance. Emphasis will be on the on-going phenomenon of globalisation and interdependence/interconnection of

financial markets and intermediaries, and the need for economies to develop viable and robust financial markets, with a particular focus on the current global financial crisis. Use of international, comparative (especially PRC, US and EU) and interdisciplinary materials will be made.

Assessment: 10% class participation, 90% take home examination

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### **JDOC6094 Law of international finance II (6 credits)**

Law of international finance II is a perspective course for students who have completed Law of international finance I or an appropriate equivalent. The focus is on deal formation, regulatory reforms and market practice involving non-traditional intermediation.

Topics will include credit derivatives, synthetic transactions, the mis-selling of complex instruments, Islamic finance, the laws of markets, and non-recourse infrastructural and object finance. The course seeks to generate an awareness of the roots and contemporary features of complex transactions, and place the elements of recently completed deals in a continuing legal and commercial context to apply to situations where elements of one transaction type are combined or embedded with others.

Prerequisites / Co-requisites:

Law of international finance I, an academic equivalent, or substantive and demonstrable professional experience.

Assessment: 100% three short take-home assignments spread over the semester

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### **JDOC6096 International tax and tax planning (6 credits)**

This course assumes a basic knowledge of the general principles of taxation law. It will examine two distinct, yet interdependent, areas: comparative international taxation systems and principles of international tax planning. Specific emphasis will be placed upon the taxation environment (law, policy and practice) within the Asia-Pacific region. Topics to be covered include:

- Inbound and outbound investment: the principles of efficient tax structuring for investors from both high and low tax jurisdictions.
- International taxation: jurisdiction to tax; use of tax treaties; withholding tax; tax efficient financing; mergers and acquisitions; exploitation of intellectual property; real estate; tax incentives; tax havens.
- Personal taxation.
- Impact of international and domestic anti-avoidance regimes on tax planning.
- Case studies involving Hong Kong and mainland China and selected Asia-Pacific countries (particularly Japan, Singapore and the United States) will be an integral part of the course.

Assessment: 60% take home examination, 30% research paper / commentary, 10% class participation

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**JDOC6097 Pension and investment funds in Hong Kong and the PRC (6 credits)**

This course is a comparative study of (a) the private law rights and obligations in and (b) the regulatory regime of pension funds and investment funds in Hong Kong and in the PRC. In relation to (a), emphasis will be placed on the different legal structures used in the two jurisdictions to operate pension and investment funds, and the differences in the extent of the rights and duties of the parties arising thereunder. In relation to (b), emphasis will be placed on a few recent legislative developments in both jurisdictions, such as the new legislative framework on mandatory provident funds in Hong Kong, and the provisional regulation on investment funds in the PRC. Knowledge of PRC law is helpful, but not a pre-requisite to this course.

Assessment: 100% continuous assessment

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**JDOC6098 Project finance (6 credits)**

The course reviews the techniques and contract structures for international project finance including selection of project vehicles, risk assessment and management, concession agreements, project contracts such as purchase, supply and take or pay and forward agreements. The role of the project participants and the creation of legal obligations through performance bonds and guarantees, indemnities, counter-indemnities, and letters of credit as well as their common features and problems encountered in use are discussed. Financial agreements including syndication generally and direct and indirect participation are examined. The place of project security and insurance are introduced as is the topic of subordination. Final topics address current issues in privatisation, the provision of infrastructure in Asia and their relationships to development.

Assessment: 60% open-book final examination, 30% an assigned and agreed research paper, 10% class participation

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**JDOC6099 International commercial arbitration (6 credits)**

International commercial arbitration is well established as the preferred binding mechanism for resolving cross-border commercial disputes. It has seen particularly marked growth and acceptance in the last 20-30 years, including in the Asia Pacific region. The law and practice of international commercial arbitration, while scarcely regulated, has evolved into a highly specialised craft based on international best practices. This course will consider the international and domestic legal framework for international commercial arbitration, as well as the broader regime including international arbitration rules, international arbitration institutions and organizations and international arbitration practices. However, a key focus will be the inside workings of international arbitrations,



revealing the sometimes obscure practices of the discipline. The main topics covered include the making and enforcement of arbitration agreements, establishment of and powers of arbitration tribunals, jurisdictional issues, applicable law (both procedural and substantive), arbitration procedure and evidence, interim and final remedies and rendering and enforcement of arbitration awards (including challenges and appeals). The course will be taught with case examples principally from the Asia Pacific region, and extensive examples from the practices of well known arbitral institutions, such as the ICC International Court of Arbitration, and of arbitrators sitting under the auspices of the ICC.

Assessment: 100% take home paper

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### **JDOC6101 Competition, mergers and acquisitions (6 credits)**

This course covers the merger review aspect of competition law from a global perspective. The course is divided into two sessions. The first session focuses on the merger review practices of the US, with a particular focus on the case law and agency practices regarding the review of mergers. The second session will introduce students to basic principles of merger review under EU law. Emphasis will be placed on both the institutional framework and substantive review of mergers under EU law.

Assessment: 100% 2 take home examinations

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### **JDOC6102 Legal aspects of white collar crime (6 credits)**

The course applies international and comparative perspectives to the problem of white collar crime in the HKSAR. The topics covered include defining 'white collar crime', money laundering, terrorist financing, forfeiture/confiscation of crime tainted property, corporate criminal liability, punishing the corporation, investigating and prosecuting white collar crime, and possibly others.

Assessment: 100% continuous assessment

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### **JDOC6106 Issues in information technology law (6 credits)**

This course examines the legal and policy issues relating to information technology (IT). It covers wide range of issues involving how national governments regulate the technology of internet and how private citizens' rights relating to internet are protected such as privacy and personal data, censorship and freedom of expression, civil and criminal liabilities of internet entities (e.g., ISPs and end-users), internet jurisdiction, issues in electronic transactions such as digital signature, computer crimes, selected intellectual property issues (e.g. P2P infringement, business method patent and domain name), and enforcement of law over internet.

Assessment: 20% 2 short response papers, 80% research paper

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**JDOC6107 Insurance law (6 credits)**

The course covers the operation and regulation of the insurance market; the definition, importance and reform of the concepts of “Insurable Interest” and “Utmost Good Faith”; the specific terms of insurance contracts; how losses and claims under insurance contracts are dealt with; the rights of insurers, including subrogation and contribution; the rights and duties of insurance intermediaries; and the nature of property insurance, marine insurance, reinsurance and liability insurance.

Pre-requisites/Co-requisites: Law of contract, Commercial law

Assessment: 100% take home essay

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**JDOC6108 The child and the law (6 credits)**

Special attention to be given to the law relating to the child by examining the increasing importance of the child in family law. Evaluation of law governing parent and child relationship; the concept of parental rights and duties; the emergence of children's rights; the relationship between the child and the state; child protection under municipal and international law.

Assessment: 100% continuous assessment

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**JDOC6109 Public international law (6 credits)**

The course is intended as a general introduction, also for non-law students. Great stress is placed on the nature of international law technique and method. For this purpose the course explains at length the concepts of sovereignty and statehood. It considers how states create international law through treaty and customary law. These techniques are explained with reference to cases. The course also introduces certain concrete difficulties facing the international community, such as the “War against Terrorism”, the South China Sea disputes, the Middle East conflict, nuclear proliferation etc. These are outlined in an introductory way.

Other standard topics of international law are covered. These will include the relationship between international and municipal law; the subjects of international law; state recognition; state jurisdiction; the acquisition and loss of territory; state responsibility; state succession; treaties and other international legal agreements; the pacific settlement of disputes; the use of force; international institutions; human rights.

Special reference will be made throughout to considerations which are particularly relevant in the Hong Kong and Southeast Asian contexts.

Assessment: 100% written assignment

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**JDOC6110 Law and regulation of banking and insurance in the People's Republic of China (6 credits)**

This course involves an examination of the legal framework governing banking and insurance. The course begins with a discussion of the central bank, the People's Bank of China, regarding its role, activities, and regulatory power. Entry into the business of banking and regulation of the activities of banking business are examined. In addition to the regulatory regime, the law of negotiable instruments and the international transaction aspects of banking business are also treated. The course then moves into the regulatory regime governing the insurance industry. Restrictions of entry and activities of insurance companies are examined. Prudential management and investment limitations are also dealt with. Regulatory supervision of insurance companies and regulation of insurance agents and brokers are analysed. Other topics of insurance law include: insurable interest, subrogation, the insurance contract, third party claimants, and bad faith claims.

Assessment: 20% class presentation, 80% research paper

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**JDOC6111 E-business law (6 credits)**

Legal issues raised by the growing use of Electronic Data Interchange and Computer Encryption in international commercial transactions, documentary credits and international carriage of goods. Topics include the national and international framework for electronic commerce; electronic contracting; internet trade system using the private/public key cryptography; legal authentication and security issues; international conventions and model laws on electronic commerce promulgated by international bodies such as ICC, UNCITRAL, OECD; electronic bills of lading and BOLERO; electronic letters of credit; internet taxation issues and revenue implications.

Assessment: 20% presentation based on the research essay, 30% in-class open-book assessment, 50% research essay

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**JDOC6112 Criminal law and procedure in the People's Republic of China (6 credits)**

This course will examine the structure of criminal liabilities under Chinese criminal law and the stages of criminal process on the mainland of the People's Republic of China (PRC). It will consider: (1) the organizations of criminal law in China and their relationship; (2) the changing rules of criminal liabilities and criminal process and their political and social context; and (3) the operations of the criminal law and the culture of criminal justice system in China. Major topics of the course include: definition of crime in the PRC, structure and principles of PRC criminal law, commercial crimes in the market economy, powers in criminal investigation, the judiciary and criminal trial, rules of evidence, and rights of the accused.

Assessment: 100% continuous assessment

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**JDOC6113 Constitutional and administrative law in the People's Republic of China (6 credits)**

This course consists of two parts. The first part of the course examines the following topics: (1) China's constitutional development and reform, (2) the state system, (3) the status of the Chinese Communist Party, (4) citizen's rights and obligations and, (5) the social and economic system. Through comparative studies, students are expected to understand the major differences between the concepts under the Chinese Constitution and the features of western liberal constitutionalism and the difficulties, as well as perspectives, for China's constitutional reform.

The second part of the course focuses on China's administrative law system. Topics on this part include: (1) historical foundation and development of the administrative system in China; (2) comparative studies of Chinese and western administrative law system; (3) administrative review including administrative reconsideration, punishment, and supervision; (4) judicial review or administrative litigation; and (5) state compensation. In contrast to the first part, this part is mainly conducted through case study format. Students are expected to analyse the issues in the cases by applying relevant laws and regulations.

Assessment: 100% continuous assessment

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**JDOC6114 Cross-border legal relations between the Mainland and Hong Kong (6 credits)**

The course will focus on the constitutional, criminal and civil aspects of cross-border legal relations, which will include:

The status of PRC constitution and the Basic Law and the issue of congressional supremacy,  
Criminal jurisdictions,  
Repatriation of fugitives and sentenced persons and mutual legal assistance in other criminal matters,  
Mutual recognition and enforcement of arbitral awards and judgments,  
Procedures of cross-border services and evidence taking, and  
Cross-border insolvency and family law matters.

The course will be taught in both Putonghua and English. The medium of coursework and examination will be Chinese.

Assessment: 100% research paper

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**JDOC6115 Advanced seminar on Chinese law (6 credits)**

This seminar will focus on selected topics including: the role of the judiciary, the rule of law, law and development, enforcement of the law, economic reform and commercial law, WTO and China, globalization and local culture.

Assessment: 100% continuous assessment

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### **JDOC6117 Cybercrime (6 credits)**

‘Cybercrime’ refers to computer-mediated activities which are either criminal or regarded as illicit and which can be conducted through global electronic networks. It encompasses cybercrimes against the person (e.g. cyber-stalking, cyber-pornography), cybercrimes against property (e.g. hacking, viruses, causing damage to data, cyber-fraud), and cyber-terrorism. The computer-age has also provided organized crime with more sophisticated and potentially secure techniques for supporting and developing networks for a range of criminal activities, including drugs trafficking, money laundering, illegal arms trafficking, and smuggling.

Cybercrime poses new challenges for criminal justice, criminal law, and law enforcement. This course will examine the nature of and problems created by cybercrime, along with some of the legal and policy challenges arising in relation to the development of national and international law enforcement and regulatory responses to cybercrime.

Assessment: 60% research paper, 40% assigned research, review and presentation

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### **JDOC6119 Human rights and cyberspace (6 credits)**

The exponential growth of the internet and world-wide web provides great opportunities for and poses significant challenges to enjoyment of human rights in many areas. This course will examine a number of areas in which the Internet revolution has provided new tools and opportunities for promoting the enjoyment of human rights, as well as for enabling violations of human rights:

- The use of the Internet for building human rights networks for the dissemination of information and the co-ordination of action at national and international levels.
- Issues of access to technology, in particular the opportunities for persons with certain disabilities provided by IT developments, the problems of accessibility and the legal obligations of e-service providers to ensure that their services are accessible to persons with disabilities.
- The use of the Internet for the dissemination of racist material and other forms of offensive material.
- Cyberstalking and harassment through the Internet.
- The global dimensions of the Internet: the difference between rich and poor, the issue of language.
- Gender and the Internet.
- Freedom of expression and the Internet.

- Jurisdictional and substantive law problems in relation to human rights and the Internet.
- Use of the Internet by non-governmental organisations for building international networks and co-ordinating activism on human rights issues.

Assessment: 20% participation, 80% research paper

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### **JDOC6120 Intellectual property and information technology (6 credits)**

Given the ubiquity of information technology (IT) today, intellectual property (IP) issues related to IT have never been more prominent. With almost daily headlines about IT-related IP matters, IP and IT is one of the hottest and most important topics in law today.

The class will look at how IP can be used to protect IT innovations, products and creations, and how technological developments present new challenges in IP law.

Prior IP or IT knowledge is not required.

Assessment: 10% short quiz, 40% coursework, 50% in-class presentation

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### **JDOC6123 Law, the individual and the community: a cross-cultural dialogue (6 credits)**

This course is a "global classroom" course centered on dialogue amongst parallel classes at universities in a number of countries (including Canada, Singapore, Malaysia, Finland and the USA) by means primarily of Internet-based communications technology. The course deals with competing ideas about the appropriate relationship between individual and community and the role of law in regulating that relationship. A special concern is to explore the extent to which human rights are an indispensable and universally-desirable aspect of such legal regulation. Are there reasons to believe that either the idea of human rights or the content attributed to some human rights cannot be justified as appropriate for all societies in all contexts? In order to provide a context for the dialogue amongst the students in the different universities, selected cases and scenarios from international human rights law (as well as some comparative constitutional case law) provide the concrete focus for exploring the broader theme. The issues to be examined are likely to include (though will not necessarily be restricted to) the death penalty, preventive detention, sexuality, corporal punishment, parent and child relationship, and freedom of expression.

The course will involve regular meetings of the class in Hong Kong, together with participation by students in discussions with their counterparts in other countries for 8 weeks during the semester. This discussion will be based around the common themes and reading being considered simultaneously by each of the classes during that period. The main form of communication technology used to link the students is an Internet website discussion group (a series of "conferences"), hosted by the Bora Laskin Law Library at the University of Toronto, with a back-up site at the National University of Singapore. Students will be

required to contribute to the conferences on a weekly basis as part of the course. The co-instructors at the different institutions will moderate general conferences involving all students from all the participating universities.

[Note: This course was originally conceptualised and implemented by Professor Craig Scott of the University of Toronto and Professor Kevin Tan, of the National of University of Singapore. The course description above is based largely on their course description and appears with their permission.]

Assessment: 100% continuous assessment

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### **JDOC6124 Communications law (6 credits)**

This course examines how the telecommunication and broadcasting industries are regulated in Hong Kong, and introduces the main features and problems of the relating legislation and regulation.

Topics may include:

- TV and radio licensing
- Foreign ownership control
- Cross media ownership control
- Content regulation
- Competition regulation in broadcasting sector
- Telecommunications licensing
- Interconnection
- Competition regulation and consumer protection in telecommunications sector
- Convergence
- Interception and surveillance

Assessment: 20% group project and presentation, 80% research paper

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### **JDOC6127 Current issues in financial law (6 credits)**

The course will cover a number of important topics in current financial and security law at both a local and international level. In addition, various issues of importance to lenders in the event of insolvency will be explored. Although some knowledge of the common law of contract and property law may be useful, introductory classes will re-examine matters of basic common law principles before more detailed analysis is begun.

Assessment: 10% class presentation, 90% take home assignment

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### **JDOC6128 International trade law I (6 credits)**

This course will provide students with a practical insight into a number of areas of

international trade law and the practices of the Admiralty and Commercial Courts. It will use shipping scenarios to illustrate the various contracts and issues that arise in private international trade.

The course is taught in a practical way and requires students to think of commercial solutions to problems. Students will have the opportunity to undertake research and use case law, ordinances and international conventions in realistic situations.

The course covers the following areas:

- International sale of goods – the contracts and terms found in sale contracts involving an international element
- Marine Insurance – what is covered by insurance and the duties on an insured
- Letters of Credit – the method of financing the sale contract and the obligations on the banks and parties
- Carriage of goods by sea – who has a right to sue the sea carrier of the goods, the obligations on the sea carrier of the goods and whether the sea carrier can sue anyone for their losses
- Jurisdiction and choice of law – in which country a claim can be brought and which law will be applied to the claim
- Litigation – the most useful procedures used in commercial litigation such as security for costs, freezing injunctions, orders for inspection, arrest of ships
- Arbitration – the procedures that apply to an arbitration of a claim

Prerequisites / Co-requisites:

Must have studied Contract and Tort

Assessment: 100% take home assessment

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### **JDOC6130 Law, justice and ideology (6 credits)**

Social theory and the sociology of law: Pound, Erlich, Durkheim, Weber; law and social change.

Law as ideology: law and power, Marxist theories of law and state, critical legal studies.

Theories of justice: utilitarianism, the economic analysis of law, Rawls, Nozick, Hayek.

Assessment: 100% continuous assessment

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### **JDOC6131 Media law (6 credits)**

The primary objective of the course is an appreciation of the extent that law is affecting media practice. A familiarity with principal areas, such as defamation, privacy, contempt of court and various regulatory regimes governing the media will be developed. The underlying themes throughout the course are the meaning of freedom of the press, the responsibility of the media as a watchdog, and the balance between the two. Apart from a



study of the local context, there will be frequent references to comparative materials, in particular the USA. The syllabus outline is as follows:

1. Introduction: the role of the press in democratic society, its relation and differences with freedom of expression, the history of, and the justification of the development.
2. Freedom of the press: freedom from what, and freedom to do what? No licensing; control by the Press Council.
3. The Law of Defamation and its defences.
4. News Gathering I: Intrusion into Privacy.
5. News Gathering II: access to information, official meetings and records, places and institutions.
6. Breach of Confidence.
7. Publication of Obscene and Indecent articles
8. Contempt of Court: Disclosure of news sources and prejudicial reporting of trial.
9. Access to the Media and the rights of reply.
10. Broadcasting regulation and the differences between broadcasting and printing media.
11. Regulated Media and Beyond: the Internet.

Media law will be a one-semester course. Seminar will be conducted, where students are expected to have prepared for class discussion.

Assessment : 60% exam, 40% class participation, a research paper of about 15 pages and a presentation on the research paper.

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### **JDOC6132 International and comparative intellectual property law (6 credits)**

This course introduces the international framework within which intellectual property law (IP) operates, including copyright, patents, trademarks, industrial designs, data bases, geographic indications, plant varieties and other forms of intellectual property. The course examines how multilateral conventions and agreements such as Berne Convention, Paris Convention and TRIPS Agreement shape national IP laws, the role of international bodies such as WIPO and WTO, the effect of bilateral agreements, and other international influences on the development of IP law. The course also introduces the enforcement provisions and WTO dispute settlement mechanism concerning international IP disputes. While devoting special attention to IPRs protection for cutting edge technologies such as biotechnology and information technology, the course also discusses the protection for traditional knowledge and folklore, and the overall implications of international IP

protection for global competition between developed and developing countries in an integrated world market.

*Previous or concurrent study of any basic intellectual property course is strongly recommended.*

Assessment: 15% class participation, 85% take home examination

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### **JDOC6133 International economic law (6 credits)**

The recent dramatic transformation of the international economic legal order is generally attributed to “globalization”, on the one hand, and liberalization, harmonization and unification of national policies and laws that affect trade, investment, and financial and commercial transactions across national borders, on the other hand. Concerns arise as to the coherence and compatibility of these processes and efforts with respect to national and global economic development, and overall welfare. This is the domain of international economic law; the law and policy of relations between national governments concerning the regulation of economic transactions that have cross-border effects. The course will broadly introduce those areas of international law and institutions that have shaped, or are the resultant of, the recent transformation of the international economic legal order, under three general themes: international trade, investment and competition law; international financial and monetary law; international commercial transactions. It will cover the relevant activities of international organizations such as the WTO, ASEAN, APEC, NAFTA, EU and ICSID. In addition to trade, investment and competition, the subject matter will include topics dealing with banking, insurance and securities. The role of institutions such as central banks through the BIS and the Basle Committee in the development of regulatory frameworks will be examined. The activities of two Bretton Woods international institutions, the World Bank and IMF, as well as the IOSCO will be studied. Efforts to unify or harmonize laws that affect international commercial transactions by international institutions such as the ICC, UNCITRAL, UNIDROIT, Hague Conference in Private International Law and OECD will also be examined.

Assessment: 100% take home examination

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### **JDOC6134 Selected issues on WTO and China (6 credits)**

This course is an advanced seminar on the interactions between WTO law and national measures in selected areas such as customs administration; public health and safety, consumer protection, industrial and competition policies; agricultural, textiles and clothing markets, financial services markets, telecommunications, and intellectual property rights. Each topic will include a discussion of the interactions between WTO law and national measures with respect to China. This will include examination of issues related to State trading, economies in transition and differential treatment to accommodate the special needs of developing economies. The course will begin with a review of the general principles of the WTO agreements, and a discussion of the sources of WTO law concerning China’s commitments and obligations. Topics of study will include valuation

for customs purposes, pre-shipment inspection, rules of origin and import licensing procedures. The WTO agreements on sanitary and phytosanitary measures and technical barriers to trade will also be considered, as will the treatment of anti-dumping measures, subsidies and countervailing duties, and government procurement. Policies related to trade in agricultural products, textiles and clothing will be addressed in the light of relevant WTO agreements. The GATS and its annexes on Financial Services with respect to banking, insurance and securities, and, Telecommunications will be examined. Finally, the course will conclude with a detailed analysis of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) and a review of the requirements necessary for a national regime to implement the TRIPs agreement.

Assessment: 100% continuous assessment

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### **JDOC6136 Dispute settlement in the WTO : practice and procedure (6 credits)**

This course is a specialized seminar on issues that arise in the context of WTO law and its dispute settlement processes. It will unfold along three themes: the foundations of WTO law; the law and policy of dispute settlement in the WTO; and, practice and procedure before WTO dispute settlement and arbitral Panels and Appellate Body (AB). The first theme will review the sources of WTO law, its relationship with, and status within, the legal systems of WTO members. This includes an analysis of the standards of WTO review applicable to national measures applied by its Members within their own domestic legal systems, and the effects of WTO dispute settlement mechanisms on certain fundamental dimensions of national sovereignty.

The second theme will consider the provisions that establish and govern the processes and institutions for the settlement of disputes in the WTO. The principles that govern WTO dispute settlement will be explored, and the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) will be examined in some detail. Equally, particular attention will be given to specialized rules that are applicable to the settlement of disputes arising from the operation of a number of WTO Multilateral Agreements on Trade in Goods (MTAs), the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), and the Plurilateral Trade Agreements.

The third theme will address issues concerning the scope of the jurisdiction of the WTO Panels and AB, practice and procedure related to claims and defenses, stages of pleadings involved before the Panels and AB, evidentiary requirements, adoption and implementation of the decisions (“reports”) of the Panels and AB, as well as available remedies for breach of WTO obligations, and in particular, for failure to implement a Panel or AB decision.

Assessment: 100% continuous assessment

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### **JDOC6137 Current issues in international arbitration and dispute settlement (6 credits)**

This course will focus on selected issues of current interest in international arbitration and dispute settlement. The topics offered will vary from year to year. The course is likely to be offered by permanent staff of the Faculty, Visiting Professors and Practitioners.

Assessment: 100% continuous assessment

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### **JDOC6138 Arbitration law (6 credits)**

In the world's globalizing economy there has been a dramatic increase in the size and complexity of international business and commercial transactions. The main focus of this cross-listed course will be on the use of arbitration to resolve disputes arising out of such business and commercial transactions. The course will provide a comprehensive introduction to the arbitration law and practice in Hong Kong and students will consider a range of theoretical issues and substantive topics in this course, including:

- overview of the wide range of dispute resolution methods, including arbitration
- fundamental concepts of arbitration law
- legal framework of arbitration law in Hong Kong
- overview of Hong Kong's Arbitration Ordinance and its objectives and principles
- issues relating to the arbitral process and procedure, such as the:
  - arbitrability of disputes
  - enforceability of arbitration and submission agreements
  - appointment and powers of arbitrators
  - jurisdictional challenges
  - preliminary proceedings
  - form of the arbitration hearing
  - interim and final remedies
  - evidentiary matters (hearings and discovery)
- rendering of arbitral awards (including challenges and appeal)
- recognition and enforcement of arbitral awards
- interests and costs
- role of the courts in the arbitral process

Assessment: 30% assignment, 70% in-hall exam

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### **JDOC6139 PRC Information technology law (6 credits)**

This course examines the key law and regulations concerning the Internet and related business in Mainland China. It intends to provide a wide-angle view of the Chinese legislative framework for the Internet and IT industry. Against the background that both the Mainland and Hong Kong are the members of the WTO, the course also intends to examine the impact of the Chinese Internet and IT Regulations on cross-border transactions of IT products and services. The law of other jurisdictions and the

international treaties, however, may be used to compare with the related Chinese law.

Topics may include:

- Overview of IT and Internet Regulatory System
- Administration of Websites
- Electronic Commerce and Electronic Signature
- Online Publishing and Media
- Online Advertising
- Telecommunications
- Commerce Encryption
- Online Intellectual Property Issues
- Domain Name System
- Legal Protection for Software and Integrated Circuits
- Privacy Protection and Internet Censorship
- Liabilities of Network Service Providers
- Defamation, Negligence and Trespass
- Computer Crimes
- Jurisdiction and Conflict of Law in the Cyberspace
- Online Dispute Resolution

Assessment: 100% research paper

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### **JDOC6140 Intellectual property, innovation and development (6 credits)**

This course examines the interplay between intellectual property law, innovation and economic development. It focuses on cutting-edge technologies such as information technology, biotechnology and green technology to assess how these technologies have changed the landscape of IP law on the one hand, and how IP law has affected the development of these technologies on the other hand. Specifically, this course discusses the relationship between IP laws (particularly patent law), and innovation and development. It uses judicial cases and empirical examples to illustrate how patents for biotech and pharmaceutical inventions have affected the access to technology and essential medicines, and how the IP regime has been employed to protect genetic resources/traditional knowledge and green technologies, and whether such protection promotes or impedes innovation and technology transfer in these industries, and how IP protection has affected social and economic development of developing countries and least-developed countries. Last but not least, the course investigates IP-related antitrust issues, and discusses how to strike a balance between IP and competition for the benefit of technology innovation and economic development.

*Previous study or concurrent enrolment in any basic intellectual property course is suggested. Scientific and technical background is helpful, but not required.*

Assessment: 85% take home examination; 15% Class participation

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### **JDOC6144 Rights and remedies in the criminal process (6 credits)**

This course examines how courts in various common law countries have enforced the legal rights of suspects and accused persons at different stages in the criminal process. The following rights will be studied comparatively: right to be free from arbitrary detention, right to bail, right to legal representation, right of silence, right to trial without undue delay, right against unreasonable search and seizure, and right to a fair trial. The remedies to be examined will include exclusion of evidence at trial, stay of proceedings, declaration, damages, adjournment, and bail.

Assessment: 100% take home examination or research paper

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### **JDOC6146 Law and religion (6 credits)**

Law and religion are two of the oldest social institutions. In various forms, law and religion exist in every human society. Law and religion also have very close relationship to each other. Looking from human history, religion could be so intertwined with law that there could be complete overlap. However, the modern trend is to separate the two so that a wall is built between law and religion. This course will examine the various models on how law and religion interact with each other. Historical as well as analytical approaches will be adopted. Critical questions will be raised on examining the proper relationship between law and religion under different worldviews and various religious traditions including Judaism, Islam, Buddhism, Hinduism and Christianity. The role of religion in public debate will also be considered.

Assessment: 20% group project and presentation, 30% research paper, 50% take home examination

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### **JDOC6149 Healthcare law (6 credits)**

Health care structure in Hong Kong: private health care and Hospital Authority; health insurance; complaint and investigation procedures; Hong Kong Medical Council and professional misconduct; other healthcare professionals e.g. psychotherapist and radiologist..

Medical treatment: consent to medical treatment; assessment of competence; role of expert witness; consent by and on behalf of a MIP and MHO; voluntary patients; compulsory detention; mental health review tribunals; medical negligence

Beginning life: family planning; contraception; sterilization; abortion; child destruction; infanticide, wrongful conception, and wrongful life.

Confidentiality: access to medical records; personal data and privacy; reporting statutes; AIDs; protection of genetic information.

Use of body parts and bodily materials; human experimentation: embryo and fetal research; rules governing clinical trials; liability for injuries; the role of institutional ethics committee.

Complimentary medicine: Chinese medicine; Chinese Medical Council; integrating Chinese medicine

Assessment: 100% continuous assessment

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### **JDOC6150 Comparative law (6 credits)**

The common law system provides principles and methods for responding to society's needs and values. Some of those principles and methods will be compared with the legal and extra-legal equivalents in non-common law nations. The influence of special social and economic characteristics will be noted. Appropriate jurisprudential theory will be discussed.

Assessment: 20% class presentation, 80% research paper

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### **JDOC6151 Human rights in Asia (6 credits)**

The course will cover important contemporary human rights issues in Asia. These current issues may be regional or country-specific. The teaching may draw in history, culture, politics and law to take a holistic approach to the many human rights challenges that countries or regions within Asia face. It will nevertheless be dominated by the legal approach.

Assessment: 100% continuous assessment

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### **JDOC6152 Dealing with legacies of human rights violations (6 credits)**

This course will examine the ways that nations around the world have dealt with, and are dealing with, legacies of gross violations of human rights of the past. It will draw from several disciplines but will be dominated by the legal approach which is firmly rooted in the right to an effective remedy for gross violations of human rights and the duty of States to investigate, prosecute and punish such acts. Issues to be examined will include the policy choices that nations emerging from sustained periods of repression or armed conflict have to make, and the types of mechanisms that have been employed by countries that have sought to deal with such situations. The course will, *inter alia*, examine whether there is a chasm between the striking promises made by the ubiquitous use of terminology such as 'truth', 'justice', 'healing' and 'reconciliation' and reality. How does public opinion, most significantly, the views of victims and survivors, fit into international diplomacy and local politics? What role can traditional dispute resolution play? The course will also examine the work and effectiveness of international criminal tribunals,

‘internationalised domestic courts’, commissions of inquiry, and other methods of reckoning with past wrongs in societies around the world, as well as consideration of new processes that are evolving.

Assessment: 15% class participation, 35% group exercise, 50% research paper

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### **JDOC6153 Business and human rights (6 credits)**

This course investigates the relationship between business and human rights in the context of globalisation and as a distinct field within the broader corporate social responsibility (CSR) movement. The course will invite students to explore the relevance of human rights standards and norms to business operations and consider the extent to which corporations are or should be bound by human rights law and obligations. The legal, political, economic and social issues arising from the cross-border activities of multinational enterprises (MNEs), particularly in developing countries, will be examined against the backdrop of the growing public demand for greater transparency and accountability. The course will also analyse the role and methodologies of civil society seeking to influence corporate human rights practices, and the ways in which some MNEs have responded to growing pressure to address human rights issues through initiatives that seek to connect CSR, human rights and business strategy by managing reputational risk and promoting human rights as a source of competitive advantage in the marketplace.

Assessment: 70% research paper, 20% reflective journal, 10% class participation

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### **JDOC6154 Competition law (6 credits)**

This course introduces students to basic concepts of competition law (known as antitrust law in the US). Despite being relatively new to the region, competition law has become highly pertinent in East Asia in recent years. In China, the Anti-Monopoly Law came into effect on August 1, 2008 and has attracted much attention around the world ever since. The Legislative Council of the Hong Kong SAR has recently enacted the region's first cross-sector competition law. With its aggressive enforcement stance, South Korea has become a favorite jurisdiction for multinational corporations to lodge complaints against competitors. With increasing cross-border enforcement across the globe, competition law will surely take on yet greater importance in the future.

The two most developed and influential jurisdictions of competition regulation are United States antitrust law and European Union competition law. This course (LLAW3123/6154 Competition law I) will focus on US antitrust law, with some attention devoted to the new Hong Kong Competition Ordinance towards the end of the course. EU competition law will be covered in LLAW3124/6155 Competition law II, offered in the second semester. Students are encouraged to take both courses (LLAW3123/6154 and LLAW3124/6155) to acquire a global/comprehensive understanding of competition law.

This course will focus on two of the three main areas of competition law: restrictive agreements and abuse of dominance. Cases and materials will be drawn from the US and



the European Union, with a heavier focus on the US materials.

Assessment: 100% 2 take home examinations

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### **JDOC6155 Competition law II (6 credits)**

This course focuses on competition law of the European Union, with references made to the newly-enacted Hong Kong Competition Ordinance and US antitrust law. Despite being relatively new to the region, competition law has become highly pertinent in East Asia in recent years. In China, the Anti-Monopoly Law came into effect on August 1, 2008 and has attracted much attention around the world ever since. The Legislative Council of the Hong Kong SAR has recently enacted the city's first cross-sector competition law.

Given the first and second conduct rules of the Hong Kong Ordinance are substantially modelled on Articles 101 and 102 of the Treaty on the Functioning of the European Union ("TFEU"), the EU case-law, regulations, and guidelines etc. on Articles 101 and 102 will provide useful guidance to the interpretation and application of the Hong Kong conduct rules. This course will examine in detail two major areas of EU competition law: restrictive agreements (regulated under Article 101 TFEU) and dominant-firm conduct (i.e. abuse of dominance, regulated under Article 102 TFEU). While references will be made to Hong Kong and US law, the take-home examinations will focus exclusively on the application of EU principles to competition law issues.

Assessment: 100% take home assignment

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### **JDOC6156 Comparative constitutional law (6 credits)**

This course reviews the operation of certain key aspects of the Basic Law of the HKSAR within a comparative context. Regular reference will be made to operational characteristics of Public Law in Canada, Australia, the United States and certain other jurisdictions. Topics may include: an overview of the nature of Constitutional Law and Constitutionalism, the theory and nature of Judicial Review, the operation of the adjudicating process in political entities where sovereignty is divided to some degree, the right to due process, equality rights and other key civil and political rights including freedom of expression and freedom of the press.

Students will be evaluated by a written assignment (between 3000- 4000 words) that accounts for 80% of the overall grade and an oral presentation/ class participation that accounts for the remaining 20%. There will be no examinations.

Assessment: 100% continuous assessment

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### **JDOC6165 PRC economic law (6 credits)**

This course examines the general framework of major economic legal institutions in China, broadly defined as the legal and regulatory structures governing business activity in both of the public and private sectors where the role of state oversight is prominent. Three issues will be discussed: (1) the making and implementation of laws and regulations on several critical aspects of doing business in China and their reform; (b) the process of institutionalizing legal governance for Chinese commerce and paving a level playing field for market participants; (c) the impact of globalization, particularly seen from China's entry into the World Trade Organization (WTO), on the development of the country's economic legal institutions.

Four areas of law are covered:

- Enterprise law: how to start and operate a business?
- Financial law: how to finance a business?
- Competition law: how to curb anti-competitive business activity?
- Consumer protection law: how to prevent businesses from harming consumers and to hold businesses accountable for product liability?

The primary objective of this course is to help students develop a general understanding of the legal and regulatory framework of major economic institutions in China, particularly those involving a significant role of the Chinese state in the economy. To achieve this objective, the course will examine key laws and regulations on important aspects of the Chinese economy and their reform during China's transition from a command economy to a market economy. Domestic debates over policy orientation and reform strategy will also be reviewed to show students how China's economic legal regime has evolved in the face of changing reform dynamics shaped by both domestic and global conditions.

Assessment: 20% group presentation, 80% take home exam

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### **JDOC6167 PRC tort law (6 credits)**

This course introduces the history of PRC tort law, the main provisions of the newly enacted PRC Tort Law (2010), relevant principles of PRC General Principles of Civil Law on which tort law is based, other tort-related laws, regulations, and judicial interpretations. The course will analyze the tort cases which have been adjudicated by Chinese courts to see how cases are decided under the existing tort laws and what are the problems with these decisions. The discussion of the laws and cases aims to solve the substantive issues including liabilities based on fault such as personal and property injury, tort injury to personality rights and family/business relations; liabilities without fault such as product liability, environmental pollution, ultrahazardous activities, and injuries caused by domestic animals; fault-presumed liabilities such as medical malpractice, motor-vehicle traffic accident and work-related accidents. These issues and various concepts such as intentional torts, negligence, vicarious liabilities, and joint and several liabilities will be discussed in comparison with the common law counterparts.

Assessment: 15% class participation, 85% 24-hour take home examination

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### **JDOC6170 Introduction to information technology law (6 credits)**

This is a basic course in the LLM IP/IT stream introducing students to the information technology and the legal issues arising from the technology. The course will begin by examining the essential features of information technology and the characteristics of the Internet, followed by investigations into the legal issues created by the technology. Discussions will primarily be based on the laws of Hong Kong, with references made to the laws of other leading jurisdictions. Topics to be covered include, but are not limited to, the following:

- Introduction to information technology and the Internet
- Intellectual property issues
- Illegal contents on the internet (eg. defamatory or obscene materials)
- Online trading
- Data privacy
- E-crimes
- Jurisdictional issues

Assessment: 100% research paper

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### **JDOC6171 Corruption: China in comparative perspective (6 credits)**

This course examines the pervasive problem of corruption in the People's Republic of China in comparative perspective. The course aims to combine theoretical understanding of corruption with the best practice in prevention, investigation and punishment of corruption. Subject matters to be covered in the course include perception of corruption, definition of corruption, theoretical observations, case studies on corruption, anti-corruption system, legal framework, education and whistle blowing, and international cooperation.

Assessment: 100% research paper

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### **JDOC6172 Carriage of goods by sea (6 credits)**

Bills of lading and other sea transport documents (e.g. waybills, delivery orders); express and implied terms in contracts of affreightment (concerning seaworthiness, deviation, dangerous cargo etc); the Hague and Hague-Visby Rules; voyage charterparties and time charterparties; maritime arbitration; electronic data interchange (EDI) and electronic bills of lading.

Assessment: 100% open-book final examination

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### **JDOC6175 Law and literature (6 credits)**

This course explores the complex inter-relations between literature and the law by examining the ways in which each discipline has responded to the other's presence. Both law and literature are products of language. Does that mean that they are cognate disciplines, or are they competing epistemologies? Why do legal themes recur in fiction, and what kinds of literary structures underpin legal argumentation? How do novelists and playwrights imagine the law, and how do lawyers and judges interpret literary works? We will think through these questions by juxtaposing novels, plays, court cases, and critical theory. Prerequisite: a previous course in any legal and/or literary subject

Assessment: 20% class participation, 30% mid-term essay, 50% final essay

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### **JDOC6177 Comparative environmental law (6 credits)**

This course is concerned with how various jurisdictions use law to address environmental problems such as air pollution, land contamination, and deforestation.

What are the factors that influence law-making, enforcement and compliance with environmental law in each jurisdiction? What problems arise from the “transplanting” of environmental laws from the developed world to developing countries? What can Hong Kong and mainland China learn from the experiences of the United States (US) and the European Union (EU) in environmental law and policy? How does federalism within States and regional economic integration amongst States (such as in the EU) influence the application of environmental law within a nation? These are some of the questions that will be explored in this course.

A practical approach will be adopted in this course to highlight the various policy trade-offs inherent in designing and implementing environmental law and policy. The course will draw upon examples from Hong Kong, mainland China, the US, the EU and other countries in the Asia-Pacific region.

Assessment: 100% continuous assessment

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### **JDOC6178 Law, economics, regulation and development (6 credits)**

This course is premised on a conviction that the law does not exist in a vacuum, and the study of the law should therefore not be confined to a narrow focus on legal doctrine and case law. The aim of this course is to provide a broad survey of inter-disciplinary approaches to the law, which will provide students with the basic toolkit to question and analyze legal theories and institutions from alternative perspectives. The belief is that students will gain a richer and more nuanced understanding of the law and legal methods as a result.

The course comprises of three broad components: (1) Law and Regulation, (2) Law and Economics, and (3) Law and Development.

The law and regulation component of the course seeks to examine the role of law as an instrument of regulating economic and social activity. The course will explore theories of regulation, regulatory techniques and instruments, and issues of efficiency, accountability and legitimacy in relation to regulation. It will also explore the application of economic concepts to the law, focusing on areas such as torts, contracts, and property rights. For instance, the course will examine how economic concepts have been applied to provide a benchmark for determining negligence in torts.

Finally, the law and development component will examine the relationship between law and economic, social, and political development. It will survey theories concerning the meaning of development and the potential role of law and legal institutions in the development process.

Assessment: 15% class participation, 10% symposium participation, 75% 3 short research papers

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### **JDOC6179    Multiculturalism and the law (6 credits)**

Conquests, colonial projects and wars have long been responsible for the instigation of large-scale ethnic and national mobility in order to further the ends of empire, contributing to a pattern of migration that saw massive influxes of immigrants in Europe, Australia and America. With increasingly multi-ethnic communities residing within their borders, nation states have had to grapple with the challenge against the very conception of a monolithic nationhood that comprises the experiences of a singular nation, peoples or culture. Concomitantly, governance structures predicated on presumptions about shared political and social (or religious) ideals have also demonstrated their inability to cope with the increasing number of ‘nationals’ that now profess divergent worldviews and commitments. This demographic shift has meant that the nation-state framework is in need of a significant overhaul. An increasingly complex regime of international provisions has emerged to safeguard the fundamental rights and interests of vulnerable minorities to protect them against violations of their religious, cultural, linguistic rights. Moreover, the incidence of naturalisation of immigrants into nationals has meant that by virtue of their political agency as citizens, their voices need to be included in democratic governance structures. These circumstances have precipitated one of the most serious crises of identity in an increasingly globalised world whose borders continue to shrink and shift and as citizens and groups become highly hybridized, each seeking recognition and protection of their distinct rights and interests.

This conflict which has manifested itself in the form of tensions regarding minority rights, the freedom of religion, the right to practice one’s culture and group variations on these rights and their implications for equality, human dignity and non-discrimination on grounds of race, religion, culture, nationality, gender or other status. These conflicts have most acutely manifested themselves in liberal democratic states where all of these values have been constitutionally enshrined. However, the liberal project’s commitment to individual freedoms and the practice of democratic engagement faces a paradoxical challenge that requires it to reconcile internal conflicts between these values. Modern pluri-national states demand an alternative discourse that facilitates the reconciliation

between maximum plurality and the potential accompanying threats to the political structures that facilitate such plurality relying on liberal values in the first place.

The course examines this conflict through comparative and interdisciplinary lenses, drawing on material from law, political theory, philosophy, and postcolonial studies to better understand the nature of identity, rights, citizenship and the discourse of oppression, violence and conflict. This work will be used to equip students with an enriched analytic framework through which to conceptualise the problems. Using concrete case studies from a range of jurisdictions, including the USA, Australia, Canada, Europe, Hong Kong and salient international cases that have come before regional courts such as the European Court of Human Rights and international tribunals like the United Nations Human Rights Committee, these analytical frameworks will be applied to examine and understand the use of various governance structures and theories of accommodation in dealing with multicultural difference as manifested in the form of language, religious symbols or cultural practices as well as their impact on immigrant and sub-national identities.

Assessment: 15% class participation, 10% symposium participation, 75% 3 short response papers

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### **JDOC6180 Space law and policy (6 credits)**

This course introduces students to the study of space law. It will enable them to understand the socio-economic environment of space law from the legal standpoint and will provide them with a detailed overview of the substantive rules of law relating to peaceful use of outer space, liability, registration, space commercialization, launching activities, remote sensing and environmental issues. It will teach them how to develop an understanding of the theoretical nature and practical aspects of the function of telecommunications services in mainland China and Hong Kong. Students will critically analyze the relevance and substance of Space Law and related problems, such as space launching activities, remote sensing and space debris, and gain an understanding of the process of telecommunications liberalization within the World Trade Organization (WTO)

Assessment: 100% continuous assessment

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### **JDOC6181 Management and commercialization of intellectual property (6 credits)**

Topics include:

- Technology transfer and licensing
- Commercialization of innovations
- IP portfolio management
- IP issues in merger and acquisition
- IP issues in franchising and outsourcing
- IP and standard setting
- IP and competition
- IP litigation strategies

- IP issues in innovation industries such as ISP's liability and safe harbor, keyword advertising and digital music licensing.

Assessment: 100% in-hall examiation

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## **JDOC6182 International organizations (6 credits)**

The first international organizations, created in the 19th Century, were of limited scope and membership. It was not until after the First World War that international organizations took on a more universal nature in tackling common problems for states. Since then, hundreds of international organizations have sprung up to handle many issues that affect, or are seen as affecting, our daily lives. The body of rules that govern the functioning of these international organizations, as well as the rules that they create, are referred to as the law of international organizations – the subject of this course.

This course has two aims. First, it will provide an in-depth look at this area of law from a traditional perspective. Starting with a general history of international organizations and overview of current international organizations, the course will develop a definition of international organizations, which focuses on international legal personality, and then will develop a framework for classifying international organizations. This course next will explore the sources of power for international organizations, which involves the law of treaties and the doctrines of attributed powers, implied powers, and inherent powers, among other important principles. This course then will compare their structures, decision-making processes (including the settlement of disputes), membership and financing, privileges and immunities, sanctioning abilities, treaty-making powers, and relations with other international organizations, among other aspects. The United Nations, its subsidiary organs and its specialized agencies will be a major focus of the course, though many other international organizations also will be studied. Relevant ICJ, PCIJ and other case law will be given particular emphasis in understanding these powers and functions of international organizations.

Second, with this basic understanding of the law of international organizations, students will be expected to explore contemporary legal debates surrounding international organizations. The course will discuss the problem of responsibility for international organizations and creating limitations on their powers. Indeed, while international organizations first were seen as helping to bring “salvation to mankind,” today they are seen in a less than ideal light, largely due to concerns over their misdeeds and accountability for those misdeeds. The course will explore the problems associated with functionalism – the predominant theory associated with the expansion of international organizations’ powers. The discussion will move on to exploring the possibility of creating limitations and accountability for international organizations through such alternative tools as constitutionalism, judicial review, an emphasis on the rule of law, and global administrative law, to name a few. Other debates to be discussed include the legal status of decisions and resolutions of international organizations in light of the sources doctrine of international law, and whether the differences between international organizations that stem from the differences in their constituent instruments make it impossible to talk of a unified body of law that governs these different entities. Students

will be expected to develop their own thoughts on these debates, which they will demonstrate through their participation in class, as well as through the writing of at least four short case comments and either a longer paper on a topic to be chosen by the student in consultation with the professor.

Assessment: 20% class participation, 40% 3 cases comments, 40% essay

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### **JDOC6205 Clinical Legal Education (6 credits)**

Through interviewing real clients and handling real cases under the supervision of the course coordinator and voluntary duty lawyers in the private sector students will develop lawyering skills such as interviewing, negotiation, communication, facts investigation, legal research and analysis, applying the legal theories and principles to the real client's case or situation, legal writing and drafting, as well as professional ethics and responsibilities. The "course" will consist of the following elements – training sessions and legal clinic work (including attending interview and advice sessions and preparing case summary, legal research memos and summary of advice). The applicants for this course are required to submit an application in prescribed form to the course coordinator for consideration and approval.

Assessment: Students will be assessed on a pass / fail basis by reference to the contents of the portfolio and the course coordinator and the supervising lawyers' feedback on their professional attitudes and competence when they handle clients' cases.

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### **JDOC6208 Legislative drafting (6 credits)**

This course introduces students to the fundamentals of legislative drafting, from a theoretical and a practice perspective. The focus is on helping students to master key legal drafting skills and to improve their analytic skills. Students will draft short pieces of legislation as a way of exploring different aspects of drafting. Student drafts will be analysed (anonymously) during class. Topics to be examined during the course may include:

#### Overview and context

- What is legislation? its role and uses in society
- The legislative drafting process
- The impact of context (political, legal, judicial, operational) on the legislative drafting process and on drafting practices
- Research about how people read and its implications for legislative drafting

#### Drafting methodology

- The respective roles of the client, the lawyer, the legislator and others in the drafting process
- Policy development (i.e., setting goals, identifying and evaluating options for achieving them, deciding when legislation is appropriate)
- Implications of the mechanisms used to implement and enforce legislation



Matters of technique

- Designing the legislative scheme
- Identifying and resolving legal issues during the drafting process
- Techniques of clear writing and “plain language” techniques
- The appropriate use of precedents

Matters of professionalism

- Standards of professionalism
- Ethical issues in legislative drafting
- Client relations

Assessment: 4 assignments (two for 10 per cent each, one for 20 per cent and one for 50 per cent) and class participation for the remaining 10 per cent of the grade for the courses

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### **JDOC6221 Selected problems of the European convention on human rights (6 credits)**

This course offers an introduction to the international human rights law as developed in Europe under the 1950 European Convention on Human Rights and under the case-law of the European Court of Human Rights. It is meant to be taken in conjunction with, or as a sequel to, the course on “International and Regional Protection of Human Rights”. The European Convention represents the most developed mechanism of protection of human rights on a regional level and information on its practical operation may be relevant also for other regional and national systems.

After a general presentation of the European Convention, i.e. the system of human rights enshrined therein, as well as the organization, jurisdiction and procedure of the European Court of Human Rights, examples and cases taken from three substantive areas will be discussed:

- 1) the right to life, focused, in the first place on the use of lethal force by State agents, but also addressing positive obligations of the State to protect human life and questions like euthanasia (mercy killing) and abortion;
- 2) the prohibition of ill-treatment and its current extensions in the Court’s case-law, particularly in respect to deportations and prison conditions and also in respect to the modern interpretation of the prohibition of forced labour;
- 3) the right to personal autonomy, including rights to personal identity and decisions on individual and family matters.

All students are invited to consult those written materials and, in particular, judgments of the European Court of Human Rights that are mentioned in the Syllabus.

Assessment: 100% research paper or take-home examination

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**JDOC6222 Financial dispute resolution: Hong Kong & international perspectives  
(6 credits)**

The course will focus on the new financial dispute resolution regime in Hong Kong and the establishment of the Financial Dispute Resolution Centre (FDRC) and what these developments may signify for the future of resolving financial disputes in Hong Kong. In addition, the course will provide a comparative overview of financial dispute resolution from some selected markets globally. In response to increasing investor participation in financial markets, regulators and governments have sought different ways of responding to investor-broker disputes. This course will analyze these different approaches and discuss the impact of legal systems, markets and cultural preferences. The course will consider what choices have been made by Hong Kong in order to adapt to local circumstances and will challenge students to assess these choices in the light of global experience. The design of dispute resolution systems can be key to their success. Students will be expected to understand who the stakeholders are in financial disputes, what their specific needs are and how the Hong Kong FDRC may address these concerns. The class will be assigned reading in advance of class. Students will be expected to participate in discussions and role-plays during class.

Assessment: 80% research paper, 20% class participation

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**JDOC6223 Copyright and creativity (6 credits)**

The course investigates the relationship between copyright protection and creativity by targeting creative sectors such as film, music, publishing, and software. Through in-depth analysis of the cases and empirical data involving copyright protection or infringement in these industries, the course aims to assess to what extent these sectors have benefited from or are impeded by copyright protection, how “fair use” systems can be employed to achieve a better balance between copyright industries and users/consumers of copyrighted works, whether alternative regimes such as public or free licenses including creative commons and open source initiatives are helpful in promoting creativity, and finally, how to capitalize on or commercialize the copyrights so that the works can generate financial gain for start-up creative companies or individuals. These issues will be discussed in the context of both traditional and internet-related creative sectors such as parody, file-sharing, snippets and thumbnails, streaming, and copying for non-transformative personal use on internet, iPad or iPhone, and online games. The countries or regions of which the copyright laws and creative sectors are examined include but are not limited to Hong Kong, the mainland China, the United States and the European Union.

The topics include but are not limited to the following:

- The concept and history of copyright and related rights
- An overview of creative industries and their relationship with copyright
- Major cases involving copyright protection and infringement in creative sectors.

- Fair use in both traditional and internet-related creative activities.
- Public licenses (creative commons, open source initiative, extended collective licensing, etc.)
- Capitalizing copyright or other alternative regimes to promote creativity and creative sectors.

Assessment: 85% final take home examination, 15% class participation.

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### **JDOC6224 Mergers & acquisitions (6 credits)**

The course will consider the specific circumstances of mergers and acquisitions in Hong Kong. Both private and public/listed M&A situations will be considered.

A focus of the course will be the application and relevance of the Code on Takeovers and Mergers and the relevant Listing Rules of The Stock Exchange of Hong Kong Limited. The relevance of these regulations will be considered in the context of both commercial practices as well as regulatory objectives such as investor protection and the promotion of good corporate governance.

The process of execution will be examined as well as the typical documents involved and other steps involved, for example, due diligence, and how this interacts with the contractual documentation. This will cover standard terms in contracts, such as purchase price payment mechanisms, warranties and undertakings in addition to more regulatory-specific matters such as irrevocable undertakings and the uses of voting trusts.

There will be an emphasis on coursework comprised of hypothetical M&A transactions that require legal analysis and solution via class presentations and discussion.

Assessment: 50% Take home exam, 40% Coursework, 10% Class participation

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### **JDOC6225 PRC shipping law (in Putonghua) (6 credits)**

The course will examine the legal framework governing shipping and maritime trade in mainland China.

Topics include: ships and crew; contracts of sea carriage; bills of lading and charterparties; multimodal transport; sea towage contracts; collision of ships; salvage at sea; general average; marine insurance; limitation of time and liability for maritime claims; maritime dispute resolution. The PRC Maritime Code and relevant legislation will be covered. The course will be taught in Putonghua and examined in Chinese. Problem-solving approach with case studies will be adopted.

Assessment: 80% take home exam, 20% attendance and class participation

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### **JDOC6226 Comparative constitutional law theories (6 credits)**

This course is designed to examine constitutional law from a comparative and interdisciplinary perspective. It will cover a series of topics arising in the comparative study of constitutional structure and law in countries including the USA, Germany, and China. In addition, the course will deal with questions of constitutional purpose, function, design, and rules. In case studies, the course will examine underlying values, the interpretation of constitutional law as well as the role of the judiciary. Readings will be drawn from legal and social science literature, including works from economics and political science. This course is theory-based and has a significant research component.

Assessment: 70% research paper, 20% presentation, 10% participation

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### **JDOC6227 Introduction to private international law (Conflict of Laws) (6 credits)**

The field of private international law, otherwise known as “the conflict of laws”, is a body of principles by which Hong Kong courts deal with cases involving a mainland or overseas element. It is particularly important in this jurisdiction. Hong Kong’s economy is an intersection of many different people and places, including the mainland and elsewhere in Asia, as well as Europe and the Americas. Therefore, a significant proportion of disputes here have a connection outside of Hong Kong. An understanding of the conflict of laws will be useful to you as members of Hong Kong’s legal profession and if you are involved in international business.

In private international law, there are three questions that a judge must ask himself or herself. The answers to those questions form the backbone of this course:

- Is it appropriate for me to exercise jurisdiction in this dispute, even though it is connected in some way with a place outside Hong Kong?
- If I decide that I will exercise jurisdiction, is it right for me to apply only the law of Hong Kong to the dispute? Or does its “foreign element” mean I should, to some extent, apply the law of some other jurisdiction?
- Has the dispute already been the subject of a decision by a court outside Hong Kong? Should I somehow give effect to that decision within Hong Kong?

The aim of this course is to giving you a working knowledge of private international law so that you can competently advise your clients on such issues.

Assessment: 100% take home assessment

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### **JDOC6237 International arbitration: practice, process and strategy (6 credits)**

The course will introduce students to the practice of international arbitration with a focus on administered arbitration (utilizing the HKIAC Administered Arbitration Rules) and investment arbitration. Utilizing a case study as the basis for the course, students will

apply the theory of arbitration to a mock case. The course will provide students with the opportunity to manage a case from the beginning to the end. From negotiating and drafting an arbitration clause to drafting pleadings, students will have the opportunity to enhance their legal writing skills in the context of an arbitration. Students will also learn how to strategize and learn the various options available during the course of an arbitration (mediation, negotiation, settlement, etc). An investment arbitration component will be incorporated into the case study whereby students will learn how to navigate the investment arbitration process and options. Mock hearings will also take place before eminent arbitrators in the industry. The class will be assigned reading in advance of class. Students will be expected to participate in role-plays and teamwork during class.

Assessment: 20% completion of a final research paper, 80% class participation

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### **JDOC6239 Law and regulations of private and retail banking (6 credits)**

The eruption of the global financial crisis in 2008 has led various organizations such as the G20, Financial Stability Board, Basel Committee on Banking Supervision and the IMF, to implement new regulatory and economic policies. In the wake of the crisis, governments and financial institutions have been engaged in the implementation of these policies. On one hand, a number of critiques have been put forward regarding the efficacy of some of these initiatives. Questions have been raised regarding the effectiveness of regulatory harmonization to reduce systemic risk, and the optimal capital requirement required in the eyes of risks balancing and economic development. On the other hand, amid such extreme volatility in Europe and the United States, the Asian markets, particularly the Chinese and South-East Asia market (including China, Hong Kong SAR, Indonesia, Vietnam, etc.), are seeing moderate growth. Many banks and financial institutions have shifted their focus from risk enhancement to business growth. With the worsening of the European debt crisis, they are now refocusing on reform, including to impose long-term structural changes to banks and financial institutions through regulations, risk management and corporate governance with the aim to weather through the financial instability and restore consumer trust, as well as constantly look for new business propositions and processes to enhance the opportunities of capturing new business, enlarging customer base, yet better customer experience.

Constant requirement of implementing regulatory changes and placement of proper risk management and crisis management processes and procedures are mandatory in order to solidify these opportunities. In addition, instillation of corporate governance culture and in-place of proper corporate governance process and procedures along the organizational hierarchy is important and is a key to corporate success. For practitioners (lawyers and bankers) to stay advanced in the game, they are required to have a good understanding of the subject contents.

The course consists of ten weeks of lectures. In addition to the academic requirement, the course will emphasize real-life experience and share from practitioners' perspectives. Recent scandals from major international banks on regulatory areas (i.e. KYC, AML, etc) will be analyzed. Important legal and regulatory components and ordinances on clients on-

boarding process, sales process, end-to-end client relationship management, corporate governance, sales ethics, clients suitability and sustainability & risk profiling, compliance requirement, regulators reporting, data privacy, etc. will be discussed in deep details. In addition, dispute handling on financial disputes will also be discussed.

Assessment: 80% research paper, 20% presentation

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## REGULATIONS GOVERNING THE FORMAT, BINDING, AND PRESENTATION OF DISSERTATIONS FOR HIGHER DEGREES BY COURSEWORK

1. Each copy of a dissertation shall be typewritten or printed on one side only of International size A4 paper<sup>1</sup> (except for drawings, maps, or tables on which no restriction is placed), with a margin of not less than 38mm on the left-hand edge of each page.
2. The appropriate Board of the Faculty shall decide whether any dissertation submitted successfully in part-fulfilment of a higher degree by coursework shall be an accession to the University Library.
3. If it is to be an accession to the Library the top copy of the dissertation shall be used, and bound in one or more volumes as determined by the Librarian and between boards faced with cloth in black for MA, MPA, MMedSc, in dark blue for MSW, MBA, and in green for all others. The title, name of author, degree, and date shall be lettered in gilt on the front cover and spine in accordance with the standard layout approved by the Librarian. The title of a dissertation written in Chinese shall be lettered on the cover in Chinese and English.

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<sup>1</sup> 297 mm x 210 mm

N.B. Candidates for higher degrees are reminded that any dissertation not typed or printed on the correct paper will not be accepted. Any candidate who has difficulty in obtaining the paper should consult his Faculty Office.