

## **REGULATIONS FOR THE MASTER OF COMMON LAW (MCL)**

*These regulations apply to candidates admitted to the MCL curriculum in the academic year 2016-17 and thereafter.*

*(See also General Regulations and Regulations for Taught Postgraduate Curricula)*

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### **MCL1. Admission requirements**

To be eligible for admission to the courses leading to the Master of Common Law, a candidate:

- (a) shall comply with the General Regulations and the Regulations for Taught Postgraduate Curricula;
  - (b) shall hold the degree of Bachelor of Laws with at least second class honours or an equivalent qualification in a non-common law jurisdiction; and
  - (c) for a candidate who is seeking admission on the basis of a qualification from a university or comparable institution outside Hong Kong of which the language of teaching and /or examination is not English, shall satisfy the University English language requirement applicable to higher degrees as prescribed under General Regulation G2(b).
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### **MCL2. Advanced Standing**

Advanced Standing may be granted to candidates in recognition of studies completed successfully no more than 5 years before admission to the curriculum. Candidates who are awarded Advanced Standing will not be granted any further credit transfer for those studies for which Advanced Standing has been granted. The amount of credits to be granted for Advanced Standing shall be determined by the Board of the Faculty of Law, in accordance with the following principles:

- (a) a candidate may be granted a total of not more than 9 credits (one course) for Advanced Standing unless otherwise approved by the Senate; and
  - (b) credits granted for Advanced Standing shall not normally be included in the calculation of the GPA unless permitted by the Board of the Faculty of Law but will be recorded on the transcript of the candidate.
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**MCL3. Period of study**

- (a) The curriculum for the Master of Common Law shall normally extend over one academic year of full-time study, and shall include any assessment to be held during and/or at the end of each semester including summer semester.
  - (b) Candidates shall not in any case be permitted to extend their study beyond the maximum period of registration of two academic years, unless otherwise permitted or required by the Board of the Faculty of Law.
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**MCL4. Completion of curriculum**

To complete the curriculum for the degree of Master of Common Law, a candidate shall

- (a) satisfy the requirements prescribed in TPG 6 of the Regulations for Taught Postgraduate Curricula; and
  - (b) satisfactorily complete a compulsory non-credit bearing course and not fewer than 72 credits as prescribed in these regulations and the syllabus, including a capstone experience.
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**MCL5. Selection of courses**

- (a) Candidates shall select their courses in accordance with these regulations and the guidelines specified in the syllabus before the beginning of each semester. Changes to the selection of courses may be made only during the add/drop period of the semester in which the course begins, and such changes shall not be reflected in the transcript of the candidate. Requests for changes after the designated add/drop period of the semester shall not normally be considered.
  - (b) Withdrawal from courses beyond the designated add/drop period will not be permitted, except for medical reasons or 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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**MCL6. Dissertation**

- (a) Candidates, whether full-time or part-time, who elect to submit a dissertation shall submit the title not later than six months before presenting the dissertation for examination. The dissertation must be presented not later than August 31 of the year in which the candidate would like to graduate.
- (b) In exceptional circumstances a candidate may apply to the Board of the Faculty of Law for an extension of the period within which the dissertation must be presented at least three months before the prescribed date of submission. Late application for extension will not be considered, except for medical reasons or with the approval of the Board of the Faculty of Law.

- (c) The candidate shall submit a statement 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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**MCL7. Progression in curriculum**

- (a) Candidates shall normally be required to undertake a combination of courses and study requirement as prescribed in these regulations and the syllabus, and in the manner as specified below, unless otherwise permitted or required by the Board of the Faculty of Law.
- (i) Candidates shall normally be required to take not fewer than 27 credits nor more than 36 credits in any one semester (except the summer semester).
  - (ii) Where candidates are required to make up for failed credits, the Board of the Faculty of Law may give permission for candidates to exceed the required curriculum study load as specified in MCL4(b).
  - (iii) In the case under (i) above, the total number of credits taken shall not be fewer than 72 credits nor more than 78 credits for the normative period of study specified in MCL3(a).
- (b) Candidates may, with the approval of the Board of the Faculty of Law, transfer credits for courses completed at other institutions during their candidature. The number of transferred credits may be recorded in the transcript of the candidate, but the results of courses completed at other institutions shall not be included in the calculation of the GPA. The combined total number of credits to be granted for Advanced Standing and credit transfer shall not exceed half of the total credits normally required under the curriculum of the candidates during their candidature at the University.
- (c) Unless otherwise permitted by the Board of the Faculty of Law, candidates shall be recommended for discontinuation of their studies if they have:
- (i) failed to complete successfully 45 or more credits in two consecutive semesters (not including the summer semester), except where they are not required to take such a number of credits in the two given semesters; or
  - (ii) failed to achieve an average semester GPA of 1.5 or higher for two consecutive semesters (not including the summer semester); or
  - (iii) exceeded the maximum period of registration specified in MCL3(b).
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**MCL8. Exemption**

Candidates may be exempted, with or without special conditions attached, up to 9 credits (one course) in the requirement prescribed in the regulations and the syllabus governing the curriculum with the approval of the Board of the Faculty of Law, except in the case of a capstone experience. Approval for exemption of a capstone experience may be granted only by the Senate with good reasons. Candidates who are so exempted must replace the number of exempted credits with courses of the same credit value

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**MCL9. Assessment**

- (a) Candidates shall be assessed for each of the courses for which they have registered, and assessment may be conducted in any combination of continuous assessment of coursework, written examinations and/or any other assessable activities. Only passed courses will earn credits.
- (b) Candidates suspended under Statute XXXI shall not be allowed to take, present themselves for, and participate in any assessments during the period of suspension, unless otherwise permitted by the Senate.
- (c) Candidates shall not be permitted to repeat a course for which they have received a passing grade for the purpose of upgrading.
- (d) Candidates are required to make up for failed courses in the following manner:
  - (i) undergoing re-assessment/re-examination in the failed course to be held no later than the end of the following semester (not including the summer semester); or
  - (ii) re-submitting failed coursework, without having to repeat the same course of instruction; or
  - (iii) repeating the failed course by undergoing instruction and satisfying the assessments; or
  - (iv) for elective courses, taking another course in lieu and satisfying the assessment requirements.
- (e) Where candidates are permitted or required to present themselves for re-assessment/ re-examination/ assessment in an alternative course under (d) above, the new grade obtained together with the previous F grade shall be recorded on the transcript and be included in the calculation of the semester GPA, year GPA and the cumulative GPA. Such candidates shall not be eligible for any mark of distinction.
- (f) There shall be no appeal against the results of examinations and all other forms of assessment.

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**MCL10. Absence from an examination**

Candidates who are unable through illness to be present at the written examination of any course may apply for permission to present themselves at a supplementary examination of the same course to be held before the beginning of the First Semester of the following academic year. Any such application shall be made on the form prescribed within two weeks of the first day of the candidate's absence from any examination. Any supplementary examination shall be part of that academic year's examinations, and the provisions made in the regulations for failure at the first attempt shall apply accordingly.

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**MCL11. Requirements for graduation**

To be eligible for the award of the degree of Master of Common Law, candidates shall comply with the General Regulations and the Regulations for Taught Postgraduate Curricula, and complete the curriculum and satisfy the examiners in the compulsory non-credit bearing course and courses not fewer than 72 credits in accordance with these regulations within the maximum period of registration, which shall include the successful completion of a capstone experience as specified in the syllabus of the curriculum.

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**MCL12. Grading system**

Individual courses shall be graded in accordance with TPG9 (a) or (c) of the Regulations for Taught Postgraduate Curricula as determined by the Board of Examiners.

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**MCL13. Classification of awards**

Upon successful completion of the curriculum, candidates who have shown exceptional merit may be awarded the degree with distinction as determined by the Board of Examiners, and this mark shall be recorded in the candidates' degree diploma.

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## **SYLLABUS FOR THE MASTER OF COMMON LAW (MCL)**

### **COURSEWORK**

The Board of Examiners shall decide what proportion of the final assessment for each course shall be determined by written work carried out during the course of study. Candidates will be informed at the beginning of the course of the relative proportions of the final assessment to be derived from coursework and from written examinations which will be held at the end of the teaching programme.

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### **OBJECTIVES**

The degree of Master of Common Law is specifically designed for graduates in law from non-Common law jurisdictions (notably Mainland China) who wish to acquire an expertise in Common Law as it is practised in Hong Kong and in other common law jurisdictions. Candidates will commence the curriculum with a course, Understanding Common Law, in transition into the methodology of common law. They then take 6-7 elective courses in common law as suit their interests and expertise. Finally they take one or two of the capstone course(s) in Public Law in Common Law Jurisdiction or/and Private Law in Common Law Jurisdiction respectively to allow greater synergy between students background expertise in civil law and the new training in common law that they have obtained from the Curriculum.

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### **DISSERTATION**

An 18-credit dissertation shall comprise a paper with required length ranging from 16,000 to 20,000 words on a legal topic approved by the Faculty Higher Degrees Committee. A 9-credit dissertation shall comprise a paper on a legal topic likewise approved with required range from 8,000 to 10,000 words. In both cases the dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

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### **STRUCTURE\***

Candidates are required to complete the compulsory non-credit bearing course and not fewer than 72 credits, including a capstone experience in accordance with the regulations for this degree and the syllabuses as set out below.

### **COURSE OUTLINES**

#### **Capstone courses**

*(Candidates must choose one course from the following list.)*

- . LLAW6204 Public law in common law jurisdictions (Capstone) (9 credits)
- . LLAW6258 Private law in common law jurisdictions (Capstone) (9 credits)

### **Compulsory course (non-credit bearing)**

- . LLAW6259 Understanding common law<sup>1</sup>

### **Electives**

- . LLAW6183 Animal law (9 credits)
- . LLAW6138 Arbitration law (9 credits)
- . LLAW6157 Arbitration practice, procedure and drafting (9 credits)
- . LLAW6229 Arms control and disarmament law (9 credits)
- . LLAW6236 ASEAN law (9 credits)
- . LLAW6024 Banking law (9 credits)
- . LLAW6153 Business and human rights (9 credits)
- . LLAW6172 Carriage of goods by sea (9 credits)
- . LLAW6124 Communications law (9 credits)
- . LLAW6238 Comparative arbitration in Asia (9 credits)
- . LLAW6226 Comparative constitutional law theories (9 credits)
- . LLAW6248 Comparative contract law (9 credits)
- . LLAW6209 Comparative family law (9 credits)
- . LLAW6253 Comparative land use (9 credits)
- . LLAW6150 Comparative law (9 credits)
- . LLAW6251 Comparative property law (9 credits)
- . LLAW6155 Competition law II (9 credits)
- . LLAW6101 Competition, mergers and acquisitions (9 credits)
- . LLAW6245 Compliance in the Hong Kong securities industry (9 credits)
- . LLAW6255 Compliance: law in practice (9 credits)
- . LLAW6254 Compliance: regulation in practice (9 credits)
- . LLAW6220 Constitutionalism in emerging states (9 credits)
- . LLAW6252 Construction of commercial contracts (9 credits)
- . LLAW6223 Copyright and creativity (9 credits)
- . LLAW6082 Corporate governance and shareholder remedies (9 credits)
- . LLAW6267 Courts
- . LLAW6002 Credit and security law (9 credits)
- . LLAW6233 Critical theory in legal scholarship (9 credits)
- . LLAW6206 Cross border corporate finance: issues and techniques (9 credits)
- . LLAW6114 Cross-border legal relations between the Mainland and Hong Kong.  
(9 credits).
- . LLAW6127 Current issues in financial law (9 credits)
- . LLAW6060 Current issues in human rights (9 credits)
- . LLAW6087 Current issues in insolvency law (9 credits)
- . LLAW6117 Cybercrime (9 credits)
- . LLAW6088 Derivatives: law and regulation (9 credits)
- . LLAW6054 9-credit Dissertation (9 credits)
- . LLAW6014 18-credit Dissertation (18 credits)
  
- . LLAW6111 E-business law (9 credits)
- . LLAW6062 Economic, social and cultural rights (9 credits)

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<sup>1</sup> The course will be taught immediately after the term starts and lasts for only a month.

- . LLAW6210 Energy law (9 credits)
- . LLAW6249 Entertainment law: Popular iconography and the celebrity (9 credits)
- . LLAW6063 Equality and non-discrimination (9 credits)
- . LLAW6064 Ethnicity, human rights and democracy
- . LLAW6222 Financial dispute resolution: Hong Kong & international perspectives (9 credits)
- . LLAW6194 Global business law I (9 credits)
- . LLAW6195 Global business law II (9 credits)
- . LLAW6216 Graduate seminar (9 credits)
- . LLAW6005 Hong Kong intellectual property law (9 credits)
- . LLAW6119 Human rights and cyberspace (9 credits)
- . LLAW6034 Human rights in Hong Kong (9 credits)
- . LLAW6242 Human rights in practice (9 credits)
- . LLAW6107 Insurance law (9 credits)
- . LLAW6120 Intellectual property and information technology (9 credits)
- . LLAW6140 Intellectual property, innovation and development (9 credits)
- . LLAW6132 International and comparative intellectual property law (9 credits)
- . LLAW6237 International arbitration: practice, process and strategy (9 credits)
- . LLAW6099 International commercial arbitration (9 credits)
- . LLAW6036 International criminal law (9 credits)
- . LLAW6007 International dispute settlement (9 credits)
- . LLAW6133 International economic law (9 credits)
- . LLAW6182 International organisations (9 credits)
- . LLAW6073 International protection of refugees and displaced persons (9 credits)
- . LLAW6057 International securities law (9 credits)
- . LLAW6096 International tax and tax planning (9 credits)
- . LLAW6128 International trade law I (9 credits)
- . LLAW6170 Introduction to information technology law (9 credits)
- . LLAW6204 Public law in common law jurisdictions (9 credits)
- . LLAW6227 Introduction to private international law (conflict of laws) (9 credits)
- . LLAW6231 Justice (9 credits)
- . LLAW6199 Law and policy (9 credits)
- . LLAW6230 Law and practice of investment treaty arbitration (9 credits)
- . LLAW6239 Law and regulation of private banking and wealth management I (9 credits)
- . LLAW6246 Law and regulation of private banking and wealth management II (9 credits)
- . LLAW6197 Law and social theory (9 credits)
- . LLAW6178 Law, economics, regulation and development (9 credits)
- . LLAW6055 Law of international finance 1 (9 credits)
- . LLAW6094 Law of international finance 2 (9 credits)
- . LLAW6181 Management and commercialization of intellectual property (9 credits)
- . LLAW6247 Medical-legal issues (9 credits)
- . LLAW6224 Mergers and acquisitions (9 credits)
- . LLAW6179 Multiculturalism and the law (9 credits)
- . LLAW6075 National protection of human rights (9 credits)
- . LLAW6176 Online dispute resolution (9 credits)
- . LLAW6219 Patent law (9 credits)



- . LLAW6097 Pension and investment funds in Hong Kong and the PRC (9 credits)
- . LLAW6196 Preventative law: approach to conflict prevention (9 credits)
- . LLAW6164 Principles of family law (9 credits)
- . LLAW6046 Privacy and data protection (9 credits)
- . LLAW6109 Public international law (9 credits)
- . LLAW6093 Regulation of financial markets (9 credits)
- . LLAW6144 Rights and remedies in the criminal process (9 credits)
- . LLAW6049 Securities regulation I (9 credits)
- . LLAW6244 Securities regulation II (9 credits)
- . LLAW6240 Security and human rights
- . LLAW6221 Selected problems of the European convention on human rights (9 credits)
- . LLAW6076 Seminar in human rights research (9 credits)
- . LLAW6215 Seminar on human rights and constitutionalism in Asia (9 credits)
- . LLAW6250 The regulation of biomedical research (9 credits)
- . LLAW6200 Topics in trademark law (9 credits)
- . LLAW6211 World trade law, policy and business (9 credits)

*(Candidates may choose up to two 6-credit courses from the following cross-listed undergraduate courses. \*)*

- . LLAW3093 Administrative law (6 credits)
- . LLAW3010 Business Associations (6 credits)
- . LLAW3097 Civil Procedure (6 credits)
- . LLAW3015 Company Law (6 credits)
- . LLAW2001 Constitutional law (6 credits)
- . LLAW2003 Criminal Law I (6 credits)
- . LLAW2004 Criminal Law II (6 credits)
- . LLAW3099 Criminal Procedure (6 credits)
- . LLAW3066 Cross-border Legal Relations between the Mainland and Hong Kong  
(in Putonghua) (6 credits)
- . LLAW3102 Evidence I (6 credits)
- . LLAW3103 Evidence II (6 credits)
- . LLAW1001 Law of Contract I (6 credits)
- . LLAW1002 Law of Contract II (6 credits)
- . LLAW1005 Law of Tort I (6 credits)
- . LLAW1006 Law of Tort II (6 credits)
- . LLAW2013 Land Law I (6 credits)
- . LLAW2014 Land Law II (6 credits)
- . LLAW1008 Legal System of the Hong Kong SAR (6 credits)

\* Candidates who choose one 6-credit or two 6-credit from the list of approved UG courses offered by the Department of Law are required to complete at least 78 credits or 75 credits respectively for satisfying the curriculum requirement.

***NOTE: Not all courses will be offered in any given year. For actual courses available, please refer to annual course offerings.***

## **COURSE DESCRIPTIONS FOR THE MASTER OF COMMON LAW [MCL]**

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### *Capstone courses*

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#### **LLAW6204 Public law in common law jurisdictions**

This course aims to provide a strong grounding in and understanding of the principles governing the development and the operation of the Common Law.

Part A of the course, introduces students, first, to the nature and philosophical underpinnings of the Common Law. Next it looks, in a series of Seminars at: the sources and general historical development of the Common Law; the importance of precedent; and of modes of statutory interpretation.

Part B of the course first examines the divergent impact of the Common Law approach on the development of Public Law in the UK and the USA. Next it considers the way in which the Chinese (Mainland) political-legal structure has been shaped by historical events both during the Imperial period and post-1912 and post-1949. It moves on to look at the way the Public Law aspect of the Common Law has developed within British Hong Kong and in the HKSAR. Finally this part of the course considers aspects of the inter-action between the HKSAR Common Law system and the PRC legal system.

Assessment: 25% presentation, 75% minor dissertation

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#### **LLAW6258 Private law in common law jurisdictions**

This course aims to help students who have already acquired an undergraduate or postgraduate degree in civil law develop an understanding of the private law as it is practised in common law jurisdictions. It covers important and core areas of private law such as Contracts, Torts, and brief introduction to Property. In particular, the course will consider their historical and theoretical foundations and basic doctrinal elements, with a focus on the aspects where they differ from the civil law. The course aims to further study of these areas, their relationships to and distinctiveness from each other and civil law, and questions about the status and nature of private law as a whole.

The part of the course on Contracts will consider, in detail, distinctive contractual doctrines in common law contracts, such as consideration and estoppel; vitiating factors, including mistake, misrepresentation, duress, undue influence and unconscionability; remedies such as the primacy of damages, the mechanisms of rescission and account of profits; and related areas such as unjust enrichment.

The part of the course on Torts will begin with a detailed analysis of the predominant tort, negligence. Important negligence-related concepts such as vicarious liability, joint and several liability, contribution and limitation of action are considered, as well as the principle remedy for negligence, that of damages for personal injury and death. Torts

closely related to negligence such as occupiers' liability and breach of statutory duty are also studied, as are the tort-related no-fault accident compensation schemes for work-related injury and disease. The course concludes with an examination of and the remedies for the torts that protection reputation, principally, defamation.

The course will also briefly deal with notions of Property in so far as they differ from the common law, for example, notions of ownership, possession and relativity of title.

The course will be taught in an interactive seminar format that promotes active learning. In each seminar, the course instructor will briefly outline the distinctive aspects of common law through considering the relevant case law. Students will learn through extensive classroom discussion supported by extensive case-reading prior to class. It is hoped that students will not only acquire knowledge about the unique features of the common law as opposed to its civil law counterpart, but also the unique case law method used in common law. Class discussion will help deepen and strengthen students' understanding, and also provide timely and immediate feedback to students on their critical analysis of the common law as represented by judicial decisions.

Assessment: 30% written course work, 30% oral presentations/class participation, 40% take-home examination/term paper

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*Compulsory non-credit bearing course*

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**LLAW6259 Understanding common law**

This course aims to help the students to quickly get adapted to the common law studies in the English environment. For students with educational background in civil law jurisdictions, it is important for them to familiarize themselves with the fundamental principles of structure and operation of both systems. The objective of this course is thus to acquaint the students with fundamental legal concepts, structures and functions of the common law system on the one hand, to familiarize the students with the distinctive language of law used in a variety of legal texts through a focus on legal reading and writing skills, vocabulary knowledge of legal concepts, reasoning and language of problem-question-answers and judgments on the other.

The course, designed to be introductory in nature, is limited to providing an overview of basic concepts in contract law and tort law. The course will address both theoretical and practical aspects of common law. It will start with identifying the basic differences between the common law and civil law systems and the underlying causes for different internal structures and legal principles. It will continue with discussions on major concepts of law of contracts and torts by examining the controlling precedents and illustrative case law.

Important concepts and principles in contract law and tort law covered in this course include contract formation, interpretation, enforcement, contractual remedies, contract assignment, tortious acts, negligence and damages available. The questions raised in the course include the following: 1) what is the difference between common law and equity? 2) how does the court interpret an ambiguous contractual provision? 3) what are punitive damages? 4) how can one create an enforceable legal obligation under common law? The students shall be able to learn important concepts and principles through lectures, case studies, simulations and role plays.

The practical English language skills, in particular the case-reading skill, will also be taught in this course. The students will have the chance to brief cases in common law. More specifically, the following questions will be dealt with in the practical part of the course:

- 1) What questions must be answered in order to reach a conclusion in the case?
- 2) What is the rule to apply to the issue?
- 3) How does the judges in common law jurisdictions apply the rules to the facts of a particular case?
- 4) What is the result of the case? The students will also receive intensive instruction and support in both writing and speaking legal English in the common law jurisdictions.

The students are expected to engage in critical discussions based on assigned reading materials distributed in the course. At the end of the course the students will be required to take a written exam consisting of essay questions and/or case studies.

This course is assessed on Pass / Fail basis and non-credit bearing.

Assessment: 20% oral presentation, 80% written assignments

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*Elective courses*

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**LLAW6002 Credit and security law**

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

The forms of credit and security are divided into the "real" securities and the "quasi-securities". The real securities are: charges, mortgages, pledges and common law liens. The quasi-securities include hire-purchase, bills of sale, assignments of the benefit of a chose in action, sales and re-sales, finance leases, retention of title transactions, and many other forms usually involving indirect money lending. All of these forms of security are available to consumers as well as corporate borrowers. A common corporate loan is a charge over book debts. A common consumer loan transaction is a mortgage over land.

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,
- reviewing new or novel forms of property, eg carbon sequestration;
- reviewing overseas developments in codifying commercial law; and
- remedies.

Assessment: 20% class participation, 80% examination

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**LLAW6005 Hong Kong intellectual property law**

A comparative study of the Hong Kong law relating to patents, copyright, registered designs, trade marks, 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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**LLAW6007 International dispute settlement**

Disputes are bound to arise on the international level. UN Charter Articles 2(3) and 33 require states to resolve their disputes through peaceful means, which include

“negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.” Inasmuch as these peaceful means of dispute settlement are governed by a body of rules and principles, lawyers play an important role in making sure that such means are used in a fair and effective manner. After explaining the history and development of international dispute settlement, as well as the general obligation on states to resolve their disputes peacefully, this course will explore each method in light of the relevant law and cases, with particular emphasis being placed on legal resolution through international courts and tribunals, including international arbitration and resolution through the International Court of Justice, the International Tribunal for the Law of the Sea, and the WTO Dispute Settlement Mechanism. The course concludes by looking at the future of international dispute settlement, including the need for conflict prevention and dialogue, the increasing juridification of dispute settlement, and the problems associated with the proliferation of dispute settlement mechanisms.

Assessment: 20% participation, 80% research paper

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### **LLAW6014 18-credit Dissertation**

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 20000 words (excluding tables of cases and statutes, notes, appendices and bibliographies). The dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

Assessment: 100% research paper

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### **LLAW6024 Banking law**

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 nature of the contract (and its termination) of the banker-customer relationship;
- legal issues arising in relation to special types of accounts such as joint accounts, trust accounts, professionals and various types of business associations;
- banker’s duties including confidentiality and the duty of care;
- fiduciary duties;
- lending and investment services, including securities and guarantees/indemnities;
- the role of the bank in documentary credits, and the growing stress on autonomy of these documents;
- banker’s rights including appropriation of payment, the lien and set-off;
- bills of exchange; and
- newer developments including shadow banking, Islamic finance, charge-backs, non-performing loans and others

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. There will be discussion on a new development in relation to proposals for "implied good faith" to operate contrary to the principle of autonomy.

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

Assessment: 20% class participation, 80% examination

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### **LLAW6034 Human rights in Hong Kong**

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. The exact topics to be covered will be determined at the beginning of the course and may change from year to year.

Assessment: 30% short paper, 70% research paper

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### **LLAW6036 International criminal law**

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: 80% research paper, 10% court or tribunal presentation, 10% class participation

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### **LLAW6046 Privacy and data protection**

This course will explore privacy and data protection in an increasingly interconnected data economy. Reference will be made to the balance between privacy on the one hand and other rights as well as public and social interests on the other. The challenges posed by technological innovations and applications such as the internet, social media, mobile applications, cloud computing and Big Data will be highlighted. Specific topics to be addressed will include: (a) the concept of 'privacy' and the genesis and development of its political, philosophical and economic underpinnings; (b) 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; (c) the protection of 'personal information': Personal Data (Privacy) Ordinance, data protection principles, data access and correction rights, regulation of direct marketing, transborder data flow, Interception of Communications and Surveillance Ordinance, Electronic Health Record Sharing System Ordinance; (d) Privacy Commissioner for Personal Data: powers, functions, enforcement, exemptions from data protection principles. The course will focus on the Hong Kong situation but reference will be made to relevant international human rights instruments and the global and regional trends and developments.

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

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### **LLAW6049 Securities regulation I**

The overall aim of the course is to develop an understanding of the regulatory framework governing the securities markets in Hong Kong and how regulations affect securities activities and transactions undertaken by issuers, intermediaries and investors. An underlying theme of the course will be to understand why regulations put in place and to critically assess the effectiveness and appropriateness of the regulatory framework and specific regulations.

The course is structured in three conceptual parts. (1) Orientation: the nature of regulation and the products, actors 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.

The course will begin with an examination of the key securities laws and regulations, in particular: the Securities and Futures Ordinance (SFO), the prospectus provisions of the Companies (Winding-up and Miscellaneous Provision) Ordinance, regulatory codes issued by the Securities and Futures Commission (SFC), and the Listing Rules. The objectives, principles and purposes of regulation will be introduced. The nature and functions of a stock market will be considered.

The function of key bodies undertaking regulatory functions, namely the SFC, the Hong Kong Monetary Authority, and The Stock Exchange of Hong Kong Limited, will be examined. How these bodies relate to each other in terms of their functionalities will be examined in light of incidents that have highlighted potential shortcomings in the regulatory system. The roles of the Market Misconduct Tribunal and the Securities and Futures Appeals Tribunal will also be assessed.

The impact of regulation on corporate transactions and the general practices of the market and its intermediaries will be studied. As regards intermediaries, this will require an understanding of the application of regulatory codes issued by the SFC as well as subsidiary legislation to the SFO. As regards the marketplace, this will require an understanding of the functions of the stock market vis-à-vis listed issuers and investors as well as the role of sponsors. A portion of the course will be given over to studying the impact of regulatory requirements on the conduct of initial public offerings.

The course will conclude by bringing together the knowledge gained over the duration of the course to consider the benefits and drawbacks of regulation for the market and critically assess the impact and effectiveness of regulation. What are the shortfalls of regulation, and where is regulation heading?

Assessment: 25% group coursework, 65% take home examination, 10% class participation.

Students are required to pass the exam to be eligible to pass the courses.

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### **LLAW6054 9-credit Dissertation**

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 10,000 words (excluding tables of cases and statutes, notes, appendices and bibliographies). The dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

Assessment: 100% research paper

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### **LLAW6055 Law of international finance 1**

Law of international finance 1 is an introductory postgraduate course 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, and their function in the modern financial system. 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.

Prerequisite / Co-requisite: Non LLM(CFL) students will find it helpful to have a commercial law background or a strong professional or academic interest in contemporary finance.

Assessment: 95% take home examination, 5% mid-term group assignment

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### **LLAW6057 International securities law**

International securities law is a topical course taught from both an academic and practitioner's perspective, dealing with the law, practice and regulation of organised markets including stock exchanges, and the law and practice of financial derivatives and structured financial instruments.

It is intended for postgraduate students with a commercial law background or requisite professional insight, and who have completed Law of International Finance 1 or an appropriate equivalent.

The course aims to develop a usable understanding of law, practice and regulation of exchanges and financial derivatives transactions. This will include consideration of the parties involved and their motives, contract formation, the documentation involved in structuring transactions, allocating and mitigating risks, the functioning and legal foundations of organised exchanges, and the impact of established and post-crisis conflicts of law and re-regulation on transaction design and execution.

Prerequisite: Law of international finance 1

Assessment: 100% three take home examinations issued at intervals over the semester

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### **LLAW6060 Current issues in human rights**

The course begins with a general presentation of the Council of Europe, the European Court of Human Rights and the European Convention of Human Rights. It gives an overview of the on the values, structure and achievements of the Council of Europe; it presents the organisation, structure and procedure of the European Court of Human Rights; it outlines the rights and freedoms guaranteed by the Convention and key concepts essential to the understanding of the European Convention system.

The course will be then structured on seven topics which represent current issues in human rights:

- **The right to health**, presenting the historical development of the concept of the right to health, its guiding principles and related obligations; these are illustrated

through case law concerning the right to medical treatment, medical malpractice and the liability of health professionals and forced medical treatment.

- **The right to a healthy environment** and its' development as a human right; the course presents case law from the European Court of Human Rights, as well as other regional courts such as the Inter-American and African systems.
- **Reproductive rights**, focusing on the principles of reproductive autonomy, respect for private and family life and the prohibition of discrimination; it covers the topics of abortion, contraception, home birth and forced sterilisations.
- **Bioethical issues**, focusing on the European approach on IVF treatment, surrogacy, the protection of genetic data, euthanasia and assisted suicide and organ donation.
- **Women's rights**, course which provides an overview of international human rights law concerning women, and presents case law of the European Court of Human Rights concerning violence against women, human trafficking and other forms of discrimination.
- **Sexual minorities**, a course which presents the rights of sexual minorities in international law and case law on a variety of issues such as the criminalisation of homosexual relationships in general, ill-treatment by police and state agents, marriage and civil unions, adoption.
- **Freedom of expression**, a course which presents the international guarantees, the key aspects, the scope and the limitations of this freedom, and gives examples of case law concerning press freedom, censorship, whistleblowing, the protection of journalistic sources and more.

Assessment: 50% oral presentation, 50% research paper

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### **LLAW6062 Economic, social and cultural rights**

This course will begin with a discussion of the theoretical and historical development of economic, social and cultural rights ("ESC rights") under the international human rights system. It will then examine the sources of ESC rights, the obligations of states and the implementation of ESC rights at both international and domestic levels. Among the substantive contents of ESC rights, the course will study the right to food, the right to water, the right to the highest attainable standard of health, the right to social welfare, and the right to housing. The course will also look at approaches to monitoring and advocacy strategies for the realization of ESC rights.

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

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### **LLAW6063 Equality and non-discrimination**

Equality and non-discrimination are universally regarded as fundamental human rights principles that underpin - and are necessary prerequisites to - the enjoyment of all human rights and freedoms. Indeed most of the major international human rights treaties as well as many national constitutions articulate rights to equality and non-

discrimination either in general terms or with reference to a range of grounds such as race, gender, disability, religion, etc. Despite its prominent position in human rights law, the precise scope and meaning of equality remain contested and enforcement bodies have sometimes provided contradictory or conflicting interpretations. In other words, equality can mean different things to different people. This course considers how the law reflects, and might support the realization of, particular concepts of equality. It also examines the potential and the limits of the law as a means of achieving social and political change.

Assessment: 25% class participation, 75% research paper

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### **LLAW6064 Ethnicity, human rights and democracy**

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: 60% research paper, 30% test, 10% class participation

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### **LLAW6073 International protection of refugees and displaced persons**

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: 70% take home examination, 30% essay

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### **LLAW6075 National protection of human rights**

The Seminar on National Protection of Human Rights offers an opportunity to explore human rights in its national social and institutional contexts. Students will explore the important themes of national protection of human rights with an emphasis on Asia. Particular attention will be paid to domestic constitutional questions such as democracy, human rights and the rule of law. Asia is a region that houses nearly two-thirds of the

world's population and includes a wide range of cultures and developmental contexts. We confront a common observation that human rights practice is ultimately local. While the human rights movement has made extraordinary efforts in the post-World War II era to develop global standards and institutions it has been plagued by weak implementation at the local level. Significant regional human rights treaties and institutions in Europe, Africa and the Americas have sought to address this deficiency on a regional level with mixed success. As the only region without a regional human rights regime, Asia has relied more completely on domestic constitutionalism and local institutional practices to articulate and implement human rights commitments. This has made the human rights debate more seriously a matter of local politics and legal culture. Asia has had a noteworthy engagement with some of the central themes in the human rights debate, relating human rights to culture, to the political economy of development, democratization, autonomy, and development of civil society. Asian discussions of these concerns have intimately connected issues of human rights and development. The seminar will explore these rich Asian themes and efforts.

Assessment: 20% presentation of research paper; 10% class participation (including two response papers and discussion), 70% research paper

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### **LLAW6076 Seminar in human rights research**

This course will provide an introduction to the methodology of, and sources for, human 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 will also form part of the seminar.

The course seeks to provide an overview of approaches to research in the field of law – and human rights law in particular - and to develop your skills in combining those approaches. The course will introduce students to techniques for carrying out traditional research as well as electronic research and encourage students to consider, assess and evaluate the usefulness of the different sources and techniques available. The course will familiarise students with the major sources of international (including regional) human rights law as well as familiarise students with the documentation of the United Nations and regional human rights systems. Finally, the course will introduce students to the standard resources and techniques for conducting human rights research from an international and comparative case law perspective.

The course will provide students with preliminary assistance in writing research papers, in particular by working with students on the formalities of writing and citing sources, avoiding plagiarism, formulating research questions and structuring research papers.

Assessment: 70% written assignments, 20% class preparation and participation, 10% class discussion

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**LLAW6082 Corporate governance and shareholder remedies**

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 select jurisdictions, particularly the legal standards and arrangements for shareholder protection and remedies, as well as regulatory initiatives to promote good corporate governance practices and addressing corporate governance failures. Useful examples from overseas jurisdictions, such as the United States and United Kingdom, will 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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**LLAW6087 Current issues in insolvency law**

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% research paper

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**LLAW6088 Derivatives: law and regulation**

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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### **LLAW6093 Regulation of financial markets**

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: 90% take home examination, 10% class participation

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### **LLAW6094 Law of international finance 2**

Law of international finance 2 is a perspective course for students who have completed Law of international finance 1 or an appropriate equivalent. The focus is with deal formation, regulatory reforms and market practice involving non-traditional intermediation, or "shadow banking".

The course aims to develop a usable understanding of complex financial transactions and structured finance. This includes consideration of the parties involved and their motives, contract formation, why transactions succeed or fail, the documentation involved in structuring transactions and allocating risks, and the impact of regulation on transaction design and the interplay between the regulated and shadow financial systems.

Topics will include credit derivatives, synthetic transactions, the mis-selling of complex instruments, the laws of organised exchanges, and non-recourse infrastructural and object finance. The course seeks to generate an awareness of the roots and contemporary features of complex transactions, how they contributed to the 2007-09 financial crisis, and place the elements of recent 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 1

Assessment: 100% Three take-home examinations issued at intervals over the semester

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## **LLAW6096 International tax and tax planning**

This course:

1. highlights and explains the major concepts of international taxation and tax planning by focusing upon the taxation implications arising from cross-border business transactions (and, to a lesser extent, employment), as well as suggests appropriate structures for implementing those transactions.
2. examines and contrasts the ways in which selected jurisdictions deal with the problems of taxing cross-border activities, with a particular focus upon important concepts such as jurisdiction to tax, controlled foreign companies legislation, foreign tax credit (and exemption) regimes, transfer pricing, withholding taxes, taxation compliance and anti-avoidance rules, and particular attention to the role, application, and interpretation of double taxation agreements (DTAs).
3. examines, in particular, specific and general anti-avoidance rules in (a) domestic legislation and (b) DTAs and, generally, the role of the courts in this area, anti-avoidance doctrine and tax ethics in relation to tax planning.
4. with regard to 2. and 3. above, examines in detail the taxation systems of several jurisdictions (specifically, Singapore, Hong Kong and the PRC (Mainland) and, for comparative purposes, Japan and the United States) by considering the taxation implications of outbound and inbound investments and appropriate structuring for (a) residents of those jurisdictions and (b) non-residents who carry out business operations (or who perform employment-related services) in those jurisdictions.
5. studies topical issues of international tax policy such as jurisdiction to tax, taxation of internet transactions, transfer pricing, tax administration, recent changes to the OECD Model Tax Convention and the implications for tax policy and practice arising from the OECD's 'BEPS' (base erosion and profit shifting) project.

Assessment: 50% take home examination, 40% group presentation (including written-up report), 10% class participation

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## **LLAW6097 Pension and investment funds in Hong Kong and the PRC**

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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### **LLAW6099 International commercial arbitration**

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.

Students will be expected to have grasped an understanding of the core features of international commercial arbitration as a distinct discipline and to have developed a sense of how to approach technical legal problems that can arise in this field. They should also know their way around the UNCITRAL Model Law and 1958 New York Convention, and be able to apply that knowledge to relevant factual scenarios.

Assessment: 100% take home examination

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### **LLAW6101 Competition, mergers and acquisitions**

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% two take home examinations

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### **LLAW6107 Insurance law**

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: Law of contract

Assessment: 100% take home examination

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### **LLAW6109 Public international law**

Public international law governs inter-state relationships and entities such as individuals, international organizations and so on. The scope and importance of public international law has expanded dramatically in the last century due to increased awareness and studies towards globalisation, escalation of conflicts, environmental issues and human rights violations.

This postgraduate course explores the history, ideas and concepts that shape public international law and practice, and on the relationship between public international law and other ideas and phenomena. It aims to (i) provide a critical introduction to the subject matter and in-depth investigations into specific themes (such as war and peace, territorial disputes, state immunities, international dispute resolutions) and (ii) equip students with the skills and ability to advise on the basics of public international law and to analyze contemporary international legal problems.

Assessment: 25% mid-term examination/assignment, 75% final examination

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### **LLAW6111 E-business law**

More and more companies and organisations are embracing information technology to add value to their business and to remain competitive. In the e-business environment, on one hand, existing law is being applied in a new setting. On the other hand, development of law is needed in order to address specific issues that online business creates.

The course looks at the main legal issues generated by the developments in e-business, their possible solutions and how to strategize and create value in the e-business context accordingly.

Topics to be covered include the international and national framework for e-business, branding and trade marks, contractual issues of online trading, online security issues, privacy and data protection, liabilities of online service providers, online tort issues and jurisdictional issues.

Prior knowledge of the subject matter is not required.

Assessment: 40% written assignment(s) and/or case preparation note(s), 60% research paper

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### **LLAW6114 Cross-border legal relations between the Mainland and Hong Kong (in Putonghua)**

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 in Chinese.

Assessment: 100% research paper

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### **LLAW6117 Cybercrime**

‘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 organised 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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## **LLAW6119 Human rights and cyberspace**

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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## **LLAW6120 Intellectual property and information technology**

Given the ubiquity of information technology (IT) today, intellectual property (IP) issues related to IT have never been more challenging. With the predominance of frequent headlines about IT-related IP matters, IP and IT is, indisputably, one of the topics that has aroused great interest and attention today.

The course looks at the main IP issues related to IT, how IP can be used to protect, manage and create value from IT innovations, products and creations, and how the dynamic nature of IT would never leave IP law remain static.

Prior IP or IT knowledge is not required.

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

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## **LLAW6124 Communications law**

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, 70% research paper, 10% class participation

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## **LLAW6127 Current issues in financial law**

Current issues in financial law is a postgraduate ‘Capstone’ course for students nearing the completion of their degree programme, and who have completed International securities law, Law of international finance 2, or Securities regulation I or II. The course will cover current and controversial topics in financial, banking and securities law, and aspects of reforms to financial regulation, especially those dealing with financial stability and product and business conduct. It will examine these and other issues according to events and developments at the time of the course, at both local and international levels. The course will use a seminar format rather than formal lectures, to encourage discussion and make the focus of topics covered relevant to participants’ interests.

Among the issues to be covered are legal risk, Hong Kong’s future as a financial centre, shadow banking, complex financial instruments and mis-selling, post-crisis investor protection, sovereign debt litigation and flawed transaction documentation, misconduct and economic crime, stock exchange governance and conflicts and the governance of sovereign wealth funds.

Perquisites: Law of international finance 2, International securities law or Securities regulation I or II

Assessment: 80% take home examination; 20% class participation

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## **LLAW6128 International trade law I**

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 designed to make students research and use case law, ordinances and international conventions. It is taught in a practical way and requires students to think of commercial solutions to problems.

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: Law of contract I and II and Law of tort I and II

Assessment: 100% take home assessment

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## **LLAW6132 International and comparative intellectual property law**

This course introduces the international framework within which intellectual property law operates, including copyright, patents, trademarks, industrial designs, unfair competition, trade secrets, geographic indications, and other forms of intellectual property (IP). 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.

Prerequisites: Have taken (or concurrently taking) other IP laws.

Assessment: 80% take-home examination, 20% class participation

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### **LLAW6133 International economic law**

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 harmonise 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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### **LLAW6138 Arbitration law**

The aim of the Arbitration Law course is to provide students with sufficient knowledge and understanding of the law of arbitration. The specific educational learning outcomes of this course are as follows:

- A. Knowledge and Understanding
- To introduce the fundamental principles of arbitration law set out in detail in the syllabus below.
  - To introduce the importance of the Hong Kong Arbitration Ordinance when deciding disputes.
  - To introduce the essential elements of a binding arbitration agreement and an enforceable arbitration award.



- To introduce the important role of reading and analyzing the sources of arbitration law, including both statutes (particularly domestic arbitration statutes such as the Arbitration Ordinance) and judicial decisions (case law).

#### B. Intellectual and Practice Skills

This course seeks to help students develop the following intellectual skills:

- Ability to analyse and solve complex factual legal problems by selecting and applying relevant arbitration law principles;
- Ability to apply rules of law to hypothetical factual situations;
- Ability to isolate crucial issues in hypothetical factual scenarios; and
- Ability to support oral and written arguments using relevant judicial decisions and statutory provisions.

This course also seeks to help students develop the following practical skills:

- Ability to undertake the reading and research of the sources of arbitration law;
- Ability to express ideas both orally and in writing in a clear and coherent manner; and
- Ability to translate technical legal terms into language appropriate for users of arbitration and dispute resolution generally.

Students will consider a range of theoretical issues and substantive topics in this course, including:

- General Introduction to Arbitration and ADR
- Agreement to Arbitrate
- Appointment of Arbitrator
- Rights, Duties and Powers of an Arbitrator
- Commencement of Arbitration and Interlocutory Proceedings
- Arbitration Hearings
- Evidence in International Arbitration Costs & Interest in Awards
- Appeals
- Enforcement and Execution of Awards

Assessment: 30% research paper, 70% written final exam

### **LLAW6140 Intellectual property, innovation and development**

This course examines the interplay between intellectual property law, innovation social and economic development. While it covers copyright and trademark laws and examines how these two areas are affected by digital and Internet innovations, the focus of this course will be on patent law. Particularly this course will explore how cutting-edge technologies such as information technology, biotechnology and green technology have changed the landscape of patent law on the one hand, and how patent law has affected the development of these technologies on the other hand. 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 patent 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.

Assessment: 80% take home examination; 20% class participation

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### **LLAW6144 Rights and remedies in the criminal process**

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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### **LLAW6150 Comparative law**

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: 10% presentation, 10% class participation, 80% research paper

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### **LLAW6153 Business and human rights**

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% advocacy exercise, 10% class participation

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### **LLAW6154 Competition law I**

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 competition law jurisdictions are the United States and the European Union. This course (LLAW6154 Competition law I) will focus on US antitrust law. EU competition law will be covered in LLAW6155 Competition law II, offered in the second semester. Students are encouraged to take both courses (Competition law I & Competition law II) to acquire a global/comprehensive understanding of competition law. Some attention will be devoted to the new Hong Kong Competition Ordinance in both courses (especially in Competition Law II).

This course will focus on two of the three main areas of competition law: restrictive agreements and abuse of dominance. Regulation of mergers will be covered in a separate course.

Assessment: 80% take home examination, 20% class participation

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### **LLAW6155 Competition law II**

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% two take home examinations

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## **LLAW6157 Arbitration practice, procedure and drafting**

The aim of the Arbitration Practice, Procedure & Drafting course is to provide students with sufficient knowledge of and practice in the key procedural preliminary meetings and the hearings, discovery and inspection of documents, interlocutory proceedings, submissions, evidentiary issues, decision making and arbitration awards. There is particular focus on developing the students' ability to dispense independent advice of the arbitration process with confidence. The course also considers the knowledge and practice necessary to write a final, reasoned and enforceable arbitration award. The specific educational objectives of this course are:

### **A. Knowledge and Understanding**

- i) To introduce the fundamental elements of the practice and procedural elements of the arbitration process;
- ii) To introduce the drafting requirements of an arbitration agreement;
- iii) To introduce the key procedural features of the arbitration process, including preliminary meetings, discovery and inspection of documents, arbitration hearings, making submissions before an arbitrator or tribunal, making interlocutory applications, and the presentation and reception of evidence, decision making and arbitration awards; and
- iv) To introduce the essential elements of how to draft a final, reasoned and enforceable arbitration award that is clear, cogent, comprehensive and concise.

### **B. Intellectual and Practical Skills**

This course seeks to help students develop the following intellectual skills:

- i) Ability to analyze and solve complex factual legal problems by selecting and applying relevant arbitration law principles;
  - ii) Ability to apply rules of law to hypothetical factual situations;
  - iii) Ability to isolate crucial issues in hypothetical factual scenarios;
  - iv) Ability to support oral and written arguments using relevant judicial decisions and statutory provisions;
  - v) Ability to evaluate submissions and distil relevant issues from them;
  - vi) Ability to evaluate evidence, deduce facts from it; and
  - vii) Ability to decide issues and make rational decisions by applying legal principles to facts.
- i) This course also seeks to help students develop the following practical skills:
- viii) Ability to undertake the reading and research of the sources of arbitration law;
  - ix) Ability to express ideas both orally and in writing in a clear and concise manner;
  - x) Ability to translate technical legal terms into language appropriate for users of arbitration and dispute resolution generally;
  - ii)

- xi) Ability to act as counsel in an arbitration proceeding and make oral and written
- iii) submissions and interlocutory applications before an arbitrator or tribunal;
- xii) Ability to act as an arbitrator and control the arbitration process in a fair and
- iv) impartial manner, giving the parties balanced opportunity to make submissions
- v) and present their cases;
- xiii) Ability to give fair and rational procedural and substantive decisions within an
- vi) arbitration hearing;
- xiv) Ability to select appropriate rules and procedures and apply them in a reasoned
- manner;
- xv) Ability to draft and publish a final, reasoned and enforceable arbitration award;
- and
- xvi) Ability to intelligently and intelligibly use language that is grammatically
- correct and correctly spelled.

The following topics will be covered in the course:

- Drafting of an Arbitration Agreement
- Accepting Appointment as an Arbitrator
- Preliminary Matters
- Pleadings and Submissions
- Discovery and Inspection of Documents
- Interlocutory Proceedings
- Challenge to Jurisdiction
- Oral Evidence & Expert Evidence
- The Hearing
- Recoverable Costs and Offers
- Decision-making
- Arbitration Award Writing

The Arbitration Practice course is based upon a sound understanding of the law of arbitration. Therefore, students are required to complete the Arbitration Law course in the first semester prior to enrolling in the Arbitration Practice course in the second semester.

Pre-requisites: LLAW6138 Arbitration law

Assessment: 70% 3-hours written final examination, 30% written assignment  
(For CI Arb credit, students must achieve a minimum of 55% of the final mark.)

### **LLAW6164 Principles of family law**

Family law is about people in a domestic setting; how domestic relationships are created, dissolved (which involves status alteration), reconstituted (remarriage, adoption), how relationships are regulated and disputes resolved. Hong Kong Family law is both common law and statute-based. However, the rules and principles are not ends in themselves, but they serve certain purposes or goals.

In this course, we examine the basic principles governing the creation of family relationship, termination and its consequences, how does the law deal with the evolving notion of domestic relationships, abuse occurring within such relationships, the protection it offers to the weaker party and the reconstitution of family relationships.

Families are undergoing changes constantly, as is society. Debates on transsexual marriage, same-sex marriage reflect this. Families are the microcosm of society bearing all the pressure which society exerts on its members. The challenge of the course is to understand the problems facing families today, to what extent the law is in tune with these problems, how best these problems could be alleviated, minimised or resolved by law reform or other means.

The objectives of the course is to enable you to learn the basic family law rules, understand how these rules are applied to a particular legal problem (which you need to utilise as a lawyer). As rules are not ends in themselves and they promote certain underlying values – you are required to critically analyses and assess what outcomes/values these rules promote; whether these values are consistent with prevailing societal values along certain theme, such as: (i) effective dispute resolution, (ii) protective (physical/economic) function of family law and (iii) upholding fundamental societal values concerning family, personal relationships and human rights.

Assessment: 45% written examination, 45% assignments and presentation, 10% class participation

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## **LLAW6170 Introduction to information technology law**

Information and communication technologies are part of the very fabric of contemporary societies. Their understanding and mastery are a required form of literacy in the 21st century. Social dynamics everywhere have changed because of ICTs and in the image of these a new social paradigm has been formed. Sociologist Manuel Castells has termed this new social paradigm “informationalism”, in contrast with the idea of “industrialism” that characterized 20th century societies. As a social science, law is not immune to these transformations but is rather profoundly influenced by them, to the point that we can speak of a new stage in legal scholarship and practice – of the Law of the Information Society.

In our course, we keep the name “Information Technology Law” for historical reasons, but our objective is precisely that of empirically assessing some of these transformations which, in its different areas, the law of contemporary societies has been undergoing. While other courses in our programme (for instance, “Regulation of Cyberspace”) question at a higher level of abstraction the normative foundations of such transformations, in “Introduction to IT Law” our aim is to give you an introductory overview of the concrete, practical shifts that the institutions of law have been experiencing in a number of different areas – from Identity and Privacy to Intellectual Property, and from Defamation and Liability in Virtual Worlds to Cybercrime and Jurisdiction.

The focus of our course is on major common law jurisdictions, taking the law in the United Kingdom and in Hong Kong as a starting point. Nonetheless, occasional – and in some areas extensive – references to the law in the European Union will be made.

Assessment: 35% mid-term essay, 65% take home examination

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### **LLAW6172 Carriage of goods by sea**

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% examination

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### **LLAW 6176 Online dispute resolution**

This course will introduce students to the use of information technology as a means of facilitating the resolution of disputes between parties. Despite the prevalent impression that online dispute resolution (ODR) is simply the online equivalent of alternative dispute resolution (ADR), the course will demonstrate to the students that ODR can augment the traditional means of resolving disputes by applying innovative techniques and online technologies to the process. Although the course will focus on the technological application in out-of-court alternative dispute resolutions, it by no means ignores the potential that these technologies have for direct application in the litigation system. The course will examine online negotiation, mediation, arbitration, their combinations or other alternatives. The course has both theoretical and practical value to practitioners and academics.

Assessment: 60% research paper, 40% in-class Moot Court practice

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### **LLAW6178 Law, economics, regulation and development**

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: 30% class participation, 30% homework, 40% final essay

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### **LLAW6179 Multiculturalism and the law**

Conquests, colonial projects have long been responsible for the instigation of large-scale ethnic and national mobility in order to further the ends of empire, for example, for the purposes of labour and industrial development or populating land considered to be terra nullius. In the aftermath of the First and Second World Wars, which led to a significant redrawing of national boundaries in some regions and more significantly, the liberation of countries in other of the world, people once again moved; some, voluntarily and in pursuit of their dreams whilst numerous others, became victims of exile due to economic, social or political circumstances. By the end of the Cold War period, the showdown between capitalist and communist ideological power blocs waned as a result of the failures of Gorbachev's communist-styled government in the Soviet Union and the resultant loss of confidence in the Chinese Communist Party. This and a combination of factors including America's embrace of isolationism, the onset of the Gulf War and economic and social strife, contributed to a pattern of migration that saw massive influxes of immigrants in Europe, Australia and America. The 21st Century has not seen any reduction in this trend of mass migration. Indeed, in the aftermath of 9/11, with the war in Iraq and Afghanistan, the exodus from the Middle-Eastern region continues. Similarly, there is widespread migration from the Eastern block of countries after the break up of the former Soviet Union.

This demographic shift has meant that the nation-state framework that originally dictated the exercise of sovereignty over one's subjects is in need of a significant overhaul. With the growing multicultural representation of communities residing within their borders, nation states have had to grapple with the challenge to 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, social and secular ideals have also demonstrated their inability to cope with the increasing number of 'nationals' that now profess divergent worldviews and commitments, especially where these views derive from personal frameworks of governance such as religious or cultural beliefs and practices.



In the aftermath of the Second World War and in an age of decolonisation, an increasingly complex regime of international provisions has emerged to safeguard the fundamental rights and interests of all people as human beings. Particularly noteworthy and of interest are the development of international human rights law in the form of framework conventions that seek to recognise the risks faced by vulnerable minorities and to protect them against violations of their religious, cultural, linguistic and political rights. These ideas became morally compelling given the atrocities and persecution minorities experienced during times of war, conflict, and colonisation. Apart from the protection of their differences and identity on grounds of their equal worth and dignity, the naturalisation of immigrants into nationals has foreshadowed a need to include their voices in democratic governance structures in light of their new political identities. Yet, naturalised citizens often fail to have their voices heard due to lack of representation, exclusion or marginalisation of their voices and concerns and oftentimes, they lack the capacity to exercise such agency to engage political infrastructure. 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 of these hybridized identities is seeking recognition and protection of their distinct rights and interests whilst sharing geopolitical spaces with other competing identities in close proximity.

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 rights and their limits. These conflicts have most acutely manifested themselves in liberal democratic states where these values are constitutionally enshrined. Questions have also arisen as to the extent of the state's obligation to honour these interests and rights through appropriate schemes in the name of minority rights and the implications of accommodation, assimilation or integration on the core commitments that underscore the liberal democratic constitutional framework, including values such as equality, human dignity and non-discrimination on grounds of race, religion, culture, nationality, gender or other status. Oftentimes, the protection of some of these values results in a conflict with another entrenched value. In the circumstances, 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 deeply held values especially when these freedoms stand to challenge the very rights framework from which they derive. Modern pluri-national states demand an alternative discourse that facilitates the reconciliation between meaningful plurality and the potential accompanying threats to the political structures that facilitate such plurality 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 as they emerge in various countries today and to examine and understand the use of various governance structures, approaches and arguments to reconcile conflicting rights within the liberal constitutional framework in light of international human rights commitments. The course considers the use of various tools by courts around the world in dealing with

multicultural difference as manifested in the form of language, dress, religious symbols and religious or cultural practices as well as their impact on immigrant and sub-national identities, and evaluates these outcomes in terms of the guarantees of equality and non-discrimination. In doing so, the course material draws on case studies from a range of jurisdictions, including America, Australia, Canada, France and other parts of Europe, Hong Kong in addition to 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 to compare the practices of various jurisdictions to explore the focal themes of the course and to consider the feasibility of integrated approaches to address this contemporary challenge.

The ultimate objective of the course is to probe and question existing approaches to balancing conflicts between fundamental rights and to identify and develop suitable mechanisms and frameworks through which to understand and address the challenges posed in multicultural societies. It is hoped such a critical inquiry can motivate discussions on how the state can better balance competing values by being mindful of the nexus of certain rights to the micro-level identities of minorities in a political community whilst maintaining the allegiance of all groups and individuals as nationals.

Assessment: 75% research paper, 15% symposium presentation, 10% class participation

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### **LLAW6181 Management and commercialization of intellectual property**

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 examination

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### **LLAW6182 International organizations**

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 specialised 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: 50% case comments, 50% research paper

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### **LLAW6183 Animal law**

This course examines the law relating to non-human animals. The course will introduce a range of theoretical perspectives on the way in which we think about animals, with a focus on moral/ethical theories of animal interests and animal rights. The welfare model

of animal law, as expressed through relevant legislation and case law, will be critically analysed. While much of the consideration of this law will have an Asian orientation, attention will also be given to international developments in animal law. Finally, the course will explore practical ways in which lawyers may advance the interests of animals.

Assessment: 70% written research assignment, 30% seminar presentation

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### **LLAW6194 Global business law I**

Global business law I deals with the growth of a business from being a mere domestic seller all the way through to its decision to become a foreign investor operating half-way across the world. In the course of that growth it will face international litigation, arbitration, choices about business from abroad, lawsuits abroad, investment treaties, its own lawsuits against foreign “host” states, and questions about how it plans to finance its foreign ventures.

Assessment: 100% take home examination

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### **LLAW6195 Global Business Law II**

The course employs a problem-oriented approach, and focuses on the law in action; namely, strategic choices which a business engaged in international trade would face.

The course starts off by introducing the global trading system (GATT, WTO, etc.). The first few weeks will introduce you to a problem faced by a firm which is either trying to sell or buy from abroad but faces a host of regulatory barriers. Some of these barriers are in the form of tariffs, others are not. While some firms are manufacturers seeking new markets abroad, others are domestic retailers or manufacturers trying to source internationally for cheaper goods or manufacturing inputs.

We will then address the case where the firm is not selling abroad, but wishes its own government to purchase its products to the exclusion of foreign products.

The course then turns to a different kind of business problem. What happens when a domestic firm finds itself facing such stiff competition from foreign imports that its very survival may be at stake? What tools are available to it to fend off such competition? When can such a firm claim that competition from abroad is “unfair”, and does the law recognise such claims? Should it? In other cases, competition may not be unfair, but can the firm claim that it should be protected by its government nonetheless? What can other firms do in response to such action?

All these problems involve public/governmental regulation. To that extent we are dealing with public law. However, the issues we will address matter to whether a business will fail or succeed, depending on the available rules and how such rules may be used by these firms.

While we will be using a US casebook, many of the issues you will encounter are universal. The more minute details of the US regime may be peculiar in places, but there is in fact a high degree of world-wide convergence in the sorts of trade rules we will encounter due to widespread membership of the WTO. By using a US casebook, we also benefit by learning from a body of trade rules which has had a genuine, historical impact on the evolution of the global trading system. For many participants in the course (excepting exchange and other students from US law schools), there will be an opportunity to explore the rules of a major export market and to learn some US law. Most importantly, the casebook we will use is probably the best of its kind in introducing the subject from a business viewpoint.

Assessment: 100% take home examination

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### **LLAW6196 Preventative law: approach to conflict prevention**

Lawyers can play a key role not just in the resolution of disputes, but also in the prevention and management of conflicts within organizations and societies. This course will explore key processes through which a system is consciously created to address conflicts among individual and entities, as well as legally defined disputes. Similar to the public health model, which aims to promote positive individual and collective habits that stem the occurrence of disease, this course seeks to examine those mechanisms, principles and processes oriented toward the prevention of conflict. The approach of the course will be both theoretical and participatory in nature.

Assessment: 75% research paper, 25% class participation

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### **LLAW6197 Law and social theory**

Amongst the most powerful of contemporary analyses of law and legal institutions are those which draw on the tradition of social theory. These trends now constitute a discrete area of academic enquiry that is of growing importance and relevance. This course offers a series of readings which draw on that tradition and think them through in relation to contemporary legal problems.

The course will develop students' knowledge of the basic paradigms of social theory as it relates to law and place the development of law in social theoretical and historical context. By developing a critical understanding of the relationship between law and social theory students will assess the differences between diverse theoretical approaches and be able to develop and articulate their own understanding of the appropriate paradigms for analysis in legal and social theory. The aim is therefore to enhance students' understanding of contemporary law and legal institutions.

Topics to be covered may include: competing theories of law and modernity; analyses of alternative approaches to power and security; the role and consequences of processes of juridification; and theories of globalisation.

Assessment: 20% presentation, 80% research essay

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### **LLAW6199 Law and policy**

This course explores and contrasts the different methodologies inherent in the disciplinary approaches of legal and policy analysis. It examines how each approach is relevant to the other in different practical situations e.g. in court and in government policy formulation. Each student will present a seminar paper that applies both legal and policy analysis to a practical issue of their choice.

Assessment: 100% research assignment

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### **LLAW6200 Topics in trademark law**

Trademark law and the law of unfair competition play a crucial role in the commercialization of all varieties of goods, ranging from high-end fashion products to daily routine products. The course aims to explore the cutting-edge issues and fundamental theories and policies in the rapidly developing trademark law and the law of unfair competition. With a focus on the law in Hong Kong and Mainland China, the course also broadly examines the relevant doctrinal developments in the United States and European Union, and discusses the impacts of digital technology on international and domestic trademark protection. The course will cover the following topics:

- Subject matter of trademark protection
- Distinctiveness
- Registration
- Genericity
- Exclusive rights
- Limitations on exclusive rights/Trademark fair use
- Infringement
- Trademark dilution

Assessment: 100% continuous assessment

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### **LLAW6204 Public law in common law jurisdictions**

This course aims to provide a strong grounding in and understanding of the principles governing the development and the operation of the Common Law.

Part A of the course, introduces students, first, to the nature and philosophical underpinnings of the Common Law. Next it looks, in a series of Seminars at: the sources and general historical development of the Common Law; the importance of precedent; and of modes of statutory interpretation.

Part B of the course first examines the divergent impact of the Common Law approach on the development of Public Law in the UK and the USA. Next it considers the way in which the Chinese (Mainland) political-legal structure has been shaped by historical events both during the Imperial period and post-1912 and post-1949. It moves on to look at the way the Public Law aspect of the Common Law has developed within British Hong Kong and in the HKSAR. Finally this part of the course considers aspects of the inter-action between the HKSAR Common Law system and the PRC legal system.

Assessment: 25% presentation, 75% minor dissertation

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### **LLAW6206 Cross border corporate finance : issues and techniques**

The course will provide an understanding of the underlying principles and policies of corporate finance law, and will familiarise students with the actual practices of the markets and techniques of key transactions. It will focus on the consideration and treatment of issues that arise when financing transactions. Seminars to introduce the topics will be augmented by exercises which will be designed to simulate real transactions. Students will be divided into teams, which will be pitched against other teams, role-playing, lawyers, financiers, borrowers/ fund-raisers and investment bankers.

The course will be useful to those who intend to work in the corporate and corporate finance sectors, in law firms or investment or commercial banks.

Assessment: 30% participation in team exercises, 70% research paper

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### **LLAW6209 Comparative family law**

The course focuses on family law issues in a comparative and international context and prior knowledge of family law or comparative law is not required.

Topics include: property and maintenance on divorce; the grounds for divorce; the legal status of cohabitants; legal regulation of adult relationships and changing family constructs; marital agreements (i.e. pre-nuptial, post-nuptial and separation agreement), the relevance of gender in family law and changing one's legal gender; parenthood and parental responsibility.

All topics are covered from a comparative perspective.

This course will be of interest to students and practitioners wanting to acquire an up-to-date understanding of current policy and issues in family law around the world and anyone with an interest in family law, comparative law and social policy.

Assessment: 25% class participation, 75% research paper

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## **LLAW6210 Energy law**

Energy law became recognised as a distinct subject following the energy crisis that resulted from the 1973 Arab-Israeli War. This course will introduce Energy law which concerns the laws and regulations that relate to the process and technology of production, distribution, conservation and development of carbon-based energy sources such as coal, oil and natural gas; non-carbon-based sources such as nuclear power; and renewable clean sources such as hydroelectricity, solar and wind power. More specifically, this course will introduce the law concerning the title, usage, development and control of those natural resources and technology which are used to manufacture energy. This specialisation is important because the energy industry remains to be a non-static, technologically developing, but heavily regulated and strategic, sector of the economy.

Areas covered in this course will include: the history of energy law; basic principles of energy law; theoretical perspectives on regulations as part of the modern legal system; regulatory issues for different types of energy; the common law rules of ownership; statutory ownership of sources; the law relating to the development of sources and technology; international energy investment law; soft regulatory laws in developing countries; alternative regulatory instruments; market mechanics; the role of law and the development of renewable energy technologies; national and supranational regulatory changes; regulatory developments in China; environmental regulations of energy and natural resources; territorial disputes over energy sources; nuclear power and the law; regulations of company structures and/or performance; regulating the largest (energy) companies in the world.

Assessment: 50% in-class examination; 50% essay

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## **LLAW6211 World trade law, policy and business**

This course may only be taken by graduate students. While there are no pre-requisites and no prior knowledge is required, the course is designed to be especially attractive to students who have taken Global Business Law I, or International Economic Law. It is not, however, open to graduate students who have previously taken Global Business Law II.

The course is tailor-made for graduate students who, in past years, would likely have taken Global Business Law II instead. Unlike Global Business Law II, the current course provides students with the opportunities to write a paper of no more than 6,000 words comprising 50% of the examination, and incorporates materials on the policy and business aspects of trade in East Asia (China, Korea and Japan). The course will also address specific policy and business challenges in other Asian countries and sub-regions (e.g. Vietnam, Southeast Asia more generally, and India).

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

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## **LLAW6215 Seminar on human rights and constitutionalism in Asia**

The Seminar on Constitutionalism and Human Rights in Asia offers a opportunity to explore human rights in its social and institutional contexts. Students will explore the important themes of constitutionalism and human rights in Asia, a region that houses nearly two-thirds of the world's population and includes a wide range of cultures and developmental contexts. In thinking about human rights we confront a common observation that human rights practice is ultimately local. While the human rights movement has made extraordinary efforts in the post-World War II era to develop global standards and institutions it has been plagued by weak implementation. Significant regional human rights treaties and institutions in Europe, Africa and the Americas have sought to address this deficiency with mixed success. Even in those regions with such regional human rights regimes domestic implementation and enforcement through the institutions of constitutionalism provide a vital link for human rights implementation. As the only region without a regional human rights regime, Asia has relied more completely on domestic constitutionalism and practices to articulate and implement human rights commitments. This has made the human rights debate more seriously a matter of local politics and legal culture. In this respect, Asia has had a noteworthy engagement with some of the central themes in the human rights debate, relating human rights to culture, to the political economy of development, democratization, autonomy, development of civil society and to war and conflict. Asian discussions of these concerns have intimately connected issues of human rights, security and development. The seminar will explore these rich Asian themes and efforts. The course is open to any student interested in exploring these themes in a seminar context. There are no prerequisites. For the basic content to be addressed each week see the course schedule below.

Assessment: 100% continuous assessment

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## **LLAW6216 Graduate seminar**

The principal goal of the Graduate Seminar is to examine issues and questions regarding to comparative Chinese legal research which has been carried out in the English language. This is an interactive course which examines Chinese law scholarship and the underlining methodological questions.

Assessment: 100% continuous assessment

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## **LLAW6219 Patent law**

Intellectual Property Rights (IPRs) are among the most important catalysts for growth and innovation in the modern economy. IPRs – in particular patents - are worth billions if not trillions of dollars. What are patents and why are they so valuable? This course will look at patents, first in the context of all IPRs, then will examine rights under a patent, criteria for patentability, and the process of getting and challenging a patent. The

class will also cover issues related to patent claims and will look at some current patent issues including:

- Commercial dealings: ownership, licensing, assignments, employees' inventions
  - Protection of discoveries
  - The process of getting a patent
- Patent infringement: Literal infringement and a comparison of UK and US treatment of non-literal patent infringement
- Protection of information technology products and the controversy surrounding software patents
- Design patents
- The value of patents

No prior technical knowledge is required for this class.

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

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### **LLAW6220 Constitutionalism in emerging states**

This seminar will examine comparative constitutional law in emerging states. The international debate over human rights and development often takes a top-down perspective (especially in human rights courses), asking what international institutions can do to better address issues of development, government power, human rights and human dignity. This course reverses this perspective, looking at these central issues of our time through a bottom-up constitutional lens. Unlike traditional comparative constitutional law courses that focus on established constitutional systems, this seminar will give greater emphasis to the development context and emerging states. With democratization in Latin America and East Asia, the collapse of the former Soviet Union, the economic and developmental crisis in Africa and South Asia and the Arab Spring, the debate over constitutionalism and its mission has taken on global dimensions. This debate addresses a range of questions. For example, will the rule of law and democracy better promote economic development? Can constitutional institutions such as judicial review, freedom of expression and democracy be successfully established in all societies? What are the cultural dimensions of this problem? Has liberal democracy failed the poor? Does constitutionalism travel well? What institutional emphases might better serve a post-communist society, a very poor underdeveloped country, or a rapidly developing society? Does liberal constitutionalism better respond to crises? Will "illiberal democracy" work better? Addressing these questions has become an interdisciplinary project with law, political science and other disciplines.

Assessment: 70% research paper, 20% oral presentation of research paper, 10% class participation (includes two think papers worth 5% each)

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## **LLAW6221 Selected problems of the European convention on human rights**

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: 70% take-home examination, 30% class participation

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## **LLAW6222 Financial dispute resolution: Hong Kong & international perspectives**

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: 20% class participation, 20% individual presentation, 60% research paper

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### **LLAW6223 Copyright and creativity**

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 capitalise on or commercialise 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 and activities 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.

Assessment: 80% final take home examination, 20% class participation

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### **LLAW6224 Mergers and acquisitions**

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.

The course will commence with an examination of the reasons for M&A transactions occurring and a consideration of how M&A transactions are to be assessed, for example, in terms of their value creation. Although the course is focused on practices in the Hong Kong market, the course will also explore M&A transactions internationally, particularly with a view to gaining an understanding of the art and science of conducting an M&A transaction.

The different ways M&A can be conducted will be examined. The process of negotiating and executing transactions will be considered as well as the typical documents involved. This will cover standard terms in contracts, such as purchase price payment mechanisms, warranties and undertakings. Other aspects of the transaction process will be considered, in particular, the role of due diligence will be examined closely including as to how due diligence interacts with contractual documentation and the negotiation process. Problems arising in the cross-border context will also 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. 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. Practices such as irrevocable undertakings and the use of voting trusts, will also be considered.

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

Assessment: 50% take home examination, 40% coursework, 10% class participation  
Students are required to pass the exam to be eligible to pass the course.

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### **LLAW6226 Comparative constitutional law theories**

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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### **LLAW6227 Introduction to private international law (conflict of laws)**

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 assignment

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### **LLAW6229 Arms control and disarmament law**

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% general participation in in-class debate and discussion

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### **LLAW6230 Law and practice of investment treaty arbitration**

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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### **LLAW6231 Justice**

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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### **LLAW6233 Critical theory in legal scholarship**

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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### **LLAW6236 ASEAN law**

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, formalised 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.
10. Regional financial policies: concepts and institutional aspects of regional financial integration.

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

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### **LLAW6237 International arbitration: practice, process and strategy**

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 strategise 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, written assignment and oral presentation in class

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### **LLAW6238 Comparative arbitration in Asia**

The course will survey the arbitration laws in major jurisdictions in Asia, including but not limited to Hong Kong, Singapore, China, India, Korea and Malaysia. For the sake of comparison and analysis, reference will be made to the UNCITRAL Model Law and the laws of major European arbitration centers. In addition, the course will survey compare and contrast the various approaches taken by arbitral institutions in these regions (such as HKIAC, SIAC, CIETAC, etc.) with respect to procedural and other matters. Again, reference to the UNCITRAL Model Rules and the rules of other major arbitral institutions (such as the ICC and the LCIA) will be useful for comparison and analysis.

Notwithstanding reference to UNCITRAL and other materials, the course will focus on the laws and procedural rules in use in the Asia-Pacific region, in particular Hong Kong, Singapore, China and India. In addition, although the course will take a comparative approach to these laws and rules across jurisdictions in the region, the interaction of state law and institutional rules within a particular jurisdiction will also be the subject of analysis and discussion. Finally, cultural and other issues which may impact the practice of arbitration in a given jurisdiction will be explored.

Students will be assigned reading in advance of class, and will be expected to participate in discussions and role-plays during class.

Assessment: 80% take home examination or research paper, 20% class participation (a set of assessment rubrics will be developed to assess class participation)

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### **LLAW6239 Law and regulation of private banking and wealth management I**

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.

Constant requirement of implementing regulatory changes and placement of proper risk management and crisis management processes and procedures become mandatory for banks and financial institutions. Also, instillation of corporate governance culture and in-place of proper corporate governance process and procedures along the organizational hierarchy is important and key to corporate success.

Many banks and financial institutions, particularly private banks and wealth management institutions, have shifted their focus from risk enhancement to business

growth. For practitioners (risk and compliance professionals, bankers and lawyers) and those prepare to enter into the private banking and wealth management industry, to stay advanced in the game, a good understanding of the business, compliance, law and regulations would be highly advantageous.

This course is specially designed to give students a better understanding of the private banking and wealth management business, compliance, operations, laws and regulations. In addition to the academic requirement, the course emphasises real-life experience and sharing from practitioners' perspectives. Recent scandals from major international banks on compliance and regulatory areas (i.e. Know Your Client, Anti-Money Laundering, Product mis-selling, etc) will be discussed. Important legal and regulatory components and Ordinances on clients on-boarding process, compliance requirement, sales process, end-to-end client relationship management, corporate governance, sales ethics, clients suitability and sustainability & risk profiling, data privacy, etc. will be discussed in details. In addition, dispute handling on financial disputes will also be discussed.

Assessment: 80% research paper, 20% presentation

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## **LLAW6240 Security and human rights**

A central feature in the discourse on public policy around the globe has been the question of whether, and to what extent, it was (and is) necessary to curtail human rights in order to maintain and promote “security” in times of perceived crisis. Whether it is the threat of terrorism, organised crime or the risk of re-offending sex-offenders and child-molesters, governments are quick to respond with security legislation that often has significant implications for internationally protected rights and liberties. This course focusses on the alleged balance of “security” and “liberty”. It examines the theoretical underpinnings of the concepts of “security” and “liberty” and analyses how human rights protections apply in times of crisis. It discusses several contemporary case studies that highlight the tension between “liberty” and “security”, including derogation from human rights treaties, preventive detention of sex offenders, extradition/expulsion and non-refoulement, and the blacklisting of terrorists. What these case studies have in common is that they originate in a long-standing predicament of the liberal democratic state: how far are we prepared to go to create a “secure” environment for ourselves without getting caught in our own security net?

The specific aims of this course are:

- to examine and analyse some of the theoretical underpinnings of the concepts of “security” and “liberty” ;
- to provide students with an understanding of the historical development of the operation of human rights in times of crisis and emergency;
- to develop students’ knowledge and understanding of contemporary challenges in relation to human rights and security;
- to assist students to develop advanced research skills in the area of human rights law and policy, in particular in the context of security;

- and to assist students to recognise international human rights law in their subsequent careers;

The course will cover nine substantive areas and is structured as follows:

- I. Introduction
- II. The Concept of Liberty
- III. The Concept of Security
- IV. Balancing Liberty and Security?
- V. How Human Rights Work
- VI. Derogation From Human Rights Treaties in Times of Emergency
- VII. ‘Ticking Bombs’ and Torture
- VIII. Extradition and Expulsion and the Principle of Non-Refoulement
- IX. Blacklisting of Persons and Entities Suspected of Terrorism
- X. Preventive Detention

Assessment: 15% class participation, 15% presentation of short paper (based on research essay), 70% research essay

## **LLAW6242 Human rights in practice**

Human Rights in Practice aims to empower and equip HKU students with the skills and knowledge necessary to excel in the changing global legal environment by providing students with the opportunity to learn by doing and by providing service to the community.

Consistent with HKU’s spirit of opportunity in the midst of change and its commitment to “re-imagining its curriculum as a total learning experience”, the course aims to meet the increasing demand for practical and theoretical knowledge about human rights throughout the Asian region by providing HKU students an opportunity to experience human rights in practice domestically, regionally and internationally. The clinic will collaborate with select international and domestic NGOs as well as foreign law schools on human rights projects, including advocacy campaigns, legal and policy analysis, litigation, legal aid clinics, fact finding and report writing, submissions to human rights bodies, and human rights trainings and capacity building.

Preliminarily identified NGOs and foreign law schools include Mother’s Choice, Christian Action, Equal Opportunities Commission, Liberty Asia, Georgetown University Law Center and select disabled persons organizations in mainland China and Hong Kong. (Additional organizations and law schools to be identified prior to July 2014.)

The aims are:

1. to expose students to the challenges and skills of acting in the role of a lawyer within the unstructured situations that international human rights lawyers confront in practice;
2. to expand opportunities for collaborative experiential learning;

3. to instruct students in the theory and practice of domestic and international law;
4. to give students an opportunity to practice their professional skills and ethics;
5. to encourage students to identify and provide service for unmet legal needs;
6. to encourage critical analysis of the law, the relationship between international and domestic legal systems, and the clients' place and the lawyer's role within the international legal system; and
7. to provide students an opportunity to evaluate the real-life application and effects of international human rights instruments, as well as contribute to the promotion, progressive enforcement and internalization of international human rights.

Specific skills taught include interviewing and counseling, working with an interpreter, oral advocacy, negotiation, fact investigation, legal research and analysis, and legal writing and drafting.

Assessment: 25% learning journal and work in progress products (interview notes, memos, etc.), 25% work in progress draft of final work product, 50% final written work product for partner organisation

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## **LLAW6244 Securities regulation II**

The course will build on and develop concepts and issues that were considered in Securities Regulation I as well as introducing new topics.

The development and marketing of investment products and complex products are subject to developed regulatory requirements that will be examined in detail. A preliminary overview of derivatives and traded futures will be undertaken for the purposes of providing a basis for understanding structured investment products. This will also provide a basis for appreciating the role of OTC derivatives in the marketplace, their role in the global financial credit crisis and the development of regulatory oversight of this market.

A focus of the course will be on the rapidly developing body of case law in the Hong Kong courts arising out of the increased activity of the Securities and Futures Commission in bringing misconduct matters under the Securities and Futures Ordinance (SFO) to trial. Regulatory enforcement cases will also be examined. This will require a closer examination of the relevant provisions of the SFO.

The course will also review the Code on Takeovers and Mergers, which regulates takeover activity. The ways in which the Code affects the commercial execution of takeover and acquisition activity will be considered.

How the regulatory system is responding to relatively new phenomena, such as dark pools and high-frequency trading, as well as developing new approaches to existing issues, such as the position of the fiduciary concept and the treatment of information in the regulated marketplace, will also be considered. The development of behavioural or

smart regulation will also be considered. A focus will be to develop a deeper understanding of the factors that influence such developments.

This Part II course will require a higher level of class interaction and will include a workshop component.

Prerequisite: successful completion of LLAW6049 Securities regulation I, or demonstrated knowledge of the industry

Assessment: 65% take home examination, 25% group course work, 10% class participation

Students are required to pass the exam to be eligible to pass the course.

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### **LLAW6245 Compliance in the Hong Kong securities industry**

The course will provide students with an understanding of the core roles, tasks, challenges and issues that a regulated intermediary must deal with when seeking to comply with applicable laws and regulations. While ‘compliance’ can readily be understood as an objective, much of the course will be concerned with the hurdles and issues that face compliance as a function when implemented in the complex matrix of regulatory requirements, business needs, management styles, and cultural and behavioural factors.

The course will commence with a brief recap of the regulatory framework for Hong Kong’s securities industry, including the overarching objectives of regulation, and an ad hoc review of some important failures that serve to highlight the relationship between compliance, regulations and the proper operation of markets.

With a view to giving a 360-degree review of the compliance function, the course will examine (a) the different roles of compliance in different types of organizations, (b) positioning the compliance function in the context of an organization’s culture, corporate governance practices, and ethics, (c) the proper role of compliance in the organization’s relationships with third parties (including customers, clients, counterparties, and regulators) and (d) compliance as a risk management function.

While the focus of the course will be on regulated intermediaries such as securities dealers, corporate finance advisers and asset managers, the course will also consider the position of issuers, particularly the challenges facing newly listed issuers.

The development, purpose and important aspects of the in-house compliance manual will be examined. How policies and procedures should be tailored, applied to an organization’s operations, and reviewed and assessed will be considered.

With a view to giving students closer contact with the realities of the compliance task, the course will make extensive use of speakers from the industry and the regulators. The format of each lecture will in general be comprised of two halves, the first being in a lecture format, the second being discussion-based and driven by small group work and

question and answer discussions. Accordingly, student participation is expected and required to contribute to the learning context.

Prerequisite: successful completion of LLAW6049 Securities regulation I, or demonstrated knowledge of the industry

Assessment: 60% take home examination, 15% individual course work, 15% group course work, 10% class participation

Students are required to pass the exam to be eligible to pass the course.

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### **LLAW6246 Law and regulation of private banking and wealth management II**

This course covers the design and compliance requirements of products offered by banks and other financial institutions in the context of private banking, wealth management, and family office operations. In addition to the legal, regulatory and compliance components, a significant portion of the course covers the technical aspects of design of products and services including investments, insurance, tax planning, succession planning, philanthropy, etc, so as to provide a full spectrum of cover for the participants. Throughout the course, emphasis will be made on ethical issues and risks. In addition to the theoretical framework of issues, the course emphasises practical dimensions and involves experience sharing by seasoned industry practitioners.

This course gives practitioners (lawyers, risk and compliance professionals and bankers) a good refreshment of knowledge. And for those who prepare to enter into the private banking and wealth management industry, this module gives a good understanding of the Financial Products compliance and regulatory requirement.

This module is a good complementary to LLAW6239 and with the two modules together, will give an end-to-end view of the services/business provided by Private Banking and Wealth Management industry.

Assessment: 20% individual presentation, 80% research paper

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### **LLAW6247 Medico-legal issues**

Advances in medical knowledge and technologies have transformed the modern world, altering the very fabric of societies by greatly improving the quality of life and extending life expectancies in the developed world. But increasingly, advances in medical knowledge and technologies is seen as delivering ever-marginal returns, and as merely postponing inevitable mortality at considerable cost to the quality of life in many circumstances.

**Life and Death.** This course begins with an examination of some of the most fundamental human concepts: the meaning and definition of life, and of death. We start first with an inquiry into the meaning of life, and when it begins. This inquiry has profound consequences not only for the criminal law ('can one murder an unborn child?

Is an unborn child alive and distinct from its mother to begin with?'), but also for modern clinical technologies such as artificial reproductive techniques such as in vitro fertilization, and also for cutting-edge research involving human stem cells derived from the destruction of human embryos. The definition of life, too, is central to the shape of the law in relation to issues such as abortion. The definition of life in the body of the law and of ethics is inextricably bound up with the definition of death: in this second line of inquiry, we explore the consequence of modern technologies that extend biological function in ways not historically within the experience of humankind. Is a person dead when the heart stops? When it does, is it ethical and legal to remove the heart for transplant into another person, with the intent of restarting it in the recipient? What is the social, ethical and legal approach to the status of patients who are not wholly brain-dead, but are in irreversible states of unconsciousness such as PVS (Persistent Vegetative State)? Is it ethical and lawful to let such people die by removing them from life support? What is the meaning of 'brain dead'?

The next inquiry is a logical extension of the inquiry into death: people don't have any choice about being born, or of the circumstances of their birth, but do or should people have a choice about how they die? Do patients have a right to refuse treatment? Do patients have a right to die? Do patients have a right to be helped to die if they cannot achieve this themselves (for example, if they are paralysed)? What kind of advance decisions may a dying person make regarding his treatment and care at the end of life? Are living wills or advance directives lawful in Hong Kong? Do they bind doctors and families? Who is entitled to make decisions for a patient at the end of life when the patient is no longer competent or conscious? We examine in this context the notion of medical futility and its place in the law.

**The Human Body and the Law.** In this section, we explore a series of related inquiries, beginning first with the question of what kind of property rights may be asserted in the human body and its parts. Is a human body (or any part thereof) property which a testator may lawfully devise and make a binding gift of in his will? Is a corpse, or a preserved organ or tissue samples capable of being 'owned' in the sense of personal property in the law? The legal answer to this question may be surprising to most people, and it has profound implications for current developments such as intellectual property claims to or derived from human tissue or genes or proteins, as well as to the rapidly developing field of human tissue banking, biobanking and genetic or genomic banking.

Closely tied to the question of property in the body is the concept of human organ transplantation. Is transplantation legal, and what are the ethical and legal rules governing it? Do rules differ for inter vivos transplants (where the donated organ is taken from a living person) and cadaveric transplants (where the donated organ is taken from a dead person – but when is a person 'dead' for the purposes of transplantation?). We examine in particular the ethical and legal difficulties involved when organs are harvested from donors declared dead on cardiovascular death criteria instead of whole-brain death criteria. How should scarce resources such as human organs be allocated? To the sickest? To the best immunologically-compatible match? Should trade in organs be allowed, and if not, why?

**The Physician-Patient Relationship.** In this third part of the course we examine the standard duties imposed on physicians by the law, and consider especially the standard of care to be applied in the global duties of diagnosis, disclosure and treatment. Starting from the standard background of the Bolam rule, we consider the implications of the recent (March 2015) change in the common law relating to the standard of care for disclosure directed by the UK Supreme Court. Who decides how much information a patient should be given? Are there any circumstances in which a doctor may deliberately withhold information from the patient? What kinds of risks may a doctor take on behalf of the patient?

In this part, we also examine the obligation of confidence, starting first with an inquiry into the operation of the duty of confidence in the ‘traditional’ context or ‘traditional’ situations. But increasingly, the advent of modern technology and new applications for medical information is straining the traditional justifications for the confidence rule. We examine the modern formulation of the confidence rule in the context of new technologies such as genetic testing, genetic screening – and genetic research.

**Human Biomedical Research.** In this final part, we survey key developments in a rapidly-developing field which is becoming an increasingly important part of the work (and ambitions) of every healthcare institution in the developed world – biomedical research. The student is introduced to basic concepts in the field of human experimentation, research involving human subjects, clinical trials (drug or pharmaceutical trials), institutional ethical governance for biomedical research, human tissue banking, the use of medical information and biobanking.

Assessment: 30% class participation; 70% take home examination

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### **LLAW6248 Comparative contract law**

This course is designed to provide students with an understanding of contract law from a comparative perspective. Regulation of the same contractual issues differs in different legal systems. Through the introduction of basic definitions, concepts and relevant contractual issues, this course shall assess different regulations and discuss the most efficient ways to regulate contractual issues.

The course covers the following issues: the boundaries of contract (contract and tort), contract law theory, formation of contract, pre-contractual duties, incapacity, contents of contracts; interpretation of contracts, and remedies.

Assessment: 90% research paper, 10% class participation

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### **LLAW6249 Entertainment law: Popular iconography and the celebrity**

This course adopts an interdisciplinary cultural studies approach to understanding popular iconography in contemporary consumer culture and the world of entertainment. It introduces well-known copyrighted works, iconic trademarks and the celebrity



personality as “cultural texts” and “semiotic signs” which are encoded with meanings recognised by the public at large, and discusses how the law could develop when taking into account such symbolic significance. It provides a transnational perspective with an emphasis on cases from California (where Hollywood is located), New York (where numerous celebrities are resident and global entertainment conglomerates are headquartered) and the United Kingdom; this is not a course on entertainment law in Hong Kong, but the principles to be examined in this course could be relevant to Hong Kong law. Specifically, the objectives of the course are to –

- analyse key aspects of a modern entertainment industry with a focus on claims brought by celebrities and rights owners of well-known popular iconography in the United States and United Kingdom;
- examine the production, circulation and consumption of the celebrity personality and iconic brands in contemporary society;
- provide an insight into the challenges to intellectual property law that social media present; and
- introduce students to the operation of the six prominent causes of action in the United States and the United Kingdom, with selected references to other jurisdictions, brought by celebrities and rights owners in the entertainment industry: (i) copyright infringement; (ii) trademark infringement/dilution; (iii) right of publicity tort; (iv) passing off; (v) right of privacy torts; (vi) breach of confidence.

From Naomi Campbell to Tiger Woods, Paris Hilton to Rihanna, Lady Gaga to JK Rowling, Barbie to James Bond, Louis Vuitton to Christian Louboutin, this course will be focusing on the operation of the six prominent causes of action brought by celebrities and rights owners.

Assessment: 80% research paper, 20% class participation

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## **LLAW6250 The regulation of biomedical research**

This is an advanced-level course that explores the ethical, legal and social framework of biomedical research and human experimentation.

The course is aimed at students seeking a understanding of the framework of legal and ethical regulation (both locally and internationally) of biomedical research in all its common aspects, particularly in the context of international standards for clinical trials (pharmaceutical trials); direct human experimental and biomedical research involving human subjects; ‘non-invasive’ epidemiological and other studies involving only the use of data; human tissue banking; cohort studies; biobanking; genetic testing and screening, genomic research; the use of ‘legacy’ diagnostic tissue or data collections; the sharing of personal, medical and genomic information (‘Big Data’); public ‘diseases registries’ and the use of medical information for public health purposes; the legal and

ethical regulation of multi-centre and multi-jurisdictional collaborative biomedical research; international standards for ethical governance of biomedical research at the institutional level (through IRBs, ECs, HRECs); EMR (electronic medical records) databases; data-mining and the implications of migration to large-scale national health records systems.

Fundamental concepts such as the informed consent of subjects (at common law and under ICH rules) with particular emphasis on the consent given by or on behalf of minors, incompetent subjects and vulnerable populations, return of benefits to research subjects or research subject populations, assessment of risks, randomized controlled trial (RCT) and clinical equipoise will be considered in the context of clinical trials, as well as the impact and requirements of the Guidelines of The International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). Ethical requirements to be met for research protocols and publication of results in first-tier medical journals according to the ICMJE Guidelines will also be considered.

The course seeks to help legal practitioners understand and keep abreast of developments (and to enable to them advise the medical and biomedical research sector) in the rapidly developing field of biomedical research, and to equip them with the basic language and vocabulary necessary to follow and keep abreast of legal and ethical developments in the field. The particular focus of the course is biomedical research carried out by biomedical researchers who are also registered physicians, on research subjects (or personal or medical data relating to such subjects) who are also the patients of the physicians (the most common scenario in the advanced jurisdictions of East Asia).

Assessment: 70% take home examination, 30% class participation

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## **LLAW6251 Comparative Property Law**

In 1766, Blackstone wrote that “there is nothing which so generally strikes the imagination, and engages the affections of mankind, as the right of property.” In 1848, Karl Marx and Friedrich Engels wrote that property in land should be abolished in the most advanced countries. Property rights have been at the very heart of human development in the past centuries. On one hand, property has been viewed as the basis for liberty and economic development. On the other hand, as Proudhon said, property is just another word for theft. In China, land-related social conflicts occur every day and everywhere. From ordinary farmers to university scholars, each person has his own idea of property rights. However, in the fierce debates around property rights, there is lack of consensus on such basic questions: What is property? What things should we keep for ourselves? And what should we share with others? Why should a piece of land belong to you rather than me? How is property rights structured and defined? What is the relationship between property and development? On the other hand, property rights are behind many challenges facing human beings: can a market of pollution permits save us from air pollution? How to govern the common resources in the oceans? Have intellectual property rights deterred or encouraged technological innovation? Are property rights the key to economic prosperity in the U.S.? How about China? Why

have land reform programs sponsored by the World Bank failed in many developing countries? Are indigenous residents in the New Territories of Hong Kong entitled to the development value of their land? This seminar will provide students with the theoretical and comparative perspectives to investigate such questions.

This seminar will begin with an inquiry into how members of a society allocate, and should allocate, formal and informal entitlements to scarce resources such as wild animals, labor, water, ideas, and land. It will explore various forms of private property and also alternative regimes such as communal and state property. It will give students an overview of the contemporary debates on property rights, in particular the debate between law and economics and critical legal studies regarding efficiency and fairness of property regimes. It will draw cases from different jurisdictions of the world, in particular the U.S., China, African and South American countries, and different fields of law, including environmental law.

Through this course, I hope to improve students' understanding of property rights from both theoretical and comparative perspectives. It is more suitable to students who are interested in exploration and proactive learning rather than passive learning of black-letter laws.

Assessment: 30% response papers, 30% class participation and presentations, 40% final essay

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### **LLAW6252 Construction of commercial contracts**

This LLM elective is designed to provide students with an understanding of the principles of construction of commercial contracts. Unlike the substantive law of contract, construction of contractual terms is essentially intuitive in nature, with no rules but, rather, with fundamental guiding principles which have evolved from a large body of case law and, indeed, continue to evolve. It is, therefore, essential that any commercial lawyer has a solid grasp of such principles so as to enable them to anticipate how contractual terms are likely to be interpreted by the court for the purposes of giving advice and drafting contractual documents.

Other than examining the guiding principles of contractual construction, the course will also consider related concepts, such as implied terms, rectification and estoppel by convention, which are also highly relevant to the overall construction issue. To this end, the course will draw on, develop and deepen the knowledge acquired from their undergraduate study of the Law of Contract.

Prerequisite: Students must have previously studied (and passed) the law of contract

Assessment: 80% take home assignment, 20% group project

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## **LLAW6253 Comparative land use**

This course explores the relatively young and evolving field of land use law, seeking to understand the theoretical basis for such regulation, the effects (intended, unintended or perhaps unconsciously intended) of such regulation and the practicalities of land use and development within the legal framework. This course will take a comparative perspective by focusing on two major countries in the world: the U.S. and China. Two weeks will be spent on each country. Among the major issues this course will examine are: the law of zoning, the constitutional constraints on land use regulation (such as the takings Clause), the impact of land use control on housing and economic development. Through this course students will learn how land use regulations have evolved in both jurisdictions from fundamentally different beginnings: in the U.S., from no governmental control on land use at all to (probably) overregulation; in China, from public land regime and complete government control to the mixture of private property and governmental regulation. On the other hand, Chinese and American cities are facing similar problems today, such as conflicts in land use, sky-high housing prices, and tension between property protection and economic development. We hope students in this course will learn how to understand such problems, and start exploring how to resolve such problems, both in the context of American cities, and also in the context of Hong Kong and urbanization in mainland of China.

We will investigate cases from different cities around the world, including but not limited to Chinese cities such as Beijing and Shanghai, and American cities such as Philadelphia and New York. This course takes an interdisciplinary approach by building on frontier research in law, politics, sociology and economics.

We have many goals for this class, among them to:

1. Expose students to basic principles of law surrounding the, use, preservation, and development of land
2. Examine different regimes for regulation of land use and assess their strengths and weaknesses
3. Expose students to the practice of land use law and the major roles of a land use lawyer
4. Examine governmental structures that regulate the use of land and develop proposals to reform them
5. Explore current pressing topics in land use law and policy and develop tools to assess the appropriate responses to these challenges

Students will approach these questions from both theoretical and practical vantage points, and will be required to conduct research on how land use regulations are implemented in "real world" situations.

Assessment: 20% class participation, 40% class presentation, 40% final essay

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## **LLAW6254 Compliance: Regulation in Practice**

The finance industry is facing increasing demand of compliance to the changing regulatory landscape. The increase of regulations stem from the need of investors' protection, building investors' confidence and maintaining market integrity. There is also a need of building a risk and compliance culture within the industry and within the industry practitioners. Adherence to the industry's code of conduct is an importance cornerstone for the development of the finance industry.

The course will start with a discussion of Hong Kong's regulatory framework for the finance industry, namely the function, powers and responsibility of the Hong Kong Monetary Authority and the Securities and Futures Commission, and their interaction with the industry players. The Lehman Mini-bonds Report issued in December 2008 by the SFC and the nine general principles under the "Code of Conduct for Persons licensed by and registered with the SFC" will form the basis of the course. Then the course will look at various circulars, guidelines and consultation paper/result issued by the regulators since the 2008 global financial crisis. Focus of the review of the circulars and guidelines will be in areas of industry practices related to customer identification, know your client policy, client profiling, investment suitability, product risk assessment, investor characterization, selling process, documentation and risk disclosure. Brief reference to other areas of law which has impact on topics of documentation and selling process, including contract law and law of tort will be made.

The course will cover selected sections of the Securities and Futures Ordinance which is related to the regulations identified in the code, including definition of different types of licensing activities and the definition and application of the concept of professional investors.

As much as possible, cases and case laws in Hong Kong will be used to support the understanding of the regulations outlined in the code of conduct, circulars and guidelines. Practical examples of how financial intermediaries currently implement the regulations and policies will be touched upon.

Assessment: 30% group presentation, 70% take home examination

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## **LLAW6255 Compliance: Law in Practice**

The growth and development of Hong Kong as an international financial centre hinges on our ability to maintain a high standard of market integrity and an effort to combat any financial crime. There are a number of statutes and new statutes enacted since the last financial crisis in 2008 both locally and overseas that are targeted to prevent financial crime and to keep the financial system safe.

The course is designed to review such legislation in Hong Kong and elsewhere and assess their applicability to financial intermediaries in managing their business and in complying with the statutes.

Local laws to cover will include

- (1) Anti Money Laundering and Counter Terrorist Financing Ordinance
- (2) Drug Trafficking (Recovery of Proceeds) Ordinance
- (3) United Nations (Anti-Terrorism) Measures Ordinance
- (4) Organized and Serious Crime Ordinance
  - mis-appropriation of customer assets
- (5) Personal Data (Privacy) Ordinance
- (6) Deposit Protection Scheme
- (7) Relevant sections of the Securities and Futures Ordinance for this course
  - unsolicited marketing calls
  - mis-representation
  - improper trading practices
  - insider dealing
  - unauthorized trading

Overseas law that impact on how financial intermediaries manage the business

- (1) Foreign Account Tax Compliance Act (FATCA)
- (2) Dodd-Frank Act
- (3) Financial Services and Market Act 2000

Other than statutory law as listed above, the circulars and guidance notes issued by the regulators (the Hong Kong Monetary Authority and the Securities and Futures Commission) related to the implementation and compliance of the subject laws will also be reviewed.

As much as possible, cases and case laws in Hong Kong will be used to support the understanding of the legislation. Practical examples of how financial intermediaries currently implement the policies and procedures for complaint will be touched upon.

Assessment: 30% class participation, 70% take home examination

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## **LLAW6267 Courts**

This course takes an interdisciplinary, comparative, and empirical perspective on politically relevant questions concerning the design and operation of courts. Potential topics include the manner in which social scientists study courts; the nature and basis of judicial power; the practical effects of judicial review; the different ways in which a system of judicial review can be designed; the role of courts in nondemocratic environments; the challenges of defining and achieving judicial independence; and the dynamics by which courts expand into the domain of politics. Students should be prepared for copious reading assignments commensurate with a graduate-level course in the social sciences and consisting primarily of academic scholarship rather than cases. The readings are intended to introduce participants to the major debates and empirical arguments found in the scholarly literature on courts. The course will be conducted as a true graduate seminar, meaning that class time will consist primarily of collective critical discussion of the readings rather than passive absorption of the instructor's views. Each week, students will be required not only to demonstrate knowledge of what

is in the readings, but also to offer their own evaluation and critique of the empirical arguments found in the readings and to articulate arguments of their own. The expectation is that students will engage in critical and original thinking and become active participants in the scholarly debate rather than passive consumers of scholarship produced by others.

Assessment: 30% research paper, 50% reaction papers, 10% oral presentation, 10% participation

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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>2</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>2</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.