

**REGULATIONS FOR THE DEGREES OF MASTER OF LAWS (LLM), MASTER OF LAWS IN CHINESE LAW (LLM[Chinese Law]), MASTER OF LAWS IN CORPORATE & FINANCIAL LAW (LLM[CFL]), MASTER OF LAWS IN HUMAN RIGHTS (LLM[HR]) AND MASTER OF LAWS IN INFORMATION TECHNOLOGY AND INTELLECTUAL PROPERTY LAW (LLM[IT&IPL])**

*(See also General Regulations)*

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**Admission requirements**

LL 14. To be eligible for admission to the courses leading to the degree of Master of Laws (in the general stream or a specialist stream) a candidate shall

- (a) comply with the General Regulations; and
- (b)
  - (i) hold the degree of Bachelor of Laws with at least second class honours of this University; or
  - (ii) hold a degree in law with at least second class honours from another university or comparable institution accepted for this purpose; or
  - (iii) have been admitted to the professional practice of law in Hong Kong or in a territory or country other than Hong Kong; or
  - (iv) have obtained either the Common Professional Examination of England and Wales or the Common Professional Examination Certificate of this University provided that in either case the candidate has also obtained a second class honours degree of this University or from another university or comparable institution accepted for this purpose; or
  - (v) in the case of admission to the Master of Laws in Human Rights programme only, hold another degree in a discipline other than law with at least second class honours or qualification of equivalent standard from this University or from another university or comparable institution accepted for this purpose and provided that the Faculty Higher Degrees Committee is satisfied that by reason of candidate's background, experience and professional qualifications, if any, the candidate is fit to follow the programme.

LL 15. A candidate for admission under Regulation (b)(ii), (b)(iii), (b)(iv) or (b)(v) above shall produce evidence of sufficient academic attainment and shall satisfy the examiners in a qualifying examination if such an examination is required. A candidate who fails to meet the requirements of (b)(i), (b)(ii), (b)(iii), (b)(iv) or (b)(v) above by reason only of the fact that his or her degree is not of at least second class honours standard may, nevertheless, be admitted provided that the Faculty Higher Degrees Committee is satisfied that by reason of his or her background, experience and professional qualifications, if any, the candidate is fit to follow the courses.

LL 16. A candidate who has already completed a Postgraduate Diploma programme offered by this Faculty may apply for conversion to the Master's programme in the corresponding specialty on advanced standing. Such candidate is required to achieve an average grade as determined by the Faculty Higher Degrees Committee from time to time in his or her Postgraduate Diploma.

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**Qualifying examination**

LL 17.

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

### **Award of degree**

LL 18. To be eligible for the award of the degree of Master of Laws (in the general stream or a specialist stream) a candidate shall

- (a) comply with the General Regulations; and
  - (b) complete the curriculum and satisfy the examiners in accordance with the regulations set out below.
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### **Length of curriculum**

LL 19. The curriculum shall comprise approximately 300 hours of prescribed work. It shall extend over a minimum of two academic years and a maximum of four academic years of part-time study, or a minimum of one academic year and a maximum of two academic years of full-time study, except the Master of Laws in Human Rights which shall extend over one academic year of full-time study or two academic years of part-time study.

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### **Completion of the curriculum**

LL 20. To complete the curriculum except for the degree of Master of Laws in Human Rights, a candidate shall

- (i) follow the equivalent of eight modules as prescribed by the syllabus; and
- (ii) satisfactorily complete all prescribed written and other work in each module;

LL 20(a). To complete the curriculum for the degree of Master of Laws in Human Rights a candidate shall

- (i) in the case of a full-time candidate satisfactorily complete modules equivalent to 8 modules;
- (ii) in the case of a part-time candidate satisfactorily complete modules equivalent to 4 modules in each of the two years of study;

LL 20(b). A candidate completing the curriculum under LL20 and LL20(a) shall also

- (i) satisfy attendance requirements, if any;
  - (ii) satisfy the examiners in each module by either assessed written work carried out during the module or a written examination at the end of the module or both; and
  - (iii) satisfy the examiners in an oral examination if such an examination is required.
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### **Dissertation**

LL 21. A candidate, whether full-time or part-time, who elects to submit a dissertation equivalent to either one module or two 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.

LL 22. In exceptional circumstances a candidate may apply to the Faculty Board for an extension of the period within which the dissertation must be presented.

LL 23. 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.

**Failure to satisfy the examiners**

LL 24. A candidate who has failed to satisfy the examiners in not more than two modules/credit units in any academic year may be permitted

- (a) to attend a supplementary examination; or
- (b) to repeat the module(s)/course(s) at the next available opportunity and to re-take the prescribed examination or examinations; or
- (c) to re-take the prescribed examination or examinations at the next available opportunity without repeating the module(s)/ course(s); or
- (d) to undertake the study of an alternative module(s)/ course(s)/modules at the next available opportunity and to take the prescribed examination or examinations.

LL 25. A candidate who has failed to present a satisfactory dissertation may be permitted, subject to his performance in other examinations, to revise the dissertation and to re-present it within a specified period as determined by the Board of Examiners after receiving a notice that it is unsatisfactory.

LL 26. A candidate who is not permitted to present himself or herself for re-examination in any module(s)/ courses(s) in which he or she has failed to satisfy the examiners or to revise and re-present the dissertation shall be recommended for discontinuation of studies under General Regulation G 12.

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**Absence from examination**

LL 27. A candidate who is unable because of illness or other acceptable reason to attend for examination may apply for permission to attend for examination at some other time.

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**Examination results**

LL 28. At the conclusion of the examination a pass list shall be published. A candidate who has shown exceptional merit at the whole examination may be awarded a mark of distinction and this mark shall be recorded in the candidate's degree diploma.

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**Advanced standing**

LL 29. For the degree of Master of Laws, Master of Laws in Chinese Law, Master of Laws in Corporate and Financial Law, or the degree of Master of Laws in Information Technology and Intellectual Property Law, a candidate may be given advanced standing for up to 2 modules on the ground that equivalent modules or courses have been passed at another university or comparable institution accepted by the Senate for this purpose: provided that no candidate shall be eligible for the award of any of the degrees set out in these regulations without having earned at least 6 modules in this programme. A holder of the corresponding Postgraduate Diploma (see LL16 above and regulations for the Postgraduate Diplomas) offered by this Faculty may be eligible to apply for advanced standing for up to 2 modules, but he or she may not enrol in any course which he or she has satisfactorily completed in the relevant Postgraduate Diploma.

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**Conversion**

LL 30. A candidate who has been admitted to a Postgraduate Diploma programme and who has satisfied the examiners in all examinations, may be considered for admission to the Master of Laws or the corresponding Master's programme provided that his or her application for conversion has been submitted on or before the prescribed deadline (see regulations for the Postgraduate Diplomas).

Candidates who satisfy the examiners in the Master's programme examinations shall qualify for the award of the Master's degree, but shall not qualify for the award of the relevant Postgraduate Diploma (see regulations for the Postgraduate Diplomas). A candidate under these circumstances who, for whatever reasons, does not have sufficient modules for the award of the Master's degree shall qualify for the award of the relevant Postgraduate Diploma.

LL 30 (a) A candidate with a degree of Master of Laws from Hong Kong or another jurisdiction may apply for advanced standing status. Such candidate shall be eligible for the award of the degree of Master of Laws upon successful completion of not less than 6 modules in this programme.

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### **Exit qualification**

LL 31. A candidate who has enrolled in the degree of Master of Laws in Chinese Law, or the degree of Master of Laws in Corporate and Financial Law, or the degree of Master of Laws in Information Technology and Intellectual Property Law and has completed satisfactorily 4 modules may qualify for the award of the corresponding Postgraduate Diploma (see regulations for the Postgraduate Diplomas for details). Such candidate is required to inform the Chairman of the Faculty Higher Degrees Committee as soon as possible after his or her completion of 4 modules, or in any case, not later than the commencement of the fourth academic year of study which is the last year of the maximum period of study allowed (exact date to be confirmed by the Faculty), whether he or she would like to opt for the above exit qualifications.

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### **Publication**

LL 32. Any publication based on work approved for this degree should contain a reference to the effect that the work was submitted to the University of Hong Kong for the award of the degree.

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## **SYLLABUSES FOR THE DEGREE OF MASTER OF LAWS**

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### **COURSEWORK**

The Board of Examiners shall decide what proportion of the final assessment for each module shall be determined by written work carried out during the course. 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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### **PROGRAMMES**

The following programmes in the Master's programme are available :-

LL.M.

LL.M. in Chinese Law

LL.M. in Human Rights

LL.M. in Corporate & Financial Law

LL.M. in Information Technology & Intellectual Property Law

## MASTER OF LAWS (LLM)

### OBJECTIVES

The degree of Master of Laws is offered by the Faculty of Law to meet a need in various specialist areas of the law that are of importance to Hong Kong and its locality, and to offer modules which Hong Kong is perhaps uniquely placed to provide to students from both within and outside Hong Kong. The modules available at present focus upon international trade law, commercial law, Chinese law, information technology law, intellectual property law and public law (including human rights).

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### STRUCTURE

Candidates are required to complete 8 modules. Candidates may choose modules from the module outlines below and modules from any of the specialist programmes, in any case, not more than 5 modules from each of the specialist programmes. Candidates may apply to substitute for not more than 2 modules by taking courses or modules offered by any other Department in the University. Such application shall be approved by the Chairman of the Faculty Higher Degrees Committee who has to be satisfied that such course(s)/ modules from any other Department or Departments in the University are of equivalent standard to that or those listed in this syllabus. Permission will normally be granted only to take postgraduate course(s) or module(s), and only for those courses or modules which can be shown to have relevance to candidates' overall course of study. Permission shall not be granted to substitute any other course or module for a compulsory module in the programme. Candidates are also required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s) or module(s).

Candidates, on accepting a place, shall notify the Chairman of the Faculty Higher Degrees Committee the modules which they wish to follow. The selection of modules shall, however, be subject to approval by the Chairman of Faculty Higher Degrees Committee in the light of the availability of resources. In any academic year only some of the modules listed will be available.

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### DISSERTATION

To be regarded as two modules a dissertation shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Faculty Higher Degrees Committee. A one-module dissertation shall comprise a paper on a legal topic not exceeding 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies). In both cases the dissertation must provide evidence of original work and a capacity for critical analysis.

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### MODULE OUTLINES

#### PRC law

##### *Two modules*

- . Civil and commercial law in the People's Republic of China (LLAW6003)
- . Trade and investment in the People's Republic of China (LLAW6013)

##### *One module*

- . Advanced seminar on Chinese law (LLAW6115)
- . Company law and securities regulation in the People's Republic of China (LLAW6025)
- . Constitutional and administrative law in the People's Republic of China (LLAW6113)

- . Criminal law and procedure in the People's Republic of China (LLAW6112)
- . Cross-border legal relations between the Mainland and Hong Kong (LLAW6114)
- . Current issues in PRC commercial law (LLAW6028)
- . Dispute resolution in the People's Republic of China (LLAW6029)
- . Human rights in the People's Republic of China (LLAW6070)
- . International trade regulation I : Introduction to the Law of the WTO (LLAW6039)
- . Introduction to Chinese law (LLAW6040)
- . Introduction to Chinese law and legal system (LLAW6008)
- . Law and regulation of banking and insurance in the People's Republic of China (LLAW6110)
- . Legal Chinese in commercial transactions (LLAW6041)
- . Legal system of the People's Republic of China (LLAW6056)
- . PRC intellectual property (LLAW6044)
- . PRC information technology law (LLAW6139)
- . PRC security and insolvency law (LLAW6048)
- . Real estate law in the People's Republic of China (LLAW6047)
- . Taxation in the People's Republic of China (LLAW6050)
- . The law of electronic commerce: international trade and logistics (LLAW6111)

## **Human rights and public law**

### *One module*

- . Advanced administrative law (LLAW6021)
- . Armed conflict, humanitarian law and human rights (LLAW6058)
- . Constitutional and administrative law in the People's Republic of China (LLAW6113)
- . Criminal justice and human rights (LLAW6059)
- . Criminal law and procedure in the People's Republic of China (LLAW6112)
- . Cross-border legal relations between the Mainland and Hong Kong (LLAW6114)
- . Current issues in human rights (LLAW6060)
- . Development and human rights (LLAW6061)
- . Economic, social and cultural rights (LLAW6062)
- . Equality and non-discrimination (LLAW6063)
- . Equality and the law (LLAW6030)
- . Ethnicity, human rights and democracy (LLAW6064)
- . Freedom of speech and the press (LLAW6065)
- . Gender issues in human rights (LLAW6066)
- . Globalisation and human rights (LLAW6067)
- . Hong Kong basic law (LLAW6032)
- . Hong Kong environmental law (LLAW6033)
- . Human rights : history, theory and politics (LLAW6068)
- . Human rights and governance (LLAW6069)
- . Human rights in the People's Republic of China (LLAW6070)
- . Human rights in Hong Kong (LLAW6034)
- . Indigenous peoples and human rights (LLAW6071)
- . International and regional protection of human rights (LLAW6072)
- . International criminal law (LLAW6036)
- . International protection of refugees and displaced persons (LLAW6073)
- . Labour rights and human rights (LLAW6074)
- . Law, the individual and the community : a cross-cultural dialogue (LLAW6123)
- . National protection of human rights (LLAW6075)
- . Privacy and data protection (LLAW6046)
- . Public international law (LLAW6109)
- . Seminar in human rights research, sources and methodology (LLAW6076)
- . The child and the law (LLAW6108)
- . The rights of the child in international and domestic law (LLAW6077)

## **Commercial, corporate and financial law**

Two modules

- . Credit and security law (LLAW6002)
- . Remedies (LLAW6010)

*One module*

- . Arbitration law workshop (LLAW6023)
- . Banking and finance in the PRC (LLAW6078)
- . Banking law (LLAW6024)
- . Comparative banking law (LLAW6079)
- . Comparative company law (LLAW6080)
- . Comparative insurance law and regulation (LLAW6103)
- . Comparative securities laws (LLAW6057)
- . Construction law (LLAW6027)
- . Corporate governance and shareholder remedies (LLAW6082)
- . Corporate reconstruction (LLAW6083)
- . Cross-border insolvency law (LLAW6084)
- . Currency law/law of money (LLAW6085)
- . Current issues in corporate law (LLAW6086)
- . Current issues in financial law (LLAW6127)
- . Current issues in insolvency law (LLAW6087)
- . Derivatives : law and regulation (LLAW6088)
- . Comparative financial regulation (LLAW6089)
- . e-Finance : law and regulation (LLAW6126)
- . Electronic banking and finance law (LLAW6118)
- . Emerging markets : finance and investment (LLAW6090)
- . Equity in commercial law (LLAW6092)
- . Law of international finance I – debt (LLAW6055)
- . Insurance law (LLAW6107)
- . Intellectual property law (LLAW6005)
- . International trade regulation II : Selected Issues on WTO and China (LLAW6134)
- . Introduction to International Economic Law (LLAW6133)
- . Regulation of financial markets (LLAW6093)
- . Law of international finance II – equity and structured finance (LLAW6094)
- . International commercial transactions (LLAW6006)
- . International investment law with East Asia focus (LLAW6095)
- . International tax and tax planning (LLAW6096)
- . Law and regulation of banking and insurance in the People's Republic of China (LLAW6110)
- . Pension and investment funds (LLAW6097)
- . Project finance (LLAW6098)
- . International commercial arbitration (LLAW6099)
- . Securities for corporate lending (LLAW6100)
- . Securities regulation (LLAW6049)
- . Takeover and insider dealing (LLAW6101)
- . Trade finance law (LLAW6081)
- . Legal aspects of white collar crime (LLAW6102)
- . The law of restitution (LLAW6051)

## **International and comparative law**

*Two modules*

- . Introduction to law in East Asia (LLAW6009)

*One module*

- . Hong Kong and international law (LLAW6031)
- . International air law : structure and organisation (LLAW6035)
- . International commercial transactions (LLAW6006)
- . International criminal law (LLAW6036)
- . International environmental law (LLAW6037)
- . International humanitarian law (LLAW6038)
- . International trade law I (LLAW6128)
- . International trade law II (LLAW6129)
- . International trade regulation I : Introduction to the Law of the WTO (LLAW6039)
- . Liabilities in international aviation (LLAW6043)

**Admiralty and shipping***Two modules*

- . Admiralty (LLAW6001)
- . Shipping law (LLAW6011)

*One module*

- . The law of the sea (LLAW6052)

**Information technology and intellectual property law***One module*

- . Computerisation of law (LLAW6116)
- . Cybercrime (LLAW6117)
- . e-Finance : law and regulation (LLAW6126)
- . Electronic banking and finance law (LLAW6118)
- . Human rights and cyberspace (LLAW6119)
- . Hong Kong intellectual property law (LLAW6005)
- . Intellectual property and technology: protecting and managing digital assets (LLAW6120)
- . Intellectual property issues in biotechnology (LLAW6140)
- . International and comparative intellectual property law (LLAW6132)
- . Issues in information technology law (LLAW6106)
- . Regulation of cyberspace I: technology and internet governance (LLAW6141)
- . Regulation of cyberspace II: internet content (LLAW6142)
- . Privacy and data protection (LLAW6046)
- . PRC intellectual property law (LLAW6044)
- . PRC information technology law (LLAW6139)
- . Telecommunications law (LLAW6124)
- . The law of electronic commerce: international trade and logistics (LLAW6111)

**Others***One module*

- . Advanced research methodology for law (LLAW6022)
- . Current issues in international arbitration and dispute settlement (LLAW6137)
- . Dispute settlement in the WTO : Practice and Procedure (LLAW6136)
- . Hong Kong arbitration law (LLAW6138)
- . Legal Chinese in commercial transactions (LLAW6041)



- . Legal fictions : representations of the law in literature, philosophy and cinema (LLAW6042)
  - . Media law (LLAW6131)
  - . Medical law (LLAW6104)
  - . Postmodern legal theory (LLAW6045)
  - . Law, justice & ideology (LLAW6130)
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## **MASTER OF LAWS IN CHINESE LAW (LLM[CHINESE LAW])**

### **OBJECTIVES**

The degree of Master of Laws in Chinese Law is offered by the Faculty of Law to address an increasing need in Hong Kong and internationally for a more comprehensive understanding of the laws and regulations of the People's Republic of China. Hong Kong is uniquely placed to provide to students from Hong Kong and elsewhere courses on contemporary Chinese law developments from a comparative perspective which are conducted primarily in English.

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### **STRUCTURE**

Each candidate is required to follow 8 modules. A dissertation can be equivalent to one module or two depending on its length (see below). A candidate may apply to choose up to 2 modules from courses or modules offered under the other specialist programmes or by any other Departments in the University or by any other approved Universities offering joint LLM programmes with the Faculty. Such application shall be approved by the Chairman of Faculty Higher Degrees Committee who has to be satisfied that such course(s)/ module(s) from any other Department or Departments are of equivalent standard to that or those listed in this syllabus. Candidates are also required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s) or module(s).

A candidate, on accepting a place, shall notify the Chairman of Faculty Higher Degrees Committee of the modules which they wish to follow. The selection of modules shall, however, be subject to approval by the Chairman of Faculty Higher Degrees Committee in the light of the availability of resources. In any academic year only some of the modules listed will be available.

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### **DISSERTATION**

To be regarded as equivalent to two modules, a dissertation shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Faculty Higher Degrees Committee. A one-module dissertation shall comprise a paper on a legal topic not exceeding 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies). In both cases the dissertation must provide evidence of original work and a capacity for critical analysis.

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### **MODULE OUTLINES**

#### *Two modules*

- . Civil and Commercial Law in the People's Republic of China (LLAW6003)
- . Trade and Investment in the People's Republic of China (LLAW6013)

*One module*

- . Advanced research methodology for law (LLAW6022)
- . Advanced seminar on Chinese law (LLAW6115)
- . Company law and securities regulation in the People's Republic of China (LLAW6025)
- . Constitutional and administrative law in the People's Republic of China (LLAW6113)
- . Criminal law and procedure in the People's Republic of China (LLAW6112)
- . Cross-border legal relations between the Mainland and Hong Kong (LLAW6114)
- . Current issues in PRC commercial law (LLAW6028)
- . Dispute resolution in the People's Republic of China (LLAW6029)
- . Human rights in the People's Republic of China (LLAW6070)
- . International trade regulation I : Introduction to the Law of the WTO (LLAW6039)
- . Introduction to Chinese law (LLAW6040)
- . Law and regulation of banking and insurance in the People's Republic of China (LLAW6110)
- . Legal Chinese in commercial transactions (LLAW6041)
- . Legal system of the People's Republic of China (LLAW6056)
- . PRC intellectual property (LLAW6044)
- . PRC information technology law (LLAW6139)
- . PRC security and insolvency law (LLAW6048)
- . Real estate law in the People's Republic of China (LLAW6047)
- . Taxation in the People's Republic of China (LLAW6050)
- . The law of electronic commerce: international trade and logistics (LLAW6111)

**MASTER OF LAWS IN HUMAN RIGHTS (LLM[HR])****OBJECTIVES**

The degree of Master of Laws in Human Rights is offered by the Faculty of Law as a response to the increasing interest in and relevance of human rights standards in Asia and elsewhere. The programme responds to the important international, regional and national developments involving the debate about human rights standards and their implementation in Asian countries. The programme will focus on problems and perspectives which are of particular concern to the Asia-Pacific region, while at the same time ensuring that participants engage with universal human rights issues and the perspectives of other regional systems.

**STRUCTURE**

Each candidate is required to complete a total of 8 modules. A candidate will be required to take five compulsory modules, including the completion of a one module dissertation (although permission may be sought to submit a two modules dissertation in its place). A candidate may apply to choose the remaining three (or in some cases, two) modules from among the modules developed by the Faculty of Law for the LLM(HR) programme or, with the approval of the Chairman of the Faculty Higher Degrees Committee, up to 2 modules from modules/ courses offered under the other specialist programmes or by any other Department in the University or by any other approved Universities offering LLM programmes. Such application shall be approved by the Chairman of the Higher Degrees Committee who has to be satisfied that such course(s)/module(s) from any other Department or Departments are of equivalent standard to that or those listed in this syllabus. Candidates are also required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s)/module(s).

A candidate, on accepting a place, shall notify the Chairman of the Faculty Higher Degrees Committee of the modules which they wish to follow. The selection of modules shall, however, be subject to approval by the Chairman of the Faculty Higher Degrees Committee in the light of the availability of resources. In any academic year only some of the modules listed will be available.

## DISSERTATION

Each candidate is required to satisfy an independent writing requirement which is the equivalent of one module. This requirement may be satisfied by the submission of a one-module dissertation or by the completion of a written project other than a dissertation on an area as agreed with the student's supervisor. With the approval of the Faculty Higher Degrees Committee, a candidate may submit a two-module dissertation or two-module written project in place of a one-module dissertation or one-module written project.

To be regarded as two modules a dissertation shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Faculty Higher Degrees Committee. A one-module dissertation shall comprise a paper on a legal topic not exceeding 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies). In both cases the dissertation must provide evidence of original work and a capacity for critical analysis.

The Faculty Higher Degrees Committee may, with the agreement of the student's supervisor, permit a student to undertake a writing project other than a dissertation to the value of 1 or 2 module(s). In appropriate circumstances, the Faculty Higher Degrees Committee may permit this written project to be completed in conjunction with an internship with a human rights organisation or other organisation. Unless otherwise approved by the Faculty Higher Degrees Committee, the dissertation must be submitted not later than May 31 in the same academic year.

## COURSE OUTLINES

### *Compulsory Module*

- . Dissertation (LLAW6054)
- . Human rights: history, theory and politics (LLAW6068)
- . International and regional protection of human rights (LLAW6072)
- . National protection of human rights (LLAW6075)
- . Seminar in human rights research, sources and methodology (LLAW6076)

### *Optional Modules*

- . Armed conflict, humanitarian law and human rights (LLAW6058)
- . Criminal justice and human rights (LLAW6059)
- . Criminal law and procedure in the People's Republic of China (LLAW 6112)
- . Development and human rights (LLAW6061)
- . Economic, social and cultural rights (LLAW6062)
- . Equality and non-discrimination (LLAW6063)
- . Ethnicity, human rights and democracy (LLAW6064)
- . Freedom of speech and the press (LLAW6065)
- . Gender issues in human rights (LLAW6066)
- . Globalisation and human rights (LLAW6067)
- . Human rights and governance (LLAW6069)
- . Human rights in the People's Republic of China (LLAW6070)
- . Human rights in Hong Kong (LLAW6034)
- . Indigenous peoples and human rights (LLAW6071)
- . International criminal law (LLAW6036)
- . International protection of refugees and displaced persons (LLAW6073)
- . Labour rights and human rights (LLAW6074)
- . Law, the individual and the community : a cross-cultural dialogue (LLAW6123)
- . Privacy and Data Protection (LLAW6046)
- . The rights of the child in international and domestic law (LLAW6077)
- . The child and the law (LLAW6108)

## MASTER OF LAWS IN CORPORATE AND FINANCIAL LAW (LLM [CFL])

### OBJECTIVES

Hong Kong is a major international business and financial centre, and companies are a major business medium. It is important therefore that we have a coherent programme specially geared towards the study of corporate and financial law (which includes securities law). This programme is therefore intended to focus on issues relating to corporate activities and financial and securities law and regulations and their interrelationship. On completion of the programme, students should have a broad and reliable knowledge and understanding of HK corporate and financial law. Comparisons will be made with overseas systems where appropriate.

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### STRUCTURE

Each candidate is required to complete a total of 8 modules, including the compulsory module from each of the corporate and financial sub-streams. A dissertation can be equivalent to one module or two depending on its length (see below). A candidate may apply to choose up to 2 modules/ courses from modules/ courses offered under the other specialist programmes or by any other Department in the University or by any other approved Universities offering joint LLM programmes within the Faculty. Such application shall be approved by the Chairman of the Faculty Higher Degrees Committee who has to be satisfied that such course(s)/ module(s) from any other Department or Departments are of equivalent standard to that or those listed in this syllabus. Candidates are required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s).

A candidate, on accepting a place, shall notify the Chairman of the Faculty Higher Degrees Committee of the optional courses which they wish to follow. The selection of courses shall, however, be subject to approval by the Chairman of the Faculty Higher Degrees Committee in the light of the availability of resources. In any academic year only some of the courses listed will be available

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### DISSERTATION

To be regarded as equivalent to two modules, a dissertation shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Faculty Higher Degrees Committee. A one-module dissertation shall comprise a paper on a legal topic not exceeding 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies). In both cases the dissertation must provide evidence of original work and a capacity for critical analysis.

The Faculty Higher Degrees Committee may, with the agreement of the student's supervisor, permit a student to undertake a writing project other than a dissertation to the value of 1 or 2 module(s). In appropriate circumstances, the Faculty Higher Degrees Committee may permit this written project to be completed in conjunction with an internship with a relevant organisation.

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### MODULE OUTLINES

#### *Compulsory module*

- . Corporate governance and shareholder remedies [ (LLAW6082) ] [Corporate stream]
- . Law of International Finance I – Debt [ (LLAW6055) ] [Financial stream]

*Optional Modules**Two modules*

- . Credit and security law (LLAW6002)

*One module*Corporate stream

- . Company law and securities regulation in the People's Republic of China (LLAW6025)
- . Comparative company law (LLAW6080)
- . Corporate reconstruction (LLAW6083)
- . Cross-border insolvency law (LLAW6084)
- . Current issues in corporate law (LLAW6086)
- . Current issues in insolvency law (LLAW6087)
- . Securities for corporate lending (LLAW6100)
- . Takeovers and insider dealing (LLAW6101)
- . Legal aspects of white collar crime (LLAW6102)
- . International commercial transactions (LLAW6006)

Financial stream

- . Banking and finance in the PRC (LLAW6078)
- . Banking law (LLAW6024)
- . Comparative banking law (LLAW6079)
- . Comparative insurance law and regulation (LLAW6103)
- . Comparative securities laws (LLAW6057)
- . Current issues in financial law (LLAW6127)
- . Currency law/law of money (LLAW6085)
- . Derivatives : law and regulation (LLAW6088)
- . Comparative financial regulation (LLAW6089)
- . e-Finance : law and regulation (LLAW6126)
- . Electronic banking and finance law (LLAW6118)
- . Emerging markets : finance and investment (LLAW6090)
- . Equity in commercial law (LLAW6092)
- . Introduction to International Economic Law (LLAW6133)
- . Insurance law (LLAW6107)
- . International trade regulation I : Introduction to the Law of the WTO (LLAW6039)
- . International trade regulation II : Selected Issues on WTO and China (LLAW6134)
- . Regulation of financial markets (LLAW6093)
- . Law of international finance II – equity and structured finance (LLAW6094)
- . International investment law with East Asia focus (LLAW6095)
- . International tax and tax planning (LLAW6096)
- . Law and regulation of banking and insurance in the People's Republic of China (LLAW6110)
- . Pension and investment funds (LLAW6097)
- . PRC security and insolvency law (LLAW6048)
- . Project finance (LLAW6098)
- . International commercial arbitration (LLAW6099)
- . Securities regulation (LLAW6049)
- . Trade finance law (LLAW6081)

## **MASTER OF LAWS IN INFORMATION TECHNOLOGY AND INTELLECTUAL PROPERTY LAW (LLM [IT&IPL])**

### **OBJECTIVES**

The principal objective of the degree of Master of Laws in Information Technology and Intellectual Property Law is to offer a range of modules that provide a sound legal understanding of various aspects of the rapidly developing field of information technology which involve components of intellectual property whether they be the patentability of compute software, internet business methods and other technologies, hyperlink, deeplink, cache and framing as copyright infringement; technology licensing; copyright in computer programs; circumvention of technological protection measures; criminality of pirating copyright works online; semi-conductor chip; and decompilation of computer code. Subject areas will be regularly expanded and updated to ensure that students are able to understand and analyze contemporary legal issues in this area.

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### **STRUCTURE**

Each candidate is required to complete a total of 8 modules, including two compulsory modules which serve as a foundation for other modules and at least one additional compulsory module from each sub-stream. A candidate is required to take not less than two or up to four optional modules from the modules offered under this programme, which may or may not include the completion of either a two-module or one-module dissertation. A candidate may apply to choose up to 2 modules either from among the modules developed under the specialist programmes or, with the approval of the Chairman of the Faculty Higher Degrees Committee, from module(s)/ course(s) offered within or outside the Faculty. Such application shall be approved by the Chairman of the Faculty Higher Degrees Committee who has to be satisfied that such course(s)/ module(s) from any other Department or Departments are of equivalent standard to that or those listed in this syllabus. Candidates are required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s).

A candidate, on accepting a place, shall notify the Chairman of the Faculty Higher Degrees Committee of the optional modules which they wish to follow. The selection of modules shall, however, be subject to approval by the Chairman of the Faculty Higher Degrees Committee in the light of the availability of resources. In any academic year only some of the courses listed will be available

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### **DISSERTATION**

To be regarded as equivalent to two modules, a dissertation shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Faculty Higher Degrees Committee. A one-module dissertation shall comprise a paper on a legal topic not exceeding 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies). In both cases the dissertation must provide evidence of original work and a capacity for critical analysis.

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### **COURSE OUTLINES**

#### *Compulsory modules*

Intellectual property and technology : protecting and managing digital assets (LLAW6120)  
Regulation of cyberspace I: technology and internet governance (LLAW6141)

*Additional compulsory module (at least one from each sub-stream)*

## Intellectual property law sub-stream

Hong Kong intellectual property law (LLAW6005)  
 PRC intellectual property (LLAW6044)  
 International and comparative intellectual property law (LLAW6132)

## Information technology law sub-stream

PRC information technology law (LLAW6139)  
 Issues in information technology law (LLAW6106)  
 Telecommunications law (LLAW6124)

*Optional modules*

Computerisation of law (LLAW6116)  
 Cybercrime (LLAW6117)  
 e-Finance : law and regulation (LLAW6126)  
 Electronic banking and finance law (LLAW6118)  
 Human rights and cyberspace (LLAW6119)  
 Regulation of cyberspace II: internet content (LLAW6142)  
 Privacy and data protection (LLAW6046)  
 The law of electronic commerce: international trade and logistics (LLAW6111)  
 Intellectual property issues in biotechnology (LLAW6140)

**COURSE DESCRIPTIONS****LLAW6001 Admiralty**

Maritime law; the Hong Kong legislation; public control of shipping and navigation in Hong Kong waters; control of marine pollution.

The ship: the ship as property; registration; purchase and sale; ship mortgages; liens; construction, maintenance and equipment; master and crew.

Navigation, safety at sea and collisions: the collision regulations; Hong Kong harbour regulations; collisions and liability for damage; limitation of liability.

Salvage, towage and wreck.

Marine insurance: history; course of business at Lloyds; insurable interest; indemnity; utmost good faith; types of policy; perils insured against; contents of policies; losses and other incidents of liability; rights of insurers; assignment of policies; mutual insurance.

**LLAW6002 Credit and security law**

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

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

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

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

**LLAW6003 Civil and commercial law in the People's Republic of China**

Topics to be covered include: the law of person, agency, property, obligations (contracts, torts etc), family and succession, with an introduction to traditions, reforms, civil procedure and modes of alternative dispute resolution. Each topic is discussed in light of recent developments in China, such as corporatization of Chinese enterprises, experiments in bankruptcy, contract employment and regulating the new urban real estate market. Reading knowledge of Chinese helpful but not required. No prerequisite.

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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.

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**LLAW6006 International commercial transactions**

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

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**LLAW6008 Introduction to Chinese law and legal system**

A broad introduction to traditional Chinese law, twentieth-century legal reform and the current legal system of the People's Republic of China. The first part of the course will consider the traditional Chinese legal system, particularly during the eighteenth and nineteenth centuries, and will conclude with an analysis of late Qing and early Republican law reform. The second part of the course will cover legal developments from the establishment of the People's Republic through the Cultural Revolution. The third and main part of the course will consist of a detailed consideration of the legal system and the role of law in the P.R.C. since 1978. Specific areas of study will include constitutional reform and the legal structure, the enactment of a civil code, the introduction of economic reforms, family and inheritance law, criminal law and criminal procedure, nationality law and human rights issues. A reading knowledge of simplified Chinese characters is desirable.



**LLAW6009 Introduction to law in East Asia**

The purpose of this course is to examine the legal institutions, methods, principles and values of East Asian legal systems with a civil law tradition. Introduction to law in East Asia will focus on the legal systems of Japan, South Korea and Taiwan.

Like Hong Kong and Singapore, these three East Asian countries have enjoyed enormous economic growth in the post-war period. They also have common cultural traditions with Hong Kong and Singapore but for historical reasons their legal systems are rooted in the civil law tradition of Western Europe rather than in the common law.

The syllabus includes an introduction to the historical foundations of the modern legal systems of Japan, South Korea and Taiwan; legal institutions: structure of state, courts, legal professions; codification of law, especially the institutions of private law; civil and commercial law and legal structures for foreign trade and investment; civil process and mediation. These topics will be examined from a comparative perspective. The law will be analysed in the context of its history as well as its economic, political and cultural foundations.

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**LLAW6010 Remedies**

The purpose of the course is to study the range of remedies available in commercial transactions. It will look at the tactic of re-classifying the transaction to achieve the relief sought, and the various types of judicial relief, especially those available before trial.

Common law damages: developments in assessing remoteness, the imposition of pre-agreed amounts, debts, the avoidance of penalties, and the question of whether loss must be proved.

Equity: the nature and relevant factors for discretionary relief, the prevention of equitable fraud through estoppel, constructive trusts and the imposition of the fiduciary obligation, and restitution.

Statutory remedies: the pre-emptive strikes, especially the Mareva injunction and the Anton Piller order, and the declaration.

Particular remedies: including the vendor/purchaser summons, promissory and proprietary estoppels, and relief against forfeiture.

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**LLAW6011 Shipping law**

Contracts of affreightment; charterparties; agency; bills of lading; exclusion and limitation of liability; loading and discharge; master's authority; shipowner's duty; demurrage; freight; time charters; liens; damages; general average; legislation affecting contracts of affreightment.

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**LLAW6013 Trade and investment in the People's Republic of China**

This course provides a comprehensive treatment of the major legal aspects of international trade, investment, finance and dispute resolution in the People's Republic of China. After a brief introduction to the Chinese legal system, the course concentrates on foreign-related legislation governing trade and investment in China. Particular attention is given to standard-form and model contracts as well as prevailing Chinese practices in the fields of trade and investment.

Areas treated in detail include: customs; import and export licensing; foreign economic contract law; technology transfer; trade finance; compensation trade; investment protection; foreign investment vehicles — equity joint ventures, co-operative ventures and wholly foreign-owned subsidiaries; special investment regimes — Special Economic Zones, Economic and Technological Development Zones and the Open Coastal Cities; foreign exchange problems; taxation and investment finance. Dispute resolution is also considered at length, with discussion of Chinese and third-country arbitration and enforcement of foreign arbitral awards as well as litigation in the People's Courts. A reading knowledge of simplified Chinese characters would be desirable.

### **LLAW6021    Advanced administrative law**

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

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### **LLAW6022    Advanced research methodology for law**

Course Content :

- Different types of research in law : an introduction to different types of legal and inter-disciplinary research drawing on current examples from, particularly, the periodical literature
  - Reading research material
  - Issues in research on law : a discussion of issues such as objectivity, honesty and other theoretical and philosophical issues that arise in doing research
  - Advanced library research techniques - using paper sources
  - Archival material
  - Use of electronic resources
  - Empirical research techniques - how to read empirical research, and statistical material. An elementary introduction to empirical techniques for law students : observation studies, interviews. The secondary use of primary statistical material.
  - Formulating research topics - generating ideas, developing a 'thesis', research strategies
  - Writing a proposal
  - Planning the writing; dealing with writer's block, organisation of material - different ways of structuring a substantial piece of writing
  - The formalities of presentation - citing, acknowledging, plagiarism and how to avoid it, issues of appropriate language.
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### **LLAW6023    Arbitration law workshop**

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

**LLAW6024 Banking law**

Regulation of financial institutions in Hong Kong: regulatory framework; role of the Hong Kong Monetary Authority; money laundering, recovery of proceeds of crime and anti-terrorist measures.

Banker-customer relationship: nature of the relationship and its development; meaning of "customer" and types of accounts; banker's rights as against customer including appropriation of payment, lien and set-off; duties of banker including confidentiality and payment of customer's cheques; money paid by mistake; forgery; banker's liability as constructive trustee; implied duties of the customer; contractual attempts to modify such duties; supply of banker's references; banker as adviser; termination of the relationship.

Lending and securities: the role of banks in trade and other financing; lending criteria; forms of securities; financing of international trade and bills of exchange; guarantees and sureties; fixed and floating charges; credit cards and other types of consumer credit; enforcement and realization of securities; general discussion of loan and security documentation.

Taking effective securities: undue influence; mistake; misrepresentation.

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**LLAW6025 Company law and securities regulation in the People's Republic of China**

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

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**LLAW6027 Construction law**

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

**LLAW6028 Current issues in PRC commercial law**

This course will highlight one or more areas of contemporary Chinese commercial law and practice of importance to foreign trade, investment or finance in the People's Republic of China. The subject matter to be covered in the course is not fixed and will vary from year to year. Students will be apprised in advance of the subject of the course to be offered. A reading knowledge of simplified Chinese characters would be desirable.

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**LLAW6029 Dispute resolution in the People's Republic of China**

This course examines the major features of commercial dispute resolution in the People's Republic of China. Chinese approaches to disputes and dispute settlement, including cultural and political influences, will be considered at the outset. The four principal Chinese institutions for commercial dispute resolution - amicable negotiations, conciliation, arbitration and litigation - will be the focus of the course, with an emphasis on commercial arbitration. Administrative channels for resolving disputes will also be discussed.

Both PRC foreign-related and domestic commercial arbitration will be treated at length. Arbitration before the China International Economic and Trade Arbitration Commission (CIETAC) will be a prominent feature of this part of the course, including an examination of the jurisdiction, procedures and practices of CIETAC. The emergence of reorganized domestic arbitration commissions will be discussed, including arbitral procedures and practices. Issues of enforcement of both Chinese and foreign arbitral awards in the PRC will also be covered.

Other topics include : institutional conciliation before the Beijing Conciliation Centre and in the People's Courts; joint conciliation; enforceability of conciliation agreements; foreign-related litigation in the People's Courts, including court organization, jurisdiction and venue, service of process, preservation measures, pre-trial and trial procedures, appellate procedures and enforcement of judgements; and bilateral judicial assistance agreements. A reading knowledge of simplified Chinese characters would be desirable.

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**LLAW6030 Equality and the law**

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

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

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**LLAW6031 Hong Kong and international law**

The course is divided into two parts: (a) international law -- a conceptual review and (b) application of international legal norms in the Hong Kong context. The topics covered in the first part include the nature, origin and basis of international law; sources of international law; international legal personality;

jurisdiction; international responsibility; international intercourse (treaties); and international disputes (peaceful and forcible means of dispute settlement). The issues to be studied under the second part of the course are: the place of international law in the Hong Kong legal system; Hong Kong as an 'international legal person' (including 'autonomy' and 'internal self determination'); jurisdiction in a 'highly autonomous region' -- the case of Hong Kong; Hong Kong's international obligations (e.g. treatment of aliens, environmental protection); international treaty law as applied in Hong Kong; and 'one country, two systems' as a model of peaceful settlement of disputes.

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### **LLAW6032 Hong Kong basic law**

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

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### **LLAW6033 Hong Kong environmental law**

Introduction: the Hong Kong environment; contextual factors affecting the environment and environmental law in Hong Kong. Overview of Hong Kong's environmental law, strategy and techniques. Techniques of environmental protection I: traditional approaches including the common law, nuisance, *Rylands v Fletcher*. Techniques of environmental protection II: the criminal law, interpretation of legislation, penalties. Techniques of environmental protection III: licensing and permits. Techniques of environmental protection IV: standards, objectives, technical memoranda, codes of practice, how they are used, what is their legal force, how they compare with international standards. Techniques of environmental protection V: Planning - territorial planning, town planning. Techniques of environmental protection VI: Environmental Impact Assessment. Techniques of environmental protection VII: Preventing pollution, energy conservation. Expanding liability: the liability of Directors, the liability of lenders. Conservation and the law. Rounding up. On the whole the emphasis will not be on medium (water, air, waste etc.), but rather on techniques, since many of the same techniques, and similar issues of statutory interpretation, enforcement etc., occur across media. But examples and issues will be drawn from a variety of contexts. It would be possible to look at one problem (water or air or chemical waste for example) in detail.

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

This course begins with an introduction to the historical, social, cultural and political dimensions of human rights discourse generally and in Hong Kong, covering different theories of human rights (including the contemporary debate on universality and cultural relativism) and the extent to which these theories are reflected in law and policy in Hong Kong. We will then study the sources of legal protection of human rights in Hong Kong (including international human rights treaties, the Basic Law, and the Bill of Rights Ordinance). This portion of the course will include a brief discussion of international monitoring system and an examination of the mechanisms of protecting human rights under the common law system, the Bill of Rights, and the Basic Law.

The course will then move on to selected rights and current controversies in Hong Kong. The topics selected will likely include: freedom of expression and association; the implementation of Article 23 of the Basic Law; the right to fair trial and the presumption of innocence; the development of a right to equality; the right to political participation, and the provision of social and economic rights. Additional topics will depend upon the time available and the interest of students.

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#### **LLAW6035 International air law : structure and organisation**

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

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

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

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#### **LLAW6036 International criminal law**

This course will examine the development and evolution of the concepts of international criminal law, the development of individual responsibility under international law for international crimes, the definition of war crimes, crimes against humanity and crimes against peace; specific international crimes, such as genocide, piracy and terrorism, the mechanisms of enforcement in relation to international criminal acts, such as various war-crimes tribunals, the principles and procedures for combating transnational crimes, the emerging idea of state criminal responsibility, co-operation in international law enforcement, extradition and its use in relation to political offences and terrorism, the concept of international crimes and the establishment and jurisdiction of the International Criminal Court.

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#### **LLAW6037 International environmental law**

Introduction: environment and international law - the need for and role of international law.

Sources of international environmental law: treaty law; customary law; 'soft law' and regional environmental law.

Principles of international environmental law: 'sustainable development'; 'human stewardship of nature'; 'precautionary principle' and 'polluter-pays'.

State responsibility for environmental harm: established rules and remedies.

Conflicting pressures: environment vs development and environment vs trade.

Environment and human rights.

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#### **LLAW6038 International humanitarian law**

This course focuses on the international law of war and humanitarian intervention. The Hague Convention, the four Geneva Conventions on the Law of War 1949 and their Optional Protocols 1977 will be the main focus of the study. Topics to be covered include: the development of humanitarian thought and practices of States; definition and place within international public law and sources of international humanitarian law; the development of the humanitarian conventions and their application (scope of application - international and internal conflicts; subjects - protected persons, detainees, prisoners of war, civilians; organs - ICRC; the principles of international humanitarian law (fundamental principles, principles proper to the victims of conflicts and to the law of war, prisoners of war, specificities of implementation, protecting powers, tracing and sanctions); humanitarian intervention and sovereignty; international humanitarian law and international law of human right; peace-keeping, disarmament and international humanitarian law.

### **LLAW6039 International trade regulation I – Introduction to the law of the WTO**

“Public” or governmental regulation of international trade is separate from but complementary to “private” international business transactions. At the international level, the World Trade Organization (WTO) is the primary multilateral legal and institutional framework that governs trade relations and trade-related issues between States. This course will examine the rules, norms and policies that constitute the WTO and its substantive agreements, with a special perspective and focus on issues that are related to China’s membership. The course will begin with a review of policies that affect international trade, and economic theories associated with such policies. The Agreement Establishing the WTO (WTO Agreement), the increasingly complex management of the activities of the WTO, and its decision-making processes, will be examined. Next, the substantive agreements and associated legal instruments included in the Annexes to the WTO Agreement will be analyzed. Significant attention will be focused on the core principles of the WTO Agreements: market access; non-discrimination; transparency and administration of justice; and, binding dispute settlement. In particular, the application of these principles under the GATT and GATS will be explored. The course will further examine some WTO rules that allow derogations from these general principles and specific obligations. These derogations include rules pertaining to regional trading agreements, safeguards, general exceptions, anti-dumping measures, subsidies and countervailing duties. Finally, the course will conclude with an examination of WTO rules on trade-related investment measures (TRIMs), and environmental measures which affect international trade.

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### **LLAW6040 Introduction to Chinese law**

A general overview of the present legal system and law of the PRC. The course begins with a survey of traditional Chinese law and the development of socialist theory and practice before and after 1949. It then provides an introduction to important areas of legislation enacted since 1979, including:

- Constitutional reform: courts, procuracy and lawyers
- Mediation and dispute settlement
- The criminal process
- Introduction to civil law
- Marriage law and the status of women
- Economic reform

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### **LLAW6041 Legal Chinese in commercial transactions**

This course is taught in Putonghua (Mandarin). It combines the study of substantive Chinese law with the development of practical linguistic skills useful for conducting legal business in the PRC. Using original materials (statutes, Supreme People’s Court and administrative documents, case reports and commentaries), the course will explore how the law in China operates in its indigenous environment, in both domestic and foreign/Hong Kong-related cases. Students are required to learn to discuss, in Putonghua, selected PRC civil and commercial law topics and to practise drafting legal documents in Chinese as well as English-Chinese and Chinese-English translation. Classes will consist of alternate lectures and group discussion/evaluation sessions.

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

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### **LLAW6042 Legal fictions: representations of the law in literature, philosophy and cinema**

This course will examine the representation of law in a variety of contexts: literary, philosophical and cinematic. Issues such as justice, rights, the rule of law, positivism, the language of the law, the trial and

the role of the profession will be canvassed through `texts' as varied as Plato's *Republic*, Sophocles's *Antigone*, Mary Shelley's *Frankenstein*, Melville's *Bartleby the Scrivener*, Dickens's *A Tale of Two Cities* (or, alternatively, *Bleak House*), Kafka's *The Trial* (or *Before the Law*), Dworkin's *Law's Empire*, Foucault's *Discipline and Punish*, *Witness for the Prosecution*, *Judgement at Nuremberg* and perhaps a sampling of various television series ('Rumpole', 'L.A. Law', 'Perry Mason', 'Street Legal' and possibly the OJ Simpson trial).

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

### **LLAW6043    Liabilities in international aviation**

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

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

### **LLAW6044    PRC intellectual property**

This course will examine all major areas of Chinese intellectual property, including trademarks, patents, copyright, competition and related trade and technology transfer issues, with a brief introduction to background, policies and administrative procedures. Reading knowledge of Chinese helpful but not required. No prerequisite.

Topics to be covered: the IP challenge and common ground; overview of IP administration and ARR/ALL procedures; trade and service marks; patents and technology transfer; copyright and software protection; and competition (trade secrets, advertising etc).

### **LLAW6045    Postmodern legal theory**

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

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

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



**LLAW6046 Privacy and data protection**

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

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**LLAW6047 Real estate law in the People's Republic of China**

This course covers major areas of the rapidly evolving field of the PRC real estate law, with an emphasis on the discussion of issues arising from urban real estate development, management and related transactions. Among the topics to be examined are : the PRC land system, including state and collective ownership systems; types of land-use rights and regulatory framework; grant, assignment and lease of land-use rights as well as required procedures and related contracts; pre-sale, mortgage, *dian* and resumption issues; domestic and foreign investment regulations; and recent real estate management regulations and practices.

All reading materials are in English. Knowledge of Chinese is not required.

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**LLAW6048 PRC security and insolvency law**

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

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

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

### **LLAW6049 Securities regulation**

This course involves an analysis of the scheme of securities regulation in Hong Kong and the People's Republic of China. Topics covered will include efficient capital markets, types of securities and capital structure, agency theory, portfolio theory, regulation of primary market offerings, trading in secondary markets, inside trading, takeovers and acquisitions, stock exchanges, and securities market professionals.

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### **LLAW6050 Taxation in the People's Republic of China**

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

Specifically, emphasis is given to inbound and outbound investment and the principles of tax efficient structuring for investors from high tax jurisdictions, as well as low tax jurisdictions such as Hong Kong. The major PRC taxes to be studied include the Foreign Investment Enterprises and Foreign Enterprises Income Tax Law, the Individual Income Tax Law, the Tax Administration and Collection Law and various indirect taxes, particularly VAT, Business Tax and Land Value Appreciation Tax. The structure and use of the PRC double tax treaties are examined in depth.

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

A reading knowledge of simplified Chinese characters would be desirable.

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### **LLAW6051 The law of restitution**

Topics to be covered in this course:

Introduction: fundamental concepts in the law of restitution.

Autonomous unjust enrichment: recovery of payments for mistakes; recovery of payments under duress or inequality of bargaining power; recovery of payments for failure of consideration; recovery of payments for *ultra vires* demands by public authorities; claims of restitution against third party recipients - tracing, knowing receipt; defences to claims in restitution.

Restitution for wrongs: restitutionary remedies for breach of common law obligations; restitutionary remedies for breach of equitable obligations.

Comparative insights: comparison between the laws of restitution in UK/HK and the PRC.

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### **LLAW6052 The law of the sea**

This course will examine some of the important issues in the law of the sea originating from customary international law and law-making treaties, most notably the United Nations Convention on the Law of the Sea. The course will discuss such maritime zones as internal waters, territorial sea, contiguous zones, exclusive economic zones, the high seas, continental shelf, and international seabed areas. It will then consider rules and issues relating to various uses of the various sea zones, such as fishing, deep seabed mining, navigation and communication, marine scientific research, regulation of marine pollution, marine boundary disputes, military uses of the sea, and settlement of marine disputes. The course will also examine the interrelationship between international law and domestic law with respect to maritime matters. Relevant Chinese law will be taken into proper account.

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### **LLAW6055 Law of international finance I - Debt**

This foundation course will examine, primarily from a legal perspective but with interdisciplinary dimensions, the structure and operation of international bank and capital markets. The course, while sensitive to key issues of domestic, regional and international regulation of international securities offerings and international banking, will concentrate primarily on private law aspects of international

financial transactions such as basic trade financing, Eurodollar syndicated loans, Loan sales and participation, Eurobond offerings, and basic interest rate and currency swaps, legal opinions and private international law considerations.

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### **LLAW6056 Legal system of the People's Republic of China**

This course offers an introduction to the law of the People's Republic of China and discusses some of the central issues of China's ongoing legal reform. It is designed mainly to prepare students for further studies in specialized Chinese commercial law subjects.

The course provides an overview of the basic concepts and categories of Chinese law, including the cultural and political traditions informing the current legal system and the background to legal reforms since 1979. The course further examines the PRC constitutional framework and political-legal institutions and practices, including the legal profession and the features and uses of both formal and informal procedures, such as civil, criminal and administrative litigation and mediation.

All reading materials are in English. Knowledge of Chinese is not required.

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### **LLAW6057 Comparative securities laws**

Comparative discussion, vis-a-vis U.S., European Union, Hong Kong, PRC, Taiwan, Japan and IOSCO Principles, which respect to the fundamental aspect of capital market regulations including: entry, disclosure, capital adequacy, offerings, exemptions, insider trading, takeovers, enforcement and extraterritorial jurisdiction. Emphasis will be placed on the development of international 'best practices'.

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### **LLAW6058 Armed conflicts, humanitarian law and human rights**

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

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### **LLAW6059 Criminal justice and human rights**

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

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

This course will focus on selected human rights issues of current interest. The topics offered will vary from year to year. The course is likely to be offered by both permanent staff of the Faculty and Visiting Professors.

**LLAW6061 Development and human rights**

This course will consider the concept of the right to development, the recognition and scope of this third generation of rights, the principles governing international trade and those governing respect for human rights, trade sanction and conditionalities in aids, particularly in light of global standards set by international bodies such as World Bank and the GATT/World Trade Organization, standards developed by other bodies such as the International Labour Organization, bilateral arrangements such as the most favoured nations clause and the moral, political and economic dimensions of such arrangement and their implications for human rights protection, the control on freedom of movement and brain drain, and autonomy on the use and disposition of natural resources.

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**LLAW6062 Economic, social and cultural rights**

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

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**LLAW6063 Equality and non-discrimination**

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

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**LLAW6064 Ethnicity, human rights and democracy**

The rise of ethnic consciousness and the prevalence of conflicts based on diverse ethnic claims raise fundamental problems for rights and democracy. The course examines the causes of the rise of ethnicity and the challenges it poses to rights and democracy. The dominant modes of rights and liberal democracy, based on notions of the individual (or citizen) and social homogeneity, seem to clash with the claims of groups rights and cultural relativism. Many recent developments in the regime of rights and international law respond to this clash: the rise of rights of indigenous peoples, consociationalist democracy, new modes of expression of self-determination, developments in the rights of minorities, various forms of autonomy, the expansion of the scope of humanitarian intervention, and the adaptation of bills of rights to accommodate multi-culturalism.

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**LLAW6065 Freedom of speech and the press**

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

**LLAW6066 Gender issues in human rights**

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

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**LLAW6067 Globalisation and human rights**

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

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**LLAW6068 Human rights: history, theory and politics**

This course will consider the evolution of concepts of human rights from historical, political, theoretical and philosophical perspectives. The Western traditions of human rights and the challenges to them will be examined. The issue of universal standards and cultural relativism and the political economy of human rights will also be examined, including the challenge to the dominant Western paradigms by the proponents of Asian values in interpreting and implementing human rights. Theoretical and practical questions relating to violations of human rights by non-State actors will also be considered, as will the impact of globalisation on the enjoyment of human rights. Feminist challenges to the dominant models and practice of human rights will also be examined.

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**LLAW6069 Human rights and governance**

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

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**LLAW6070 Human rights in the People's Republic of China**

This course will examine the international and domestic dimensions of the protection of human rights in the People's Republic of China. It will examine the applicability of international human rights standards to the PRC, the stance of the PRC in relation to international national mechanisms for the protection of

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

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#### **LLAW6071 Indigenous peoples and human rights**

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

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#### **LLAW6072 International and regional protection of human rights**

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

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

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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.

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#### **LLAW6074 Labour rights and human rights**

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

**LLAW6075 National protection of human rights**

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

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**LLAW6076 Seminar in human rights research, sources and methodology**

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

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**LLAW6077 The rights of the child in international and domestic law**

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

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**LLAW6078 Banking and finance in the PRC****LLAW6079 Comparative banking law**

Comparative discussion vis-a-vis US, European Union, Japan, Greater China and Basle Committee Process with respect to fundamental aspects as to banking regulation such as entry, capital adequacy and other risk management tools, foreign entry, money laundering examinations, and enforcement and as to private law dimensions such as lender liability, environmental responsibilities, advisory duties and confidentiality and secrecy.

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**LLAW6080 Comparative companies law in Asia-Pacific region**

This course is a survey of company law in Asia-Pacific region on a comparative basis with a focus on mainland China, Japan, Australia, Hong Kong, Singapore and Taiwan. It will examine in a practical way the historical development, the main structure and characteristics, and the judicial application of the company law in the selected jurisdictions. The discussion will be also devoted to the legal aspects of business organization in international investment in each jurisdiction. The course will enable the students to appreciate the differences and similarities of company law of the different regimes. As an

advanced course, completion of Hong Kong company law or a comparable subject is a prerequisite. The course will be conducted by a combination of lecture and discussion with the involvement of scholars or practitioners of the relevant jurisdictions. The method of assessment may be either a final examination or a research paper, depending on the number of student registered for this course.

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### **LLAW6081 Trade finance law**

Legal analyses of basic trade transaction and related financial arrangements and documentation. Topics include bills of exchange, forfeiting, various forms of letters of credit arrangements and demand guarantees. Other subjects might include official export financing, counter-trade and dematerialization.

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### **LLAW6082 Corporate governance and shareholder remedies**

This course will examine among others the following topics:

- The current framework of corporate governance and the role, duties and powers of directors, auditors and managers.
- Power of general meeting to ratify breaches.
- Role of corporate practices and conduct, and self-regulation in general.
- Role of the Stock Exchange and SFC.
- Shareholders' legal remedies against abuse of corporate power.
- Shareholders' self-help remedies including institutional activism, individual activism, and access to information.
- Proposed reform in corporate governance and shareholder remedies

Comparisons will be made with the law in the United Kingdom, Australia, and to a lesser extent, United States and Canada.

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### **LLAW6083 Corporate reconstruction**

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### **LLAW6084 Cross-border insolvency law**

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

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### **LLAW6085 Currency law**

Money has various meanings, including: a medium of exchange, the currency for settlement of debts, cash or the right to receive cash, the standard to assess value, credit balances in a bank, and so on. In simple terms, 'currency' is the term used to refer to the notes and coins representing 'money' or cash.

This course will look at the various forms of money and currency, and how these are used in everyday transactions, as well as in international transactions. The items of money, and currency, are valuable not only for their intrinsic purposes, but also for purposes of security.



The topics to be discussed include: Forms of 'money', Bills of Exchange, the issue of currency, the role of a Central bank, the role of a trading bank, the role of a merchant bank, governmental controls on money and currency, forms of lending money, Money Lenders, banks as lenders, interest rates, recovery of money paid under mistake, marketability of money, credit-cards, electronic money, contractual claims as chose in action, collateral securities, securitisation, asset-backed securities, money laundering, foreign currency and payment of debts.

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#### **LLAW6086 Current issues in corporate law**

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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.

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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.

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#### **LLAW6089 Comparative financial regulation**

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#### **LLAW6090 Emerging markets : Finance and investment**

Consideration of the fundamental regulatory and contractual aspects of financing and investment in developing countries and transitioning economies. Specific subject matter will include the role of law in economic reforms, financial sector reforms in emerging economies, basics of infrastructure financing from the countries perspective, debt rescheduling, privatization, regulation of foreign direct investment and related dispute resolution considerations from the emerging countries perspective.

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#### **LLAW6092 Equity in commercial law**

This course is divided into three main parts. Part 1 deals with equitable obligations and their remedies. There will be special emphasis on duties of confidence, fiduciary duties in joint ventures and the doctrine of Chinese walls, as well as such remedies as equitable compensation and taking accounts. Part 2 deals with the use of equitable doctrines to obtain priorities in insolvency, such as the Quistclose

trust, Romalpa clauses, equitable tracing to recover assets in a money-laundering scheme, remedial constructive trusts and the development of proprietary restitutionary remedies. Part 3 deals with the use of trust structures in international finance, especially in the securitizations of assets.

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

This foundation course will consider the nature and operation of financial regulation as to banking, capital, pension and insurance markets, emphasizing overriding policy objectives, functional convergence and the role of the regulators/supervisors, and the movement toward collaborative international best practices.

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### **LLAW6094 Law of international finance II – equity and structured finance**

Course assumes a basic knowledge of syndicated lending and bond financing, although the first class will provide an overview of these transactions, covers more advanced aspects of international financial arrangement selected from such topics as role of security in international financing, fundamentals of infrastructure financing (from a lender's perspective), asset securitization, stock and debt derivatives, mezzanine financing, payment systems, aircraft finance and ship financing, and alternative forms of dispute resolution in financial arrangements.

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### **LLAW6095 International investment law with East Asia focus**

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

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

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

**LLAW6098 Project finance**

The course reviews the techniques and contract structures for international project finance including selection of project vehicles, risk assessment and management, concession agreements, project contracts such as purchase, supply and take or pay and forward agreements. The role of the project participants and the creation of legal obligations through performance bonds and guarantees, indemnities, counter-indemnities, and letters of credit as well as their common features and problems encountered in use are discussed. Financial agreements including syndication generally and direct and indirect participation are examined. The place of project security and insurance are introduced as is the topic of subordination. Final topics address current issues in privatisation, the provision of infrastructure in Asia and their relationships to development. Assessment will be by a written open-book final examination (worth 60%), an assigned and agreed research paper (worth 30%), and class participation (worth 10%).

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**LLAW6099 International commercial arbitration**

In the world's globalizing economy there has been a dramatic increase in the size and complexity of international commercial transactions. This course will examine the legal problems and other risks (including financial, monetary, political and cultural) associated with the resolution of disputes arising out of such international commercial transactions. The main focus of the course will be on the use of international commercial arbitration to resolve disputes in a globalizing economy. The course will consider the following topics : the sources of international arbitration law (domestic and international), ad hoc and institutional arbitration, model arbitration laws and arbitration rules, arbitration laws of the HKSAR, the PRC and other Asia-Pacific states, and issues relating to the international arbitral process and procedure, such as arbitrability of disputes, arbitration and submission agreements, powers of arbitrators, the applicable law, the form of the arbitration hearing, interim and final remedies, arbitral awards (including challenges and appeal), and the recognition and enforcement of arbitral awards.

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**LLAW6100 Securities for corporate lending**

A study of the assets of a company and the use of those assets as security for company borrowing. Topics to be studied include: loan capital, comparison with equity capital, the assets of the company, the power of the company to borrow, secured and unsecured loans, the use of the Debenture, registration of charges, identity of the lender, the forms of traditional security, fixed and floating charges, crystallization, the forms of quasi-securities, trusts, sale and repurchase agreements, default, effect of insolvency and the particular form of security, enforcement of securities, negative pledges, subordination, set-off, asset-backed securities, receivables, receivers, legislation including the Companies Ordinance.

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**LLAW6101 Takeover and insider dealing**

Topics likely to be covered include theories of regulation, concept of control, acquisition of shares including takeover offers, disclosure in takeovers, purchase of own shares and financial assistance in takeover, compulsory acquisition, defending against unwanted takeovers, use of litigation in takeovers, role of SFC and the takeover panel, judicial review of regulator's powers, the need for insider dealing law, concept of insider dealing, role of Insider dealing Tribunal.

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**LLAW6102 Legal aspects of white collar crime**

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

**LLAW6103 Comparative insurance law and regulation**

Consideration of fundamental policy objectives and regulatory approaches to insurance regulation, with examples from both developed and emerging economies. Emphasis will be on development of international standards.

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**LLAW6104 Medical law**

Health care structure in Hong Kong : private health care and Hospital Authority; health insurance; complaint and investigation procedures; Hong Kong Medical Council and professional misconduct.

Beginning life : assisted human reproduction; embryo and fetal research; sex selection; cloning; family planning; contraception, sterilization, abortion, child destruction and infanticide.

Medical treatment : consent to medical treatment; assessment of competence; refusal to treatment; medical negligence; general and approved practice; the role of expert witness.

Confidentiality : access to medical records; reporting statutes; AIDs.

Mental health : voluntary patients; compulsory detention; mental health review tribunals.

End of life : euthanasia; do not resuscitate; suicide; passive and active euthanasia; living will, advance directives and surrogate decision-making; death; organ transplants.

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**LLAW6106 Issues in information technology law**

This course examines the legal and policy issues relating to information technology (IT). IT impacts on law and the legal system in many ways. In the public law field, IT permits public and private sector agencies to collect, store and use data about citizens, raising concern about rights to privacy and access to personal information. Illegal and improper uses of IT have created a new category of 'Cybercrime'. This global, transnational phenomenon poses difficulties for existing offences, rules of evidence and methods of law enforcement. The regulation of the Internet also raises important questions concerning censorship, freedom of speech and the proper role of the state in controlling cyberspace. In the commercial field, rapid development in the field of IT raises concern doubts whether existing laws offer appropriate levels of protection.

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**LLAW6107 Insurance law**

Regulation of the insurance industry, types of insurance, indemnity and non-indemnity insurance, definition of insurance, the insurance contract, renewal, indemnity, contribution, subrogation, insurable interest, the duty of utmost good faith, disclosure, the proposal as the basis of the contract, promissory warranties, waiver, definition of the risk, limits of liability, exceptions and conditions, third parties rights against the insurer, motor insurance, employees compensation insurance.

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**LLAW6108 The child and the law**

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

**LLAW6109 Public international law**

Topics will include some of the following: introduction to the nature of international law and its historical development; sources of international law; the relationship between international and municipal law; the subjects of international law; the concept of sovereignty and state recognition; state jurisdiction; the acquisition and loss of territory; state responsibility; state succession; treaties and other international legal agreements; the pacific settlement of disputes; the use of force; international institutions; human rights.

The above is intended merely as a guide to the general nature of the subject matter to be covered. Special reference will be made throughout to considerations which are particularly relevant in the Hong Kong and Southeast Asian contexts.

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**LLAW6110 Law and regulation of banking and insurance in the People's Republic of China**

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

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**LLAW6111 The law of electronic commerce: international trade and logistics**

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

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**LLAW6112 Criminal law and procedure in the People's Republic of China**

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

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**LLAW6113 Constitutional and administrative law in the People's Republic of China**

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

under the Chinese Constitution and the features of western liberal constitutionalism and the difficulties, as well as perspectives, for China's constitutional reform.

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

#### **LLAW6114 Cross-border legal relations between the Mainland and Hong Kong**

The course examines the cross-border legal relations between the Mainland and Hong Kong from both theoretical and practical perspectives. The course covers: (1) the new constitutional order of "one country, two system" and the cross-border constitutional conflict; (2) conflict of criminal jurisdictions and mutual legal assistance in criminal matters; (3) mutual legal assistance in civil and criminal matters; and (4) theories and practice of regional mutual legal assistance in Greater China. Specific topics of the course include: the status of the PRC Constitution and the Basic Law and the issue of congressional supremacy, repatriation of fugitives and sentenced persons and mutual legal assistance in other criminal matters, mutual recognition and enforcement of arbitral awards and judgements, procedures of cross-border services and evidence taking, and cross-border insolvency and family law matters.

#### **LLAW6115 Advanced seminar on Chinese law**

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

#### **LLAW6116 Computerisation of law**

The theory and practice of developing computer applications for use in the law, emphasizing the use of 'knowledge-based' technologies such as expert systems (systems that give legal 'advice') and automated legal document generators, but also covering aspects of text retrieval and hypertext techniques. There is a strong emphasis on the use of these technologies over the Internet. Systems in use in public administration and private practice will be demonstrated and discussed critically. Topics may include: principles, deficiencies and performance measurement of free-text retrieval; distributed retrieval over the internet; hypertext and distributed text retrieval over the internet; the nature of legal knowledge and reasoning and its capacity for computerised representation; rule-based expert systems; non-deductive expert systems; special problems of statute-based and case-law representation and reasoning; principles of automated document generators; implications for the delivery of legal services and the rule of law.

Each student will design and implement an Internet-based computer application in an area of law. The use of appropriate development tools is taught during the course. Familiarity with the use of a microcomputer and a word processing program is a pre-requisite, but a knowledge of programming is not required. Familiarity with computerised legal research is desirable, particularly internet legal research. Classes take place in the Faculty Microcomputer Lab and enrolment is therefore limited. The course will be taught by a combination of internet delivery and intensive computer lab instruction. Lab class attendance is required during the course (although not every week), plus required internet interaction.

**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 organized crime with more sophisticated and potentially secure techniques for supporting and developing networks for a range of criminal activities, including drugs trafficking, money laundering, illegal arms trafficking, and smuggling.

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

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**LLAW6118 Electronic banking and finance law**

This course presents an introduction and analysis of the legal and regulatory issues arising from the use of electronic technology in the provision of financial services. The course will be comparative and interdisciplinary in nature, emphasizing US, European and Hong Kong regulation.

The course focuses on challenges to traditional models of financial regulation posed by the Internet and electronic communications. Topics covered include the development and regulation internet banking, securities and insurance activities. Specific topics covered include market access, payment systems, virtual financial intermediaries, Electronic Communications Networks (ECNs), product offerings through the Internet, and enforcement issues. The course will also address specific transactional issues such as financing of technology companies.

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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.

## LLAW6120 Intellectual property and technology: protecting and managing digital assets

This course examines intellectual property rights such as patents, trademarks and copyright and the challenges faced by them in the on-line world. The course will also examine the various forms of protection for software. Enforcement issues in the on-line world will also be considered as will issues specific to e-commerce such as domain names and strategies for the protection of web sites.

The following topics may be covered:

- A brief history of intellectual property and its nature.
- Intellectual property rights: patents, trademarks, copyright, registered designs - the nature of each right; the protection offered by each of these rights and how it can be obtained; duration of protection; infringement and enforcement; intellectual property laws in Hong Kong.
- The nature of software : copyright or patent protection for software; diverging views and provisions in the United States, Europe and Hong Kong. The patentability of software US vs European/Hong Kong view. Patents for business methods - the position in the US, Europe and Hong Kong. Disputes over patents for business methods : *Amazon.com v Barnesandnoble.com*; *Network Engineering Software Inc. v eBay Inc.*; *Winston v Ask Jeeves Inc.* etc.
- The challenges of intellectual property in the Internet Age: the territorial nature of intellectual property rights; international efforts to harmonise intellectual property rights; TRIPS obligations; European Community Directives. Copyright in the Information Society - the end of the first sale doctrine? Copyright infringement in the on-line world -hyper linking, framing, caching, browsing, 'down stream infringement', *Napster*, *MP3*. Trademark infringement in the on-line world - domains and hidden trademark infringement (meta-tags). A look at case law from Hong Kong, Europe and the United States. The application of the fair use doctrine and implied licences on the Internet. Establishing jurisdiction for intellectual property cases on the Internet; enforcement issues on the Internet - which remedy is useful in cyberspace?
- Domain name issues. The decentralized nature of the Internet and the management of unique identifiers. The domain name system explained. Challenges to the domain name system *PGMedia Inc D/B/A/Name.Space v Network Solutions Inc. and the National Science Foundation*. The formation of ICANN, its role and mandate. Disputes over domain names and ICANN's 1999 Uniform Dispute Resolution Policy. Cybersquatters and typo-squatters. An overview of UDRP decisions in the past year. Domain name trends and new initiatives. Domain names in Hong Kong - the overhaul of the existing system. Chinese language domain names - *VeriSign vs CNNIC* registrations.
- Trademarks, passing-off and domain names - where should the analogies end?
- Protecting your website - IP strategies for websites. Branding and co-branding issues.
- Trade Secrets and the Internet

Prerequisite: Completion of either LLAW6055 Hong Kong Intellectual Property Law or LLAW6044 PRC Intellectual Property Law

## LLAW6123 Law, the individual and the community : a cross-cultural dialogue

This course is a "global classroom" course centered` on dialogue amongst parallel classes at universities in a number of countries (including Canada, Singapore, Malaysia, Finland and the USA) by means primarily of Internet-based communications technology. The course deals with competing ideas about the appropriate relationship between individual and community and the role of law in regulating that relationship. A special concern is to explore the extent to which human rights are an indispensable and universally-desirable aspect of such legal regulation. Are there reasons to believe that either the idea of human rights or the content attributed to some human rights cannot be justified as appropriate for all societies in all contexts? In order to provide a context for the dialogue amongst the students in the different universities, selected cases and scenarios from international human rights law (as well as some



comparative constitutional case law) provide the concrete focus for exploring the broader theme. The issues to be examined are likely to include (though will not necessarily be restricted to) the death penalty, preventive detention, sexuality, corporal punishment, parent and child relationship, and freedom of expression.

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

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

## **LLAW6124 Telecommunications law**

The aim of this course is to provide an overview of telecommunication legislation and regulation. In the last two decades the traditional monopolies offering telecommunications services have been broken up around the world. The liberalization of the telecommunication markets has called for legislation and regulation able to deal effectively with incumbent dominant operators to ensure a level playing field to all new entrants in the market.

The following topics may be covered:

- Telecommunications technology - the jargon explained;
- The move towards the liberalization of the telecommunications industry - GATS and WTO agreements on Basic Telecommunications; an overview of the Hong Kong telecommunications market pre and post 1995;
- The need to regulate; regulatory principles and structures; regulatory models compared (US, EU and Hong Kong); types of licences; licence fees; licence provisions;
- The role of the regulator, his powers and duties. The Office of the Telecommunications Authority (OFTA), the Telecommunications Authority (TA) and the Information Technology and Broadcasting Bureau (ITBB);
- Telecommunications regulation and legislation in Hong Kong. The impact of the Telecommunications Amendment Ordinance 2000;
- Universal service obligation; numbering and portability; key principles and issues in interconnection; interconnection charges and agreements; access; cost allocation; unbundling the local loop; tariffs;
- The regulation of anti-competitive conduct; sector-specific provisions vs competition laws (US, EU and Hong Kong approaches compared);
- The regulation of broadcasting in Hong Kong - an overview;
- The convergence of telecommunications, broadcasting and computer technologies - challenges for the regulator. Proposals for dealing with convergence compared. The Internet - a prototype of the converged media;
- The challenges posed by the Internet; Internet telephony - various approaches compared; the licensing of Internet Service Providers.

**LLAW6126 e-Finance : Law and Regulation**

This course presents an introduction and analysis of the legal and regulatory issues arising from the use of electronic technology in the provision of financial services. The course will be comparative and interdisciplinary in nature, emphasising US, European and Hong Kong regulation, with some lectures presented by professionals in the field.

The course focuses on challenges to traditional models of financial regulation posed by the Internet and electronic communications. Topics covered include the development and regulation internet banking, securities and insurance activities. Specific topics covered include market access, virtual financial intermediaries, Electronic Communications Networks (ECNs), product offerings through the Internet, and enforcement issues. The course will also address specific transactional issues such as financing of technology companies.

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**LLAW6128 International trade law I**

International trade terms and the use of documents in export sales; contract issues in the international trade context; China trade comparisons; attempts at standardisation, codification and unification; Hong Kong regulation of international sales transactions; bills of exchange; collections; documentary credits; bank guarantees and performance bonds; export credit insurance.

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**LLAW6129 International trade law II**

Carriage by sea; carriage by air; multi-modal transport and containerisation; marine insurance; commercial arbitration regimes in Hong Kong and abroad; public regulation of international trade including aspects of the General Agreement on Tariffs and Trade and Multi-fibre Agreement.

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**LLAW6130 Law, justice and ideology**

Social theory and the sociology of law: Pound, Erlich, Durkheim, Weber; law and social change.  
Law as ideology: law and power, Marxist theories of law and state, critical legal studies.  
Theories of justice: utilitarianism, the economic analysis of law, Rawls, Nozick, Hayek.

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**LLAW6131 Media law**

The primary objective of the course is an appreciation of the extent that law is affecting media practice. A familiarity with principal areas, such as defamation, privacy, contempt of court and various regulatory regimes governing the media will be developed. The underlying themes throughout the course are the meaning of freedom of the press, the responsibility of the media as a watchdog, and the balance between the two. Apart from a study of the local context, there will be frequent references to comparative materials, in particular the USA. The syllabus outline is as follows :

1. Introduction: the role of the press in democratic society, its relation and differences with freedom of expression, the history of, and the justification of the development.
2. Freedom of the press: freedom from what, and freedom to do what? No licensing; control by the Press Council.
3. The Law of Defamation and its defences.
4. News Gathering I: Intrusion into Privacy.

5. News Gathering II: access to information, official meetings and records, places and institutions.
6. Breach of Confidence.
7. Publication of Obscene and Indecent articles
8. Contempt of Court : Disclosure of news sources and prejudicial reporting of trial.
9. Access to the Media and the rights of reply.
10. Broadcasting regulation and the differences between broadcasting and printing media.
11. Regulated Media and Beyond: the Internet.

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

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

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

This course examines the international framework within which intellectual property law operates, including copyright, patents, trade marks, designs and other forms of intellectual property. The course examines how multilateral Conventions and other agreements such as TRIPS shape national intellectual property laws, the effect of international bodies such as WIPO and WTO, the role of bilateral agreements, and other international influences on the development of intellectual property laws. The course also discusses the enforcement provisions (i.e. civil and criminal process); dispute resolution (including the new WTO decisions on intellectual property); and the overall implications for global competition between developed and developing countries in an integrated world market.

Previous or concurrent study of intellectual property is recommended to students considering this course.

Prerequisite: Completion of either LLAW6055 Hong Kong Intellectual Property Law or LLAW6044 PRC Intellectual Property Law

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### **LLAW6133 Introduction to 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 harmonize laws that affect international commercial transactions by international institutions such as the ICC, UNCITRAL, UNIDROIT, Hague Conference in Private International Law and OECD will also be examined.

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### **LLAW6134 International trade regulation II : Selected issues on WTO and China**

This course is an advanced seminar on the interactions between WTO law and national measures in selected areas such as customs administration; public health and safety, consumer protection, industrial and competition policies; agricultural, textiles and clothing markets, financial services markets, telecommunications, and intellectual property rights. Each topic will include a discussion of the interactions between WTO law and national measures with respect to China. This will include examination of issues related to State trading, economies in transition and differential treatment to accommodate the special needs of developing economies. The course will begin with a review of the general principles of the WTO agreements, and a discussion of the sources of WTO law concerning China's commitments and obligations. Topics of study will include valuation for customs purposes, pre-shipment inspection, rules of origin and import licensing procedures. The WTO agreements on sanitary and phytosanitary measures and technical barriers to trade will also be considered, as will the treatment of anti-dumping measures, subsidies and countervailing duties, and government procurement. Policies related to trade in agricultural products, textiles and clothing will be addressed in the light of relevant WTO agreements. The GATS and its annexes on Financial Services with respect to banking, insurance and securities, and, Telecommunications will be examined. Finally, the course will conclude with a detailed analysis of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) and a review of the requirements necessary for a national regime to implement the TRIPs agreement.

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### **LLAW6136 Dispute settlement in the WTO : Practice and procedure**

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

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

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

**LLAW6137 Current issues in international arbitration and dispute settlement**

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

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**LLAW6138 Hong Kong arbitration law**

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

- overview of the wide range of dispute resolution methods, including arbitration
  - fundamental concepts of arbitration law
  - legal framework of arbitration law in Hong Kong
  - overview of Hong Kong's Arbitration Ordinance and its objectives and principles
  - issues relating to the arbitral process and procedure, such as the:
    - o arbitrability of disputes
    - o enforceability of arbitration and submission agreements
    - o appointment and powers of arbitrators
    - o jurisdictional challenges
    - o preliminary proceedings
    - o form of the arbitration hearing
    - o interim and final remedies
    - o evidentiary matters (hearings and discovery)
  - rendering of arbitral awards (including challenges and appeal)
  - recognition and enforcement of arbitral awards
  - interests and costs
  - role of the courts in the arbitral process
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**LLAW6139 PRC Information technology law**

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

Topics may include:

- Overview of IT and Internet Regulatory System
- Administration of Websites
- Electronic Commerce and Electronic Signature
- Online Publishing and Media
- Online Advertising
- Telecommunications
- Commerce Encryption
- Online Intellectual Property Issues
- Domain Name System

- Legal Protection for Software and Integrated Circuits
- Privacy Protection and Internet Censorship
- Liabilities of Network Service Providers
- Defamation, Negligence and Trespass
- Computer Crimes
- Jurisdiction and Conflict of Law in the Cyberspace
- Online Dispute Resolution

### **LLAW6140 Intellectual property issues in biotechnology**

This course will explore the particular doctrines and issues concerning the patenting of biotechnological inventions in, *inter alia*, pharmaceuticals (including Chinese medicine), life forms, DNA sequences, cell lines, food productions, environmental protection and similar technologies. The course will survey the international dimension of biotechnology patenting with the focus on the development of Hong Kong and mainland China. Particularly, the course will introduce students to the biotechnology revolution and the commercialization of biotechnological discoveries through patenting. Patent systems of various countries such as US, EU, Hong Kong and mainland China concerning biotechnology will be examined. In addition, the debates surrounding the exploitation of raw materials and traditional knowledge of the lesser developed countries such as South Africa and India by the advanced nations for the pharmaceutical inventions will be discussed.

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

### **LLAW6141 Regulations of cyberspace I : technology and internet governance**

This course will investigate the question, “What principles should inform the governance of the Internet’s architectural and regulatory infrastructure?” In order to fully answer this question an examination will be required into the entities and structural components of cyberspace: end users (individuals, corporations, organizations), regulators (governments, international organizations, businesses), communication networks, distinctive technologies (public key cryptography, Internet Protocols). Themes include the role and regulation of new types of entities such as Internet Service Providers (ISPs) and Certification Authorities (CAs); the extent to which control of technology and standards acts as regulation; the relationship between government regulation and self-regulation; ICANN; and the capacity of both public international law (treaties etc) and private international law to cope with the ‘borderless world’ of cyberspace. This course is intended to be studied before or in conjunction with other information technology law subjects.

Select topics may include :

- Structure and history of the Internet/cyberspace (the Internet protocols; origins; convergence; defining characteristics of the Internet)
- Entities in cyberspace: individuals, businesses and identification (requirements for cyberspace identification; anonymity and pseudonymity)
- Distinctive technologies (Internet protocols such as www, increasing importance of search engines, certificate authorities)
- Theories of cyberspace regulation (relationship between law, ‘architecture’ and other modes of regulation; role of self-regulation; cyber-libertarian and ‘realm of surveillance’ perspectives)
- Constitutional powers to regulate cyberspace; National IT policies
- Jurisdiction and conflict of laws in cyberspace
- Governance of networks (International and national self-regulation; Telecommunications regulation; protocols and addresses)

- Addresses and reputations (IP addresses and domain names; domain name allocation; ICANN and other dispute resolution procedures)
- Electronic transactions legislation (Public key cryptography and infrastructure, digital signatures)
- Computer crimes for unauthorized access and protection of infrastructure
- Principles of Internet governance (openness, universally interoperable, universally interconnected, non-proprietary, unified, public interest)

## **LLAW6142 Regulation of cyberspace II : internet content**

Regulation of content in cyberspace is plagued with many difficulties. The ability to access and utilize information over the global network has made regulations and laws relating to the Internet a challenging prospect. As existing legal and regulatory principles continue to be adapted to the online environment, novel issues arise. This course will examine many of the inherent difficulties including Internet Service Provider liability for third party content, censorship and access control, the role of technology in protecting and shielding entities from liability, the difficulty in promulgating international standards, and the unique problems of jurisdiction and regulatory arbitrage in cyberspace.

The course is divided into three themes where topics may include:

1. Internet Jurisdiction and Liability
  - Jurisdiction everywhere vs. jurisdiction nowhere
  - Internet Service Provider Liability
2. Censorship and Freedom of Expression in Cyberspace
  - Censorship of Internet Content and Internet Access (Internet access policies, firewall technology, filtering systems, laws)
  - Control of search engines (The Google Effect – censorship and anticensorship technology)
  - Defamation
  - Commercial Speech
  - Harmful content / Obscenity
  - Hate speech
  - Private regulation of speech through nontransparent methods
  - Regulation of speech through computer code (technologies)
3. Select Issues in Intellectual Property
  - Copyright and other protection of Internet content (hypertext linking, caching, search engines, meta-tag, etc.)
  - Mounting tension between intellectual property protection and freedom of expression
  - Liability of ISPs for IP infringements by others
  - Technologies used to prevent works distributed via the Internet and to ensure their lawful use (digital rights management systems, spiders, bots, and other tracking devices)

This course will be a one-semester course conducted in a seminar format where students are expected to be well-prepared and participate in class. Previous exposure to intellectual property law and information technology law is an asset but is by no means a pre-requisite.