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

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

Four areas of law are covered:

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

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

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

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

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

Assessment: 100% open book in-hall examination

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

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

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

Assessment: 100% research paper

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

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

Assessment: 100% research paper

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

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

Assessment: 100% open-book examination

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

This course explores the complex interaction between literature and the law. Even though the two disciplines may seem distinct, law and literature overlap in a variety of ways. Both are linguistic media and are constituted by narratives as well as fictions of various sorts. Throughout the course we will assess the relationship between law and literature, seeking to understand how the law is depicted in literature as well as how literary practices and techniques are utilized within the law. Why do legal themes recur in fiction, and what kinds of literary structures underpin legal argumentation? How do novelists and playwrights imagine the law, and how do lawyers and

judges interpret literary works? We will think through these questions by juxtaposing novels, plays, court cases, and critical theory. This course welcomes students who are eager to question the fundamental assumptions of what they study, who are curious about how the law intersects with other disciplines, and who would like to learn about the cultural life of law. It does not assume any previous training in literary criticism. Prerequisite: a previous course in any legal and/or literary subject

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

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### **JDOC6176     Online dispute resolution (6 credits)**

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

Assessment: 60% research paper, 40% in-class moot court practice

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

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

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

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

Assessment: 100% continuous assessment

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

This course is premised on a conviction that the law does not exist in a vacuum, and the study of the law should therefore not be confined to a narrow focus on legal doctrine and case law. The aim of this course is to provide a broad survey of inter-disciplinary approaches to the law, which will

provide students with the basic toolkit to question and analyze legal theories and institutions from alternative perspectives. The belief is that students will gain a richer and more nuanced understanding of the law and legal methods as a result.

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

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

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

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

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

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

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

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

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

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

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

Assessment: 100% continuous assessment

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

Topics include:

- Technology transfer and licensing
- Commercialization of innovations
- IP portfolio management
- IP issues in merger and acquisition
- IP issues in franchising and outsourcing
- IP and standard setting
- IP and competition
- IP litigation strategies
- IP issues in innovation industries such as ISP's liability and safe harbor, keyword advertising and digital music licensing.

Assessment: 100% in-hall examination

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

The first international organizations, created in the 19th Century, were of limited scope and membership. It was not until after the First World War that international organizations took on a more universal nature in tackling common problems for states. Since then, hundreds of international organizations have sprung up to handle many issues that affect, or are seen as

affecting, our daily lives. The body of rules that govern the functioning of these international organizations, as well as the rules that they create, are referred to as the law of international organizations – the subject of this course.

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

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

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

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### **JDOC6183     Animal law (6credits)**

This course examines the law relating to non-human animals. The course will introduce a range of theoretical perspectives on the way in which we think about animals, with a focus on moral/ethical theories of animal interests and animal rights. The welfare model of animal law, as expressed through relevant legislation and case law, will be critically analysed. While much of the consideration of this law will have an Asian orientation, attention will also be given to international developments in animal law. Finally, the course will explore practical ways in which lawyers may advance the interests of animals.

70% Written research assignment; 30% Seminar presentation

**JDOC6185 China investment law (6 credits)**

This course provides a comprehensive, informed treatment and analysis of the legal, policy and business aspects of foreign direct investment in China. Areas covered include: current PRC foreign investment policies and priorities, including “encouraged industries”; investment incentives and investment protection; PRC regulatory authorities and government approval process; offshore structures; PRC foreign-related business and investment organizations: representative offices, branch offices, holding companies, foreign investment enterprises (FIEs): Sino-foreign cooperative and equity joint ventures, wholly foreign-owned enterprises (WFOEs), listed and unlisted Sino-foreign joint stock limited companies (JSLCs); practical joint venture contract drafting and operational issues; trading and distribution; technology transfer; conversions; mergers and acquisitions; selected regulatory issues: corporate income taxation, foreign exchange control; FIE debt and equity financing; out-bound China investment.

Assessment: 100% research paper

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**JDOC6186 China Trade law (6 credits)**

This course provides a focused, legal and policy treatment of China’s conduct and regulation of international trade at both the macro- and micro-economic levels. Areas covered include: China’s participation in the WTO, and in other multilateral, regional and bilateral trade-related arrangements, including ASEAN+ and China-ASEAN FTAs; Regulation of China’s foreign trade: PRC regulatory authorities, PRC Foreign Trade Law, foreign trade operators (FTOs), foreign trade agency: commissioning and entrustment arrangements; PRC customs, licensing and inspection/standards systems, and trade remedies: particularly, China’s anti-dumping regime; WTO, US and EU anti-dumping and subsidies/countervailing codes and related non-market economy (NME) treatment of China’s export enterprises and industries; Trade transactions: standard-form contracts, import-export sales contract issues arising under the PRC Contract Law and CISG.

Assessment: 100% research paper

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**JDOC6187 Advanced topics in competition law (6 credits)**

This course focuses on the interface between intellectual property laws and competition law in the two leading competition law jurisdictions in the world: the US and the European Union (“EU”). The interface between these two bodies of law is one of the most complex and controversial, and yet theoretically interesting, areas of competition law. This interface juxtaposes the public policy rationale behind intellectual property laws and competition policy, and requires the enforcement agencies and the courts to strike delicate balances between these two policies. With respect to patent law, for example, the treatment of patent rights under competition law requires the courts to calibrate the provision of innovation incentives without incurring an excessive loss in consumer welfare. Similar tradeoffs are also found in the interface between copyright law and competition law, and to a lesser extent, between trademark law and competition law.

Most of the thorniest issues in the interface between intellectual property laws and competition law arise under patent law. As such, this course will largely focus on the patent competition interface. The first half of the course will focus on the treatment of the exercise of intellectual property rights under US antitrust law, with topics including intellectual property enforcement, tying, unilateral refusal to deal, deceptive conduct in standard-setting organizations, predatory product design, and



various kinds of collusive conduct. The second half of the course will cover similar topics under EU law.

Assessment: 100% Two take home examinations

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**JDOC6189 International law and modernity for a multipolar world (6credits)**

The course looks at the roots of the Western approach to international law in historical context, since the beginning of colonialism and imperialism. Its perspective is more philosophical than political, considering international law as a part of a wider scientific, cultural, religious as well as economic revolution. Key Western international law thinkers such as Vitoria, Gentili, Grotius, Vattel and Kant are examined, before coming to the 19th century expansion in the Far East. Close attention is played to the 19th century in China, especially the influence of the American Henry Wheaton and his translator, William Martin. This follows with a multipolar consideration of contemporary Chinese thinkers who are reviving Chinese classical thought on international ethics, as well as considering similar developments in the Islamic world. Some place is also given to Western internal critiques of international law from a critical or postmodern perspective.

Assessment: 10% class participation, through introducing discussion of texts, 90% essay

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**JDOC6190 International law in a world of crises (6credits)**

Ideally this course is a follow on from the more introductory course, Public international law. It adopts a rigorously critical view of the capacity of positive international law to deal with contemporary problems of international society. The course first introduces the complexities of international law methods in defining and dealing with international problems and then it provides a framework for addressing these problems in an interdisciplinary perspective. That is to say there is also added a political science and a political theory dimension.

There is an introduction to Crisis Theory after which follows a critical reflection on the legal skills employed by the International Court of Justice since the 1980s to deal with major crises. After this the course introduces a moveable selection of major crises such as: Islamic militant violence; ethnic conflict and its geopolitical significance; the international financial crises; nuclear proliferation; the idea of the UN alongside that of a “Coalition of the Democracies”; the strategic and economic significance of land and maritime boundary disputes. Students are encouraged to work and research together in an interdisciplinary way to propose solutions to the contemporary problems selected.

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

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**JDOC6194 Global business law I (6credits)**

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

Assessment: 100% 3-day take home examination

## **JDOC6195 Global Business Law II (6credits)**

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

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

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

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

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

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

Assessment: 100% 3-day take home examination

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## **JDOC6196 Preventative law: approaches to conflict prevention (6 credits)**

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

Assessment: 75% research paper, 25% class participation

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### **JDOC6200 Trademarks and unfair competition (6credits)**

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

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

Assessment: 100% continuous assessment

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### **JDOC6201 PRC taxation law and policy (6credits)**

The course first examines legal, economic and political considerations relevant to the formulation and implementation of tax law and policy in the PRC. It then introduces the legal framework of tax law in the PRC from the legislative, administrative and judiciary perspectives and illustrates how tax law is developed, implemented, interpreted and enforced. The major components of China's tax system will be reviewed, including VAT, business tax, enterprise income tax and individual income tax. Other types of taxes which are experiencing rapid developments in the regulatory framework, e.g., real estate related taxes and environmental related taxes, will be explored and discussed. Given the increasing significance of the PRC in international trade and investment, tax implications arising from cross-border transactions involving PRC parties and the application of tax treaties will be analyzed.

Assessment: 30% participation, 70% research paper

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

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

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

### **JDOC6206 Cross border corporate finance : issues and techniques (6credits)**

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

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

Assessment: 30% participation in term exercises, 70% take home examination

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### **JDOC6207 Corporate conflicts (6credits)**

With increasing globalisation many corporations today operate beyond their domestic borders. Many businesses operate transnationally by means of a multinational group structure or through the medium of a joint venture. This course seeks to introduce students to the issues that arise in dealings with corporations that have a presence in more than one jurisdiction.

Some of the issues which we will be looking at are: What laws regulate companies that are incorporated in one jurisdiction but operate in another? How are mergers and amalgamations of corporations done when corporations operate in a number of jurisdictions? What are the issues that arise in the transnational collapse of corporations such as those we have witnessed in recent years? How are they dealt with?

The financial and securities markets are grappling today with issues arising from dealings in securities from multiple jurisdictions. We will also consider these issues.

The course will be useful to those who intend to have a corporate practice, or to work in the corporate, securities or banking sectors.

Assessment: 20% presentation and defense of paper, 80% research paper

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

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

Overview and context

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

### Drafting methodology

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

### Matters of technique

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

### Matters of professionalism

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

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

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## **JDOC6209 Comparative family law (6credits)**

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

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

All topics are covered from a comparative perspective.

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

Assessment: 20% class participation, 80% research paper

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## **JDOC6210 Energy law (6credits)**

Energy law became recognised as a distinct subject following the energy crisis that resulted from the 1973 Arab-Israeli War. This course will introduce Energy law which concerns the laws and regulations that relate to the process and technology of production, distribution, conservation and development of carbon-based energy sources such as coal, oil and natural gas; non-carbon-based sources such as nuclear power; and renewable clean sources such as hydroelectricity, solar and wind power. More specifically, this course will introduce the law concerning the title, usage,

development and control of those natural resources and technology which are used to manufacture energy. This specialisation is important because the energy industry remains to be a non-static, technologically developing, but heavily regulated and strategic, sector of the economy.

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

Assessment: 50% In-class exam; 50% essay

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### **JDOC6212 Intellectual property protection in China: law, politics and culture (6credits)**

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).

Assessment: 20% participation, 80% take home examination

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### **JDOC6214 Current issues in Chinese law (6credits)**

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.

Assessment: 85% research paper, 15% class participation

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### **JDOC6219 Patent law (6credits)**

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

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

No prior technical knowledge is required for this class.

Assessment: 15% short quiz, 42.5% coursework paper, 42.5% exam

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### **JDOC6220     Constitutionalism in emerging states (6 credits)**

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

Assessment: 70% Research paper; 20% Oral presentation of research paper; 10% Class participation (includes two think papers worth 5% each)

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

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

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

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

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

Assessment: 100% research paper or take-home examination

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

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

Assessment: 80% in-hall examination, 20% class participation

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

The course investigates the relationship between copyright protection and creativity by targeting creative sectors such as film, music, publishing, and software. Through in-depth analysis of the cases and empirical data involving copyright protection or infringement in these industries, the course aims to assess to what extent these sectors have benefited from or are impeded by copyright protection, how "fair use" systems can be employed to achieve a better balance between copyright industries and users/consumers of copyrighted works, whether alternative regimes such as public or free licenses including creative commons and open source initiatives are helpful in promoting creativity, and finally, how to capitalise on or commercialise the copyrights so that the works can generate financial gain for start-up creative companies or individuals. These issues will be discussed in the context of both traditional and internet-related creative sectors and activities such as parody, file-sharing, snippets and thumbnails, streaming, and copying for non-transformative personal use on internet, iPad or iPhone, and online games. The countries or regions of which the



copyright laws and creative sectors are examined include but are not limited to Hong Kong, the mainland China, the United States and the European Union.

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

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

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

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

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

A focus of the course will be the application and relevance of the Code on Takeovers and Mergers and the relevant Listing Rules of The Stock Exchange of Hong Kong Limited. The relevance of these regulations will be considered in the context of both commercial practices as well as regulatory objectives such as investor protection and the promotion of good corporate governance. Practices driven by regulatory considerations, such as irrevocable undertakings and the use of voting trusts, will also be considered.

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

Assessment: 50% Take home examination, 25% group coursework, 15% individual coursework, 10% Class participation

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

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

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

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

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

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

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

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

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

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

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

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

Assessment: 100% take home assessment

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**JDOC6228 Advanced legal theory (6 credits)**

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

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

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

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

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

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

Assessment: 80% research essay, 20% oral presentation

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### **JDOC6229 Arms control and disarmament law (6 credits)**

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

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

**JDOC6230 Law and practice of investment treaty arbitration (6 credits)**

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

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

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

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

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**JDOC6231 Justice (6 credits)**

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

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

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**JDOC6232 Clinical legal education programme – refugee stream (6 credits)**

The Refugee Legal Assistance Clinic is offered to undergraduate and post-graduate students in the Faculty of Law at the University of Hong Kong (HKU) in partnership with Justice Centre Hong Kong, formerly Hong Kong Refugee Advice Centre (HKRAC). Justice Centre Hong Kong provides human rights advocacy for and assistance to claimants seeking non-refoulement protection in Hong Kong (known as “protection claimants”).

The Clinic allows law students to learn both the theory and practice of Justice Centre Hong Kong provides human rights advocacy for and assistance to claimants seeking non-refoulement protection in Hong Kong (known as “protection claimants”).

Students will be exposed to ethical dilemmas and choices. As such, this Clinic environment provides opportunity for students to learn about the nature and extent of a social justice practitioner's professional and ethical responsibilities. Students have the opportunity to recognise challenges, creatively identify options, execute their own judgment, and understand the impacts of their decisions.

Students may also have the opportunity to understand how protection claimants' basic human rights are protected in Hong Kong, by attending Legislative Council meetings and/or court cases affecting protection claimants' rights and participating in community outreach visits, and to critically evaluate the sufficiency of such protection.

Assessment: 100% Clinical work: Pass/Fail in two components, namely 1) attendance, preparation, and participation; 2) written work

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### **JDOC6233 Critical theory in legal scholarship (6 credits)**

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

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

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### **JDOC6236 ASEAN law (6 credits)**

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

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

This course will cover the following topics:

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

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

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

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

Assessment: 20% completion of a final research paper, 80% class participation, written assignment and oral presentation in class

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**JDOC6239 Law and regulations of private banking and wealth management (6 credits)**

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

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

The course consists of ten weeks of lectures. In addition to the academic requirement, the course will emphasise real-life experience and share from practitioners' perspectives. Recent scandals from major international banks on regulatory areas (i.e. KYC, AML, etc) will be analyzed. Important legal and regulatory components and ordinances on clients on-boarding process, sales process, end-to-end client relationship management, corporate governance, sales ethics, clients suitability and sustainability & risk profiling, compliance requirement, regulators reporting, data

privacy, etc. will be discussed in deep details. In addition, dispute handling on financial disputes will also be discussed.

Assessment: 80% research paper, 20% presentation

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## **JDOC6240 Security and human rights (6 credits)**

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

The specific aims of this course are:

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

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

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

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

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## **JDOC6242 Human rights in practice (6 credits)**

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

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

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

The aims are:

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

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

Assessment: 25% Weekly Seminar and Training Sessions; 25% Fieldwork with partner organizations; 30% Three directed Learning Journal entries (10% each); 20% Final written work product

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## **JDOC6243 Advanced issues in intellectual property law (6 credits)**

In the past decade, we have seen many attempts of the Hong Kong government to modernise our intellectual property laws often leading to extensive and sometimes heated debates. The Copyright Amendment Bill 2011 was not proceeded with as a result of filibuster because netizens were concerned about the lack of a parody exception and exemption for 'secondary creation'. Now that the government proposes 3 options to deal with parody, netizens and some interest groups lobby for a user generated content exception modeled on the recent Canadian amendments. Whilst parallel imports are basically liberalised under the trade mark legislation, parallel imports may still









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

1. Each copy of a dissertation shall be typewritten or printed on one side only of International size A4 paper<sup>1</sup> (except for drawings, maps, or tables on which no restriction is placed), with a margin of not less than 38mm on the left-hand edge of each page.
  2. The appropriate Board of the Faculty shall decide whether any dissertation submitted successfully in part-fulfilment of a higher degree by coursework shall be an accession to the University Library.
  3. If it is to be an accession to the Library the top copy of the dissertation shall be used, and bound in one or more volumes as determined by the Librarian and between boards faced with cloth in black for MA, MPA, MMedSc, in dark blue for MSW, MBA, and in green for all others. The title, name of author, degree, and date shall be lettered in gilt on the front cover and spine in accordance with the standard layout approved by the Librarian. The title of a dissertation written in Chinese shall be lettered on the cover in Chinese and English.
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<sup>1</sup> 297 mm x 210 mm

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