

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

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

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

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### **JD1. Eligibility for admission**

To be eligible for admission to the degree of Juris Doctor, a candidate shall:

- (a) comply with the General Regulations and the Regulations for Taught Postgraduate Curricula; and
  - (b)
    - (i) hold a degree in a non-law subject with at least second class honours or equivalent awarded by a recognised university; or
    - (ii) hold a law degree from a non-common law jurisdiction with at least second class honours or equivalent awarded by a recognised university.
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### **JD2. Language requirement**

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

- (a) IELTS: a minimum overall band score of 7.5, with no individual score below 6.5 and a minimum band score of 7.0 in the academic writing module; or
  - (b) TOEFL: a minimum score of 600 on the paper-based test (or 250 on the computer-based test or 100 on the internet-based test)
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### **JD3. Qualifying Examination**

- (a) A qualifying examination may be set to test the candidates' formal academic ability or their ability to follow the courses of study prescribed. It shall consist of one or more written papers or their equivalent.
  - (b) A candidate who is required to satisfy the examiners in a qualifying examination shall not be permitted to register until he or she has satisfied the examiners in the examination.
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**JD4. Period of study**

- (a) The curriculum for the degree of Juris Doctor shall normally require two academic years of full-time study, and shall include any assessment to be held during and/or at the end of each semester including summer semester.
  - (b) Candidates shall not in any case be permitted to extend their studies beyond the maximum period of registration of three academic years, unless otherwise permitted or required by the Board of the Faculty of Law.
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**JD5. Completion of the curriculum**

To complete the curriculum for the degree of Juris Doctor, a candidate shall:

- (a) satisfy the requirements prescribed in TPG 6 of the Regulations for Taught Postgraduate Curricula;
  - (b) follow instruction and attend classes as required, and complete all coursework requirements; and
  - (c) subject to JD6, pass courses totalling at least 144 credits in value in the manner specified below:
    - 90 credits of compulsory courses;
    - a compulsory 6 credits dissertation as the capstone experience; and
    - 48 credits of electives, including a 6 credits course listed under “International, Comparative and Theoretical Perspectives in Law”
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**JD6. Advanced Standing**

- (a) The Board of the Faculty of Law may grant advanced standing to a candidate for up to 12 credits of courses in recognition of an equivalent course or equivalent courses completed successfully in another degree curriculum, where such a course is or such courses are completed no more than 5 years prior to the candidate’s commencement of the JD curriculum. Advanced standing will not be granted for the capstone course of 6 credit dissertation.
  - (b) Where advanced standing credits are granted, the Board of the Faculty of Law shall specify from which course or courses the candidate is exempted in the curriculum. Advanced standing credits shall not be included in the calculation of the cumulative GPA, but the credits may be recorded on the transcript of the candidate.
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**JD7. Exemption**

- (a) The Board of the Faculty of Law may grant exemption to a candidate for up to 12 credits of courses in recognition of an equivalent course or equivalent courses completed successfully in another degree programme, where such a course is or such courses are completed no more than 5 years prior to the candidate's commencement of the JD curriculum.
  - (b) Where an exemption is granted, the Board of the Faculty of Law shall specify from which course or courses the candidate is exempted in the curriculum. Candidates who are so exempted must replace the number of exempted credits with courses of the same credit value.
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**JD8. Selection of courses**

- (a) A candidate shall select his or her courses in accordance with the recommended sequence of the curriculum during the course selection period as specified by the University. Such selection shall be subject to approval by the Board of the Faculty of Law. Changes to the selection of courses may be made, with the approval of the Board of the Faculty of Law, during the add/drop period of respective semesters, and such changes shall not be reflected in the transcript of the candidate. Requests for changes after the respective add/drop period shall not normally be considered.
  - (b) Withdrawal from courses beyond the designated add/drop period will not be permitted, except for medical reasons and with the approval of the Board of the Faculty of Law. Withdrawal without permission will result in a fail grade in the relevant course(s).
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**JD9. Dissertation**

- (a) A candidate shall submit the title of his or her dissertation no later than April 30 of the final year of study. The dissertation shall be presented for examination by June 30 of the final year of study.
  - (b) Under exceptional circumstances a candidate may apply to the Board of the Faculty of Law for an extension of the deadline by which the dissertation must be presented for examination.
  - (c) The candidate shall submit a statement certifying that the dissertation represents his or her own work undertaken after registration as a candidate for the degree. The examiners may require an oral examination on the subject of the dissertation.
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**JD10. Progression in curriculum**

- (a) Candidates shall normally be required to undertake a combination of courses and study requirement as prescribed in these regulations and the syllabus, and in the manner as specified below, unless otherwise permitted or required by the Board of the Faculty of Law.
    - (i) Candidates shall normally be required to take not fewer than 30 credits nor more than 42 credits in any one semester (except the summer semester), except in the last semester of study when candidates may be required to take fewer than 30 credits to satisfy the outstanding curriculum requirements.
    - (ii) Where candidates are required to make up for failed credits, the Board of the Faculty of Law may give permission for candidates to exceed the annual study load (66 credits in Year 1 and 78 credits in Year 2) provided that the total number of credits taken does not exceed the maximum curriculum study load of 216 credits for the maximum period of registration specified in JD4(b).
  - (b) Candidates may, with the approval of the Board of the Faculty of Law, transfer credits for courses completed at other institutions during their candidature. The number of transferred credits may be recorded in the transcript of the candidate, but the results of courses completed at other institutions shall not be included in the calculation of the GPA. The combined total number of credits to be granted for Advanced Standing and credit transfer shall not exceed half of the total credits normally required under the curriculum of the candidates during their candidature at the University.
  - (c) Unless otherwise permitted by the Board of the Faculty of Law, candidates shall be recommended for discontinuation of their studies if they have:
    - (i) failed to complete successfully 42 or more credits in two consecutive semesters (not including the summer semester), except where they are not required to take such a number of credits in the two given semesters, or
    - (ii) failed to achieve an average semester GPA of 1.3 or higher for two consecutive semesters (not including the summer semester); or
    - (iii) exceeded the maximum period of registration specified in JD4(b).
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#### **JD11. Assessment**

- (a) Candidates shall be assessed for each of the courses for which they have registered, and the courses will be assessed with a wide variety of methods, including (but not exclusively) traditional examinations, research papers, class performance and take-home examinations. A candidate shall pass a course if the Board of Examiners is satisfied by the candidate's performance in the assessment. Only passed courses will earn credits.

- (b) Candidates suspended under Statute XXXI shall not be allowed to take, present themselves for, and participate in any assessments during the period of suspension, unless otherwise permitted by the Senate.
- (c) Candidates shall not be permitted to repeat a course for which they have received a passing grade for the purpose of upgrading.
- (d) Candidates are required to make up for failed courses in the following manner:
  - (i) undergoing re-assessment/re-examination in the failed course to be held no later than the end of the following semester (not including the summer semester); or
  - (ii) re-submitting failed coursework, without having to repeat the same course of instruction; or
  - (iii) repeating the failed course by undergoing instruction and satisfying the assessments; or
  - (iv) for elective courses, taking another course in lieu and satisfying the assessment requirements.
- (e) Where candidates are permitted or required to present themselves for re-assessment/re-examination/ assessment in an alternative course under (d) above, the new grade obtained together with the previous F grade shall be recorded on the transcript and be included in the calculation of the semester GPA, year GPA and the cumulative GPA.
- (f) Where a candidate has failed to present a satisfactory dissertation, the Board of Examiners may permit the candidate, subject to his or her performance in other examinations, to either revise the dissertation and re-present it, or present a new dissertation, for examination within a specified period determined by the Board of Examiners.
- (g) The maximum number of attempts for a particular course or requirement, including retakes and re-examinations, is three.
- (h) There shall be no appeal against the results of examinations and all other forms of assessment.

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**JD12. Absence from an examination**

- (a) Any candidate who is absent from an examination in the manner provided for in JD12(b) and JD12(c) may be permitted by the Board of Examiners to sit a supplementary examination. Any supplementary examination shall be part of that

academic year's examination, and the provisions made in the regulations for failure at the first attempt shall apply accordingly.

- (b) A candidate who becomes aware of his or her inability to sit an examination, on medical or other grounds deemed acceptable by the Board of Examiners, may apply, not later than two weeks of the first day of the candidate's absence from any examination, for permission to sit a supplementary examination at a later time pursuant to JD12(a).
- (c) Where the Board of Examiners is satisfied that a candidate's failure to obtain permission prior to his or her absence from an examination is justified by extenuating circumstances, the Board of Examiners may waive the requirement to obtain prior permission under JD12(a) and grant the candidate permission to sit a supplementary examination at a later date pursuant to JD14.

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### **JD13. Grading system**

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

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### **JD14. Requirements for graduation**

Subject to JD6, to be eligible for the award of the degree of Juris Doctor, candidates shall comply with the General Regulations and the Regulations for Taught Postgraduate Curricula, and pass courses not fewer than 144 credits in value within the maximum period of registration, which shall include the successful completion of a capstone experience as specified in the syllabuses of the curriculum.

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### **JD15. Award of Degrees**

- (a) The degree of Juris Doctor shall be awarded in five divisions in accordance with UG9 of the Regulations for First Degree Curricula:

First Class Honours  
Second Class Honours Division One  
Second Class Honours Division Two  
Third Class Honours  
Pass

- (b) The classification of honours shall be determined by the Board of Examiners for the degree in accordance with the following Cumulative GPA scores, with all courses taken (including failed courses) carrying equal weighting:

<b>Class of honours</b>	<b>CGPA range</b>
First Class Honours	3.60 – 4.30

Second Class Honours	(2.40 – 3.59)
<i>Division One</i>	3.00 – 3.59
<i>Division Two</i>	2.40 – 2.99
Third Class Honours	1.70 – 2.39
Pass	1.00 – 1.69

- (c) In exceptional cases honours classification may not be determined solely on the basis of a candidate's Cumulative GPA and the Board of Examiners for the degree may, at its absolute discretion and with justification, award a higher class of honours to a candidate deemed to have demonstrated meritorious academic achievement but whose Cumulative GPA falls below the range stipulated in (b) above of the higher classification by not more than 0.1 Grade Point.
- (d) A pass list of successful candidates shall be posted on Faculty notice boards and the student homepage.
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## SYLLABUS FOR THE DEGREE OF JURIS DOCTOR

1. Candidates are required to complete a total of 144 credits, including a capstone experience within two academic years<sup>1</sup>:

### First year (66 credits)

<u>Course code</u>	<u>Course title</u>	<u>Credits</u>
JDOC1001	Law of contract I	6
JDOC1002	Law of contract II	6
JDOC1003	Criminal law I	6
JDOC1004	Criminal law II	6
JDOC1005	Law of tort I	6
JDOC1006	Law of tort II	6
JDOC1007	Legal research and methods <sup>2*</sup>	6
JDOC1008	The legal system of the Hong Kong SAR*	6
JDOC1009	Constitutional law	6
JDOC3093	Administrative law	6
JDOCxxxx	Electives ( <i>See also 2(a)(b)(c) below</i> )	6

### Second year (78 credits)

<u>Course code</u>	<u>Course title</u>	<u>Credits</u>
JDOC1010	Commercial law	6
JDOC1011	Dissertation (Capstone experience)	6
JDOC2001	Equity and trusts I	6
JDOC2002	Equity and trusts II	6
JDOC2003	Land law I	6
JDOC2004	Land law II	6
JDOCxxxx	Electives ( <i>See also 2(a), (b) and (c) below</i> )	42

\* Block teaching at the beginning of term with classes during term time.

2. There are 48 credits of electives in total.

(a) All students must take one 6-credit elective course listed under “International, Comparative and Theoretical Perspectives in Law (“ICT electives”)”.

(b) Students with no substantial background in Chinese Law must take “JDOC6008 Introduction to Chinese law and legal system”. Students with a substantial background in Chinese Law must take one 6-credit elective course listed under “Common Law electives” and may not take JDOC6008.

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<sup>1</sup> An ‘academic year’ comprises two regular semesters, with dates as prescribed by the Senate each year. The Department of Law may organise ‘January semester’ and ‘June (summer) semester’ in addition to the two regular semesters.

<sup>2</sup> JDOC1007 Legal research and methods shall be graded with pass/fail and shall not be counted in the calculation of the cumulative GPA (CGPA).



- (c) To proceed to the PCLL, students will need to devote 30 elective credits to PCLL pre-requisites. They are:

<u>Course code</u>	<u>Course title</u>	<u>Credits</u>
JDOC3015	Company law	6
JDOC3097	Civil procedure	6
JDOC3099	Criminal procedure	6
JDOC3102	Evidence I	6
JDOC3105	Land law III	6

3. Students may choose to do an elective mooting course<sup>3</sup>.
4. The “ICT electives”, “Common Law electives” and other elective courses listed in this syllabus will not necessarily be offered every year; from time to time, depending on the exigencies of staffing, additional courses may be offered. Students should always check the Faculty’s website for the most up-to-date information when choosing their courses.
5. The “ICT electives” (each carries 6 credits) are listed as follows:

JDOC6153	Business and human rights
JDOC6226	Comparative constitutional law theories
JDOC6101	Competition, mergers & acquisitions
JDOC6207	Corporate conflicts
JDOC6127	Current issues in financial law
JDOC6062	Economic, social and cultural rights
JDOC6063	Equality and non-discrimination
JDOC6222	Financial dispute resolution: Hong Kong and international perspectives
JDOC6242	Human rights in practice
JDOC6068	Human rights: history, theory and politics
JDOC6107	Insurance Law
JDOC6120	Intellectual property and information technology
JDOC6140	Intellectual property, innovation and development
JDOC6132	International and comparative intellectual property law
JDOC6099	International commercial arbitration
JDOC6182	International organisations
JDOC6073	International protection of refugees and displaced persons
JDOC6096	International tax and tax planning
JDOC6128	International trade law I
JDOC6170	Introduction to information technology law
JDOC6227	Introduction to private international law (conflict of laws)
JDOC6230	Law and practice of investment treaty arbitration
JDOC6055	Law of international finance I
JDOC6094	Law of international finance II

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<sup>3</sup> The Mooting course shall be graded with pass/fail and shall not be counted in the calculation of the cumulative GPA (CGPA).

JDOC6265	Law, regulation and compliance for insurance industry in Hong Kong
JDOC6247	Medico-legal issues
JDOC6179	Multiculturalism and the law
JDOC6176	Online dispute resolution
JDOC6219	Patent law
JDOC6109	Public international law
JDOC6141	Regulation of cyberspace: theories of internet and normativity
JDOC6093	Regulation of financial markets
JDOC6266	Regulatory compliance in international finance and OTC derivatives documentation

6. The “Common Law electives” (each carries 6 credits) are listed as follows:

JDOC6024	Banking Law
JDOC3097	Civil procedure
JDOC6124	Communication law
JDOC3015	Company law
JDOC6262	Comparative law of elections
JDOC6267	Courts
JDOC6227	Introduction to private international law (conflicts of laws)
JDOC6263	Introduction to U.S. class action law
JDOC6107	Insurance Law
JDOC6120	Intellectual property and information technology
JDOC6247	Medico-legal issues
JDOC6219	Patent law

7. Other elective courses (each carries 6 credits) are listed as follows:

JDOC3058	International moot competition
JDOC3059	Jessup international law moot court competition
JDOC6268	Administrative law and governance in China
JDOC6106	Advanced issues in information technology
JDOC6243	Advanced intellectual property law
JDOC6228	Advanced legal theory
JDOC6022	Advanced research methodology
JDOC6115	Advanced seminar on Chinese law
JDOC6187	Advanced topics in competition law
JDOC6183	Animal law
JDOC6138	Arbitration law
JDOC6058	Armed conflict, humanitarian law and human rights
JDOC6229	Arms control and disarmament law
JDOC6236	ASEAN law
JDOC6024	Banking law
JDOC6172	Carriage of goods by sea
JDOC6185	China investment law
JDOC6186	China trade law

JDOC6205	Clinical legal education programme - refugee stream
JDOC6124	Communications law
JDOC6025	Company law and securities regulation in the People's Republic of China
JDOC6238	Comparative arbitration in Asia
JDOC6209	Comparative family law
JDOC6253	Law of the cities
JDOC6150	Comparative law
JDOC6154	Competition law I
JDOC6155	Competition law II
JDOC6245	Compliance in the Hong Kong securities industry
JDOC6220	Constitutionalism in emerging states
JDOC6252	Construction of Commercial Contracts
JDOC6223	Copyright and creativity
JDOC6082	Corporate governance and shareholder remedies
JDOC6171	Corruption: China in comparative perspective
JDOC6002	Credit and security law
JDOC6233	Critical theory in legal scholarship
JDOC6206	Cross border corporate finance: issues and techniques
JDOC6114	Cross-border legal relations between the Mainland and Hong Kong
JDOC6214	Current issues in Chinese law
JDOC6060	Current issues in human rights
JDOC6087	Current issues in insolvency law
JDOC6117	Cybercrime
JDOC6152	Dealing with legacies of human rights violations
JDOC6088	Derivatives: law and regulation
JDOC6111	E-business law
JDOC6210	Energy law
JDOC6064	Ethnicity, human rights and democracy
JDOC6194	Global business law I
JDOC6195	Global business law II
JDOC6216	Graduate seminar
JDOC6005	Hong Kong intellectual property law
JDOC6119	Human rights and cyberspace
JDOC6034	Human rights in Hong Kong
JDOC6070	Human rights in the People's Republic of China
JDOC6212	Intellectual property in China: law, politics and culture
JDOC6188	Intellectual property policy and practice
JDOC6212	Intellectual property protection in China: law, politics and culture
JDOC6072	International and regional protection of human rights
JDOC6237	International arbitration: practice, process and strategy
JDOC6036	International criminal law
JDOC6007	International dispute settlement
JDOC6133	International economic law
JDOC6037	International environmental law
JDOC6189	International law and modernity for a multipolar world
JDOC6190	International law in a world of crises

JDOC6057	International securities law
JDOC6008	Introduction to Chinese law and legal system
JDOC6204	Public law in common law jurisdiction
JDOC6231	Justice
JDOC6056	Law and development in the People's Republic of China
JDOC6199	Law and policy
JDOC6110	Law and regulation of banking and insurance in the People's Republic of China
JDOC6239	Law and regulation of private banking and wealth management I
JDOC6246	Law and regulation of private banking and wealth management II
JDOC6146	Law and religion
JDOC6197	Law and social theory
JDOC6178	Law, economics, regulation and development
JDOC6181	Management and commercialization of intellectual property
JDOC6029	Managing commercial disputes in China: law, issues and techniques
JDOC6224	Mergers and acquisitions
JDOC6075	National protection of human rights
JDOC6097	Pension and investment funds in Hong Kong and the PRC
JDOC6165	PRC economic law
JDOC6139	PRC information technology law
JDOC6047	PRC property law
JDOC6048	PRC security and insolvency law
JDOC6225	PRC shipping law (in Putonghua)
JDOC6201	PRC taxation law and policy
JDOC6167	PRC tort law
JDOC6196	Preventative law: approach to conflict prevention
JDOC6164	Principles of family law
JDOC6046	Privacy and data protection
JDOC6213	Property protection in China: law, politics and culture
JDOC6144	Rights and remedies in the criminal process
JDOC6049	Securities regulation I
JDOC6244	Securities regulation II
JDOC6240	Security and human rights
JDOC6221	Selected problems of the European convention on human rights
JDOC6076	Seminar in human rights research, sources and methodology
JDOC6215	Seminar on human rights and constitutionalism in Asia
JDOC6250	The regulation of biomedical research
JDOC6200	Topics in trademark law
JDOC6211	World trade law, policy and business

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

## **COURSE DESCRIPTIONS FOR THE DEGREE OF JURIS DOCTOR**

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

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### ***Compulsory Courses:***

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

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

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

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

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

While the law of contract in Hong Kong (as in most countries that have adopted the common law) remains uncodified, statute now plays an important role in the development of contract law – for example, in protecting consumers. This course focuses on the most important principles and rules of contract law, as found in case law, statute and international legal instruments.

Assessment:

Semester 1: 30% mid-term examination; 20% written assignment

Semester 2: 20% mid-term group presentation; 30% final examination

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### **JDOC1003 and JDOC1004**

### **Criminal law I and II (12 credits)**

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

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

Assessment:

Semester 1: 30% mid-term exam; 10% magistrate's court report

Semester 2: 10% group presentation; 50% final examination

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### **JDOC1005 and JDOC1006**

### **Law of tort I and II (12 credits)**

Tort is one of the first subjects undertaken in the JD degree. Along with contract and unjust enrichment (also referred to as restitution), it forms part of the law of obligations, which covers the situations in which one person may be liable to another person in private (or civil) law. In tort, that liability is, generally, to pay damages as compensation for a 'wrong'. The law of tort defines the circumstances in which an individual incurs responsibility for conduct that the law classifies as 'wrongful'. In this sense, tort may be regarded as the private law equivalent of criminal law, which is, however, generally enforced against individuals by the State, rather than by another individual.

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

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

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

Assessment:

Semester 1: 50% examination, 50% written assignment

Semester 2: 50% examination, 50% written assignment

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

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

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

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

Assessment: 100% coursework

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### **JDOC1008 The legal system of the Hong Kong SAR (6 credits)**

Despite all the shortcomings of colonialism, a major legacy of British colonialism is the common law system; which has been transplanted in almost every British colony. Hong Kong is no exception. She inherited the common law system from the British in the heydays of the British Empire, and more than 150 years later, this common law system is preserved upon the resumption of Chinese sovereignty over Hong Kong under the unprecedented experiment of 'One Country, Two Systems', which is enshrined in our Basic Law. Why is it so important to preserve the common law system? What are its central features? In what ways is it 'common' to the 'common law heritage'? How is it different from the legal system on the Mainland? How and to what extent do the two legal systems interact?

The aim of the Legal system course is to provide students with an understanding of the HKSAR's legal system, its common law foundations and its interface with the PRC legal system within the One-Country-Two-Systems framework outlined in Basic Law. We will be looking at the common law process and the role of personnel who help put the law into motion. We will examine the impact and performance of Hong Kong's legal system through the study of a range of current issues, for e.g., whether the One-Country-Two-

Systems experiment has been successful or whether the common law system can indeed function with Chinese characteristics; whether the law is a panacea for all social problems or are there difficult questions which lie beyond the capacities of courts, etc.

A legal system does not exist in isolation. It can only be properly understood in its historical, social, economic and political context. It is therefore important to be able to understand the inter-relationship between different priorities that exist in any modern society. If you go through the newspapers, you will note the large number of controversial issues that constantly draw attention to the fundamental values underpinning our legal system. What do we, as a community, stand for? Does the law reflect those values or is it merely responsive to the circumstances as and when they arise? For instance, it is easy to advocate for equal access to justice, but who should pay for the system? Few would disagree with the primacy of human rights but how do we prioritise different rights when they are seemingly in conflict with other equally important values?

The course seeks to approach questions about the legal system from the broader perspective of the political and social implications of particular legal frameworks. This enables a critical understanding of why the legal system is the way it is, whether it achieves the objectives that society considers important and whether it serves to protect society's fundamental values. How does it protect these values in a continually changing social order? If a system is to gain the trust of its constituents, it needs to be sturdy and its principles should be strong enough to stand the test of time, yet it should not be so inflexible as to yield injustice. How can a system be designed so as to ensure that the needs and rights of all constituents are provided for, including minorities? How should the law and the legal system strike a balance between conflicting values? These are some of the types of questions we will be considering during the course.

Students will be encouraged to read as widely on the topics covered as students feel appropriate, to reflect on the topics, and to engage in debate among themselves and in class on the topics.

Assessment: Two take-home assignments (each weighted 50%)

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

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

In Hong Kong, constitutional law also performs the important function of regulating the relationship between Hong Kong as a Special Administrative Region of the People's Republic of China (PRC) and the Central Government Authorities of the PRC. Constitutional law in Hong Kong is therefore the legal foundation of 'One Country, Two



Systems'. It is also an area of the law which is often the focus of public and media attention. Constitutional law cases and controversies often appear in the Hong Kong press as frontpage news stories. The outcomes of constitutional litigation sometimes not only change the lives of the parties to the case, but also have wide and deep impact on the Hong Kong community and its public and social policies, or the political relationship between Hong Kong and mainland China.

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

Assessment: 100% open-book final examination

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

The aim of this course is to introduce students to the fundamental legal concepts and principles relating to commercial law in Hong Kong.

- A: Sale of Acquisition Goods
  - Transfer of Title
  - Sale of Goods
  - Non-sale Acquisitions: *nemo dat* and Gifts
  
- B: Personal Property
  - Personal Property and Interests in Personal Property
  - Credit and Security
  
- C: Consumer Credit and Protection
  - Regulatory Framework
  - Consumer Credit
  - Consumer Protection
  - Doctrine of relation back and unfair preference
  
- D: Agency Law

Assessment: 100% in-hall examination

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

An individual research project on an approved topic carried out under the supervision of an assigned teacher, resulting in the submission of a research paper not exceeding 8,000 words (excluding tables of cases and statutes, notes, appendices and bibliographies. Footnotes or endnotes should not exceed 1,000 words.). While comparative perspectives are permitted, the topic must be primarily on common law and/or HK legal issues(s).

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

Assessment: 90% written assignment (ie. dissertation), 10% class participation

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

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

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

Assessment: 75% in-hall examination, 25% mid-term test

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

- Introduction: The concepts of tenures, estates, ownership and property of proprietary interests in land: creation; assignment; intervention of equity (e.g. *Walsh v Lonsdale*, part performance, estoppel, constructive and resulting trusts).
- Concurrent interests: joint tenancy and tenancy in common; severance; termination of co-ownership.
- Adverse possession: acquisition of possessory title.
- Priority: common law; statutory rules.
- Leases: nature and types of leases; relationship of landlord and tenant; termination; statutory intervention.
- Leasehold covenants: enforceability.
- Licences: revocability; enforceability.
- Easements: nature; creation; determination.
- Security interests: mortgages; charges; pledges; liens.

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

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

The course will introduce Hong Kong's law on judicial review of administrative action. Topics that may be covered in any particular year include: theories of administrative decision-making, grounds of judicial review (errors of law and fact; procedural impropriety; errors in the exercise of discretion; legitimate expectations); public-private divide; the practical aspects of bringing an action for judicial review; and non-curial means of control and scrutiny of administration action (Ombudsman, Administrative appeals, public enquiries). The course will guide students on how to apply the law in factual scenarios and encourage students to reflect upon various theoretical issues in Administrative law.

Assessment: 60% final examination; 40% research paper

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*PCLL Pre-requisite Electives:*

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**JDOC3015 Company law (6 credits)**

1. Partnerships: general and limited partnerships; duties and liabilities of partners
2. Corporate entity and limited liability (limited by shares and limited by guarantee) and constitution of a company (articles of association)
3. Capital:
  - the nature and types of capital
  - acquisition of shares:
    - allotment of shares
    - transfer of shares including stamping and registration
    - transmission of shares
4. Capital maintenance rule:
  - distributions
  - reduction of capital
  - redeemable shares
  - purchase by a company of own shares
  - financial assistance for purchase of its own shares
5. Corporate governance:
  - directors: the position and duties of directors; board meetings and decision making process
  - members: the position of members; general meetings; majority rule and minority shareholders' protection
6. Corporate finance: debentures, company charges (fixed and floating charges), registration and enforcement of charges
7. Corporate dissolution and insolvency: winding-up, ranking of claims, unfair preferences, invalidation of floating charges, corporate rescue (schemes of arrangement and informal arrangements)
8. Listed companies: regulation; public issues; mergers, acquisitions and takeovers (overview)
9. Corporate taxation (Hong Kong) (overview)

Note: In the dealing with the above topics, there will be a particular emphasis on Hong Kong case law and the Companies Ordinance (Cap.622) and the Companies (Winding-up and Miscellaneous Provisions) Ordinance (Cap.32).

Assessment: 10% class participation, 20% advice group exercise, 70% examination

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

The conduct of civil litigation in the High Court and District Court:

- considerations prior to commencement of action;
- legal aid;
- jurisdiction of courts;
- parties and joinder;
- commencement of proceedings;
- service and acknowledgment of service;
- pleadings (Statement of Claim, Defences and Counter-Claims; Reply);
- summary disposal of actions (judgment on admissions; default judgment and summary judgment);
- interlocutory application (interlocutory injunctions, Mareva injunctions, Anton Piller Orders, prohibition orders, security for costs, interim payments);
- discovery, further and better particulars, interrogatories;
- compromises and settlements, ADR, sanctioned offer and sanctioned payment;
- aspects of the civil trial, preparation for trials and trial procedures, judgment and costs;
- enforcement of judgements; and
- appeals.

Assessment: 100% in-hall examination

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

An introduction to Criminal Procedure in Hong Kong: The conduct of criminal cases in Magistracies, District Courts and the High Court. Police powers including arrest, detention, search and seizure; questioning; remedies for abuse of police powers; Bail: general principles; refusal of bail; conditions; bail applications; offences.

Identification parades and identification evidence: identifications parades; Turnbull identification guidelines and procedures for use at court; dock identification; photo and video identification.

Jurisdiction of criminal courts; territorial jurisdiction; classification of offences; jurisdiction of the criminal courts of Hong Kong. Formulation and amendment of charges. Commencement of criminal proceedings; transfers and committals; indictments; preparation for trial and discovery in criminal proceedings; pleas; plea bargaining; juries and aspects of criminal trials; costs; sentencing options; criminal appeals.

Assessment: 100% in-hall examination

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

- What may be proved: facts in issue; relevance; admissibility and weight.
- Functions of judge and jury: who decides; judicial discretion.
- Burden of proof: standard of proof; presumptions.
- Methods of proof: oral testimony; documentary evidence; real evidence, proof without evidence.
- Oral testimony: competence, compellability of witnesses; questioning of witnesses including rules *re* previous consistent statements, refreshment of memory and collateral issues; corroboration of witnesses; identification evidence.
- Hearsay: scope, rationale, problem areas.
  
- Common law exceptions to hearsay: informal admissions especially confessions; other common law exceptions.
- Statutory exceptions to hearsay.
- Evidence of character of parties.
- Exclusion of evidence; self-incrimination; confession; unlawfully obtained evidence and human rights violation.
- Privilege and public interest immunity.
- Similar fact evidence.
- Opinion and expert evidence.

Assessment: 75% examination, 25% take home mid-term test

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

This aim of this course is to enable students to acquire the fundamental understanding and knowledge of land law in the Hong Kong context so that they can competently understand and review property transactions documents in Hong Kong.

The following topics would be covered in the course:

- Government leases and Conditions; sale and grant of land by Government; sectioning and subdivision of land; duration of leases; compliance with Conditions; certificate of compliance; user restrictions in Government leases and Conditions; waiver of restrictive covenants
  - Deeds of mutual covenant; nature of co-owners' interests; common terms in deeds of mutual covenants; allocation of shares; basic principles governing building management; enforcement of covenants in deeds of mutual covenant
  - Special features of the New Territories: small house policy and tsos and t'ongs
  - Planning: Outline Zoning Plans; planning permission; planning through building controls; Land (Compulsory Sale for Redevelopment) Ordinance
  - Termination of Government leases and Conditions; resumptions by the Government and assessment of compensation;
  - Partition of Land in Joint Ownership
- Remedies; specific performance; rescission, damages; other express remedies in sale and

purchase agreements, Land registration and priority of registered instruments  
Assessment: 100% examination

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*Chinese Law Elective:*

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

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

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

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*Other Electives (including ICT electives and Common Law electives):*

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

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

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

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

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

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

Assessment: 100% continuous assessment

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

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

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

Assessment: 100% continuous graded assessment

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## **JDOC6002 Credit and security law (6 credits)**

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

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

Topics to be studied include:

- the concept of security,
- the role of equity in security transactions, real and personal securities,
- types of business finance,
- insolvency,
- drafting of documentation to achieve particular purposes,
- reviewing new or novel forms of property, eg carbon sequestration;
- reviewing overseas developments in codifying commercial law; and
- remedies.

Assessment: 20% class participation, 80% examination

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

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

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

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## **JDOC6007 International dispute settlement (6 credits)**

Disputes are bound to arise on the international level. UN Charter Articles 2(3) and 33 require states to resolve their disputes through peaceful means, which include "negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice." Inasmuch as these peaceful means of dispute settlement are governed by a body of rules

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

Assessment: 20% participation, 80% research paper

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

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

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

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

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

Assessment: 100% research prospectus

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

This course is intended to provide an introduction to the major issues in banking law in Hong Kong. It is concerned with

- the law governing the nature of the contract (and its termination) of the banker-customer relationship;
- legal issues arising in relation to special types of accounts such as joint accounts, trust accounts, professionals and various types of business associations;

- banker's duties including confidentiality and the duty of care;
- fiduciary duties;
- lending and investment services, including securities and guarantees/indemnities;
- the role of the bank in documentary credits, and the growing stress on autonomy of these documents;
- banker's rights including appropriation of payment, the lien and set-off;
- bills of exchange; and
- newer developments including shadow banking, Islamic finance, charge-backs, non-performing loans and others

In the financing area, there will be an introduction to the key issues relating to bank loans and banker's security, and an in-depth study of autonomous payment obligations including guarantees, standby letters of credit and performance bonds. There will be discussion on a new development in relation to proposals for "implied good faith" to operate contrary to the principle of autonomy.

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

Assessment: 20% class participation, 80% examination

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

This course covers both company law and securities regulation in the People's Republic of China. The part on company law involves an examination of the legal framework governing the structure and organization of business corporations and the responsibilities of and protection afforded various groups participating in a corporation's affairs, in particular, shareholders, creditors and management. The basic conceptual framework reflected in modern corporate legislation, and especially recent Chinese statutes, regulations, and administrative rules is emphasised, 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. 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.

Assessment: 100% research paper

**JDOC6029      Managing commercial disputes resolution in China: law, issues and**

### **techniques (6 credits)**

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

Assessment: 30% mid-term response report, 70% research paper

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

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

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

Assessment: 30% short paper, 70% research paper

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

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

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

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

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

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

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

Assessment: 50% Research paper; 30% Take home examination; 20% group presentation

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

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

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

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### **JDOC6047 PRC property law (6 credits)**

It is generally believed that secure property rights are the key to economic growth. Yet it is said that China has been the world's fastest growing major economy for the past 30 years without a well-functioning property system. This seeming contradiction has compelled leading scholars of different disciplines to reflect on the role of property rights in economic development.

Is the general belief valid? Is China really a counterexample? This course intends to answer both questions by investigating the evolution of the Chinese property system. It will cover four parts: evolution of property rights in Chinese constitution; evolution of the Chinese land administration laws; evolution of property rights in Chinese civil laws (i.e., from the 1986 Principles of Civil Law to the 2007 Property Law); and the relationship between property rights in action and property law on the books.

This course hopes to deepen students' understanding of the PRC property system, with a focus on how real world developments influence the property law, and vice versa. It will draw on cases and examples from the real world to help students understand the PRC property system.

This course will not only enable students to understand the complex system of the PRC property system, but also the factors that have driven its development. This course will build a solid basis for students who are interested in either practicing Chinese real estate law or doing related academic research.

Assessment: 70% written assessment, 30% class participation

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

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

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

The insolvency portion of the course will focus on the insolvency of foreign investment enterprises and state-owned enterprises and companies. The PRC Bankruptcy Law and related legislation at both the national and local levels will be considered. Topics to be

studied include insolvency principles, the economic and political ramifications resulting from the insolvency of state-owned enterprises and companies, an overview of the insolvency process, commencement of insolvency cases, property available for distribution to creditors, representatives of the estate, and liquidation procedures generally. Cross-border insolvency issues, especially in relation to co-operation with the Hong Kong SAR, will also be considered. A reading knowledge of simplified Chinese characters would be desirable.

Assessment: 30% mid-term assignment, 70% research paper

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

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

The course is structured in three conceptual parts. (1) Orientation: the nature of regulation and the products, actors and marketplaces with which the course will be concerned. (2) Framework: the core laws, regulations and regulators comprising the regulatory framework. (3) Application: how regulation interacts with the business of effecting transactions in the marketplace.

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

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

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



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

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

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

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### **JDOC6055 Law of international finance 1 (6 credits)**

Law of international finance 1 is an introductory postgraduate course dealing with transnational financial transaction formation and its relationship with financial innovation, market practice and financial regulation. The aim of the course is to foster an understanding from first principles of major capital market transactions, and their function in the modern financial system. This will include consideration of the parties involved and their motives, contract formation, why transactions succeed or how they may fail, applicable regulatory settings, and the legal documentation involved in structuring transactions and allocating risks. Four generic transactions will be covered using recent examples of applications: international syndicated loans, major currency bond issues and issuance programmes, asset-backed securities, and interest rate and currency swaps. Standard documentation and interdisciplinary materials will be used whenever relevant.

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

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

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

China's three-decade economic growth accompanied by a weak legal system poses a challenge to the conventional wisdom that puts the rule of law as a precondition of economic development. This is the so-called "China problem" in the law and development field. What is the role of law in economic development? How to evaluate the Chinese economic development? Is it sustainable? This course addresses these questions.

The first part of this course will introduce the debate on the "China problem," and review critically the assumptions and premises of both sides. Part II of this course will introduce general theories on law and development, in particular the roles of ideology, property rights and the state in economic development. Part III will examine law and development in China, with a focus on the evolution of contract and property laws in Chinese economic development. Part IV will look at law and development from a comparative perspective.

Reading materials will be selected not only from legal literature, but also economics, political science, sociology, and others.

Assessment: 40% class participation, 30% response papers, 30% final paper

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

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

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

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

Prerequisite: Law of international finance 1

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

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

This course is designed to provide candidates with a comprehensive introduction to the regulation of international and non-international armed conflicts within international law. Its emphasis shall be on the historical evolution of and assumptions behind this law, together with an assessment of the practical challenges that confront the application, implementation, and enforcement of this law. Set within an interdisciplinary context of moral philosophy as well as military strategy, we shall cover a host of topics that emerge once the scope (or provenance) of the Geneva Conventions and Additional Protocols has been defined. As the themes of the syllabus take shape, we shall endeavor to relate how the 'humanitarian' dimensions of the law of armed conflict have come by this nomenclature, and how they relate to other areas of international law (specifically human rights and international criminal law).

Assessment: 100% In-hall examination

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

The course begins with a general presentation of the Council of Europe, the European Court of Human Rights and the European Convention of Human Rights. It gives an

overview of the on the values, structure and achievements of the Council of Europe; it presents the organisation, structure and procedure of the European Court of Human Rights; it outlines the rights and freedoms guaranteed by the Convention and key concepts essential to the understanding of the European Convention system.

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

- **The right to health**, presenting the historical development of the concept of the right to health, its guiding principles and related obligations; these are illustrated through case law concerning the right to medical treatment, medical malpractice and the liability of health professionals and forced medical treatment.
- **The right to a healthy environment** and its' development as a human right; the course presents case law from the European Court of Human Rights, as well as other regional courts such as the Inter-American and African systems.
- **Reproductive rights**, focusing on the principles of reproductive autonomy, respect for private and family life and the prohibition of discrimination; it covers the topics of abortion, contraception, home birth and forced sterilisations.
- **Bioethical issues**, focusing on the European approach on IVF treatment, surrogacy, the protection of genetic data, euthanasia and assisted suicide and organ donation.
- **Women's rights**, course which provides an overview of international human rights law concerning women, and presents case law of the European Court of Human Rights concerning violence against women, human trafficking and other forms of discrimination.
- **Sexual minorities**, a course which presents the rights of sexual minorities in international law and case law on a variety of issues such as the criminalisation of homosexual relationships in general, ill-treatment by police and state agents, marriage and civil unions, adoption.

**Freedom of expression**, a course which presents the international guarantees, the key aspects, the scope and the limitations of this freedom, and gives examples of case law concerning press freedom, censorship, whistleblowing, the protection of journalistic sources and more. Assessment: 50% oral presentation, 50% research paper

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

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

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

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

Equality and non-discrimination are universally regarded as fundamental human rights principles that underpin - and are necessary prerequisites to - the enjoyment of all human rights and freedoms. Indeed most of the major international human rights treaties as well as many national constitutions articulate rights to equality and non-discrimination either in general terms or with reference to a range of grounds such as race, gender, disability, religion, etc. Despite its prominent position in human rights law, the precise scope and meaning of equality remain contested and enforcement bodies have sometimes provided contradictory or conflicting interpretations. In other words, equality can mean different things to different people. This course considers how the law reflects, and might support the realization of, particular concepts of equality. It also examines the potential and the limits of the law as a means of achieving social and political change.

Assessment: 25% class participation, 75% research paper

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

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

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

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

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

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

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

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

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

Assessment: 100% research paper

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

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

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

Assessment: 20% in-class presentation 20% class participation, 60% take home

examination

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

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

Assessment: 70% take home examination, 30% essay

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

The Seminar on National Protection of Human Rights offers an opportunity to explore human rights in its national social and institutional contexts. Students will explore the important themes of national protection of human rights with an emphasis on Asia. Particular attention will be paid to domestic constitutional questions such as democracy, human rights and the rule of law. Asia is a region that houses nearly two-thirds of the world's population and includes a wide range of cultures and developmental contexts. We confront a common observation that human rights practice is ultimately local. While the human rights movement has made extraordinary efforts in the post-World War II era to develop global standards and institutions it has been plagued by weak implementation at the local level. Significant regional human rights treaties and institutions in Europe, Africa and the Americas have sought to address this deficiency on a regional level with mixed success. As the only region without a regional human rights regime, Asia has relied more completely on domestic constitutionalism and local institutional practices to articulate and implement human rights commitments. This has made the human rights debate more seriously a matter of local politics and legal culture. Asia has had a noteworthy engagement with some of the central themes in the human rights debate, relating human rights to culture, to the political economy of development, democratization, autonomy, and development of civil society. Asian discussions of these concerns have intimately connected issues of human rights and development. The seminar will explore these rich Asian themes and efforts.

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

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**JDOC6076 Seminar in human rights research (6 credits)**

This course will provide an introduction to the methodology of, and sources for, human rights research. The seminar will examine the various purposes of human rights research and sources and research strategies appropriate for different purposes. The topics covered will include international sources, comparative national material, non-governmental

organisation material, and will include both legal sources and resources from other disciplines. The use of electronic resources and search strategies will also form part of the seminar.

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

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

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

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

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

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

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

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

Detailed knowledge of insolvency law is not a prerequisite. The *Hong Kong Corporate and Personal Insolvency Manuals* will be assigned and will provide students with both an

overview of insolvency law in Hong Kong and a detailed analysis of practical considerations. Discussions in class will consider the adequacy of existing insolvency laws and procedures in Hong Kong and evaluate the strengths and weaknesses of the law reform amendments and proposals. Comparisons will be made with insolvency law developments in other jurisdictions.

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

Assessment: 100% research paper

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

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

Assessment: 100% continuous assessment

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

Designed for students considering or planning to work in the financial sector, this is an overview perspective course, for LLM (and JD) students without financial background. Specifically, the course will examine, from legal and policy perspectives, the fundamentals respecting regulation of the primary financial intermediaries and markets: i.e., money and banking, investment banking, and asset management and insurance. Emphasis will be on the on-going phenomenon of globalisation and interdependence/interconnection of financial markets and intermediaries, and the need for economies to develop viable and robust financial markets, with a particular focus on the current global financial crisis. Use of international, comparative (especially PRC, US and EU) and interdisciplinary materials will be made.

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

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### **JDOC6094 Law of international finance 2 (6 credits)**

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

The course aims to develop a usable understanding of complex financial transactions and



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

Topics will include credit derivatives, synthetic transactions, the mis-selling of complex instruments, the laws of organised exchanges, and non-recourse infrastructural and object finance. The course seeks to generate an awareness of the roots and contemporary features of complex transactions, how they contributed to the 2007-09 financial crisis, and place the elements of recent deals in a continuing legal and commercial context to apply to situations where elements of one transaction type are combined or embedded with others.

Prerequisites / Co-requisites: Law of international finance 1

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

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

This course:

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

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

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

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

Assessment: 100% continuous assessment

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

International commercial arbitration is well established as the preferred binding mechanism for resolving cross-border commercial disputes. It has seen particularly marked growth and acceptance in the last 20-30 years, including in the Asia Pacific region. The law and practice of international commercial arbitration, while scarcely regulated, has evolved into a highly specialised craft based on international best practices. This course will consider the international and domestic legal framework for international commercial arbitration, as well as the broader regime including international arbitration rules, international arbitration institutions and organizations and international arbitration practices. However, a key focus will be the inside workings of international arbitrations, revealing the sometimes obscure practices of the discipline. The main topics covered include the making and enforcement of arbitration agreements, establishment of and powers of arbitration tribunals, jurisdictional issues, applicable law (both procedural and substantive), arbitration procedure and evidence, interim and final remedies and rendering and enforcement of arbitration awards (including challenges and appeals). The course will be taught with case examples principally from the Asia Pacific region, and extensive examples from the practices of well known arbitral institutions, such as the ICC International Court of Arbitration, and of arbitrators sitting under the auspices of the ICC.

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

Assessment: 100% take home examination

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

This course covers the merger review aspect of competition law from a global perspective. The course is divided into two sessions. The first session focuses on the merger review

practices of the US, with a particular focus on the case law and agency practices regarding the review of mergers. The second session will introduce students to basic principles of merger review under EU law. Emphasis will be placed on both the institutional framework and substantive review of mergers under EU law.

Assessment: 100% two take home examinations

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### **JDOC6106    Advanced issues in information technology law (6 credits)**

This course examines the legal and policy issues relating to information technology (IT) from a comparative, global perspective. It covers wide range of issues involving how national governments regulate the technology of internet and how private citizens' rights relating to internet are protected. Issues to be canvassed include privacy and personal data, internet jurisdiction, regulation of internet marketing, issues in electronic transactions, internet governance, domain name business models and disputes intellectual property challenges for new business models, legal issues raised by cloud computing, as well as net neutrality and telecom regulation.

Assessment: 25% class presentation, 75% final paper

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### **JDOC6107    Insurance law (6 credits)**

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

Pre-requisites: Law of contract

Assessment: 100% take home examination

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

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

This *postgraduate* course explores the history, ideas and concepts that shape public international law and practice, and on the relationship between public international law and other ideas and phenomena. It aims to (i) provide a critical introduction to the subject matter and in-depth investigations into specific themes (such as war and peace, territorial

disputes, state immunities, international dispute resolutions) and (ii) equip students with the skills and ability to advise on the basics of public international law and to analyze contemporary international legal problems.

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

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

This course involves an examination of the legal framework governing banking and insurance. The course begins with a discussion of the central bank, the People's Bank of China, regarding its role, activities, and regulatory power. The course will cover other main financial regulators such as CBRC, CSRC and CIRC. 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 will discuss such matters as the types of security interests, principal terms of most common forms of loan facilities, basic structure of syndicated loan and international bond issues. The course will also address the causes, systemic risks and potential regulatory instruments in relation to China's booming shadow banking sector.

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.

Prerequisite: Ideally, the students should have some basic knowledge of the Chinese legal system.

Assessment: 100% examination

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

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

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

Topics to be covered include the international and national framework for e-business, branding and trade marks, contractual issues of online trading, online security issues,

privacy and data protection, liabilities of online service providers, online tort issues and jurisdictional issues.

Prior knowledge of the subject matter is not required.

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

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

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

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

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

Assessment: 100% research paper

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

This seminar is designed for students who wish to write and to present a research paper written in English to a good standard on a significant topic in the field of Chinese legal studies. Students are encouraged to focus on topics in the current legal system, but may also select their research question from law and legal development issues in imperial and Republican China, and earlier stages of China's socialist legal system (including prior to 1949 in CCP Liberated Areas). Students are also encouraged to draw on the discourses of comparative (and, where relevant, international) law in order to place their understandings and findings in a wider context. This intellectual contextualization is not only valuable in its own right but should serve also, for example, as an encouragement to students to reflect expansively on the broader 'value added' of their research conclusions. Chinese language proficiency is not required, as the course concentrates on western-language discourse, though of course Chinese-language sources may well be very useful for some areas of research.

Assessment: 20% class participation, 80% research essay

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

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

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

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

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

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

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

Assessment: 20% participation, 80% research paper

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

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

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

Prior IP or IT knowledge is not required.

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

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**JDOC6124 Communications law (6 credits)**

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

Topics may include:

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

Assessment: 20% group project, 70% research paper, 10% class participation

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

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

course will use a seminar format rather than formal lectures, to encourage discussion and make the focus of topics covered relevant to participants' interests.

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

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

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

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

This course will provide students with a practical insight into a number of areas of international trade law and the practices of the Admiralty and Commercial Courts. It will use shipping scenarios to illustrate the various contracts and issues that arise in private international trade.

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

The course covers the following areas:

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

Prerequisites / Co-requisites: Law of contract I and II and Law of tort I and II

Assessment: 100% Take home assessment

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



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

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

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

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

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

Assessment: 100% take home examination

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

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

#### A. Knowledge and Understanding

- To introduce the fundamental principles of arbitration law set out in detail in the syllabus below.
- To introduce the importance of the Hong Kong Arbitration Ordinance when deciding disputes.
- To introduce the essential elements of a binding arbitration agreement and an enforceable arbitration award.
- To introduce the important role of reading and analyzing the sources of arbitration law, including both statutes (particularly domestic arbitration statutes such as the Arbitration Ordinance) and judicial decisions (case law).

#### B. Intellectual and Practice Skills

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

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

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

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

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

- General Introduction to Arbitration and ADR
- Agreement to Arbitrate
- Appointment of Arbitrator
- Rights, Duties and Powers of an Arbitrator
- Commencement of Arbitration and Interlocutory Proceedings

- Arbitration Hearings
- Evidence in International Arbitration Costs & Interest in Awards
- Appeals
- Enforcement and Execution of Awards

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

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

This course examines the key law and regulations concerning the Internet, information technology and related business in Mainland China. It intends to provide a wide-angle view of the regulatory regime for the Internet and IT industry in Mainland China, in particular as to how such regulatory regime may be helping or damaging the development of the IT industry in Mainland China. The course also intends to compare the regulatory regime in Mainland China with that of other jurisdictions, and examine the impact of the Chinese Internet and IT Regulations on cross-border transactions of IT products and services.

Topics may include:

- Principles of IT and Internet Regulatory System
- Administration and Licensing of Websites
- Electronic Signature
- Online Advertising, Publishing and Media
- Online Intellectual Property Issues
- Big Data and Cloud Computing Issues
- Online Finance, Virtual Monies and Credit Profiling Regulatory Issues
- Domain Name System and Cybersquatting in Mainland China
- Privacy Protection, Real-Name Registration, Encryption and Internet Censorship
- Liabilities of Network Service Providers
- Cross-Border Transfer of Electronic Data and Use of Electronic Evidence
- Jurisdiction and Conflict of Law in the Cyberspace
- Online Dispute Resolution

Assessment: 30% presentation and class participation, 70% research paper

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

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

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

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

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### **JDOC6141 Regulation of cyberspace: theories of internet and normativity (6 credits)**

The course takes a closer look at the legal and political challenges brought about by the internet and related technologies. The goal is to provide participants with an in-depth understanding of the conflicts involved in the governance of the information environment and equip them with the tools to analyze and assess these conflicts from a normative perspective. This involves two analytical steps: (a) understanding the challenges and limitations of conventional legal institutions on the Internet, especially those administered by the State, and (b) reinterpreting and reinventing these institutions in the context of the Internet.

In order to achieve this goal, the course combines foundational readings with contextual analyses of legal institutions on the Internet. This approach enables participants to make connections between some timeless questions of law and politics implicated in regulation and revisit them in the broader context of networked information technologies. To complement this framework, class discussions will pick up contemporary cases and events to which the concepts and theories will be applied.

The course is not necessarily targeted at students with prior knowledge of the interplay between law and technology, in general, and law and the Internet, in particular. While not focused on any particular jurisdiction, it takes major common law systems as its starting point.

Assessment: 80% final research paper, 20% four notes and queries

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

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

remedies to be examined will include exclusion of evidence at trial, stay of proceedings, declaration, damages, adjournment, and bail.

Assessment: 100% take home examination or research paper

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

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

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

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

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

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

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

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

course will also examine the work and effectiveness of international criminal tribunals, ‘internationalised domestic courts’, commissions of inquiry, and other methods of reckoning with past wrongs in societies around the world, as well as consideration of new processes that are evolving.

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

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

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

Assessment: 70% research paper, 20% advocacy exercise, 10% class participation

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

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

The two most developed and influential competition law jurisdictions are the United States and the European Union. This course (JDOC6154 Competition law I) will focus on US antitrust law. EU competition law will be covered in JDOC6155 Competition law II, offered in the second semester. Students are encouraged to take both courses (Competition law I & Competition law II) to acquire a global/comprehensive understanding of competition law. Some attention will be devoted to the new Hong Kong Competition Ordinance in both courses (especially in Competition Law II).

This course will focus on two of the three main areas of competition law: restrictive

agreements and abuse of dominance. Regulation of mergers will be covered in a separate course.

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

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

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

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

Assessment: 100% two take home examinations

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### **JDOC6164 Principles of family law (6 credits)**

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

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

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

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

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

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### **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; (b) the process of institutionalizing legal governance for Chinese commerce as well as paving a level playing field for market participants; (c) the impact of globalization, particularly since 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 analyzes 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 will aim 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 animal; 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% examination

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

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

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

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

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

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### **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% examination

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

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

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

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

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

This conflict which has manifested itself in the form of tensions regarding minority rights, the freedom of religion, the right to practice one's culture and group rights and their limits. These conflicts have most acutely manifested themselves in liberal democratic states where these values are constitutionally enshrined. Questions have also arisen as to the extent of the state's obligation to honour these interests and rights through appropriate schemes in the name of minority rights and the implications of accommodation, assimilation or integration on the core commitments that underscore the liberal democratic constitutional framework, including values such as equality, human dignity and non-discrimination on grounds of race, religion, culture, nationality, gender or other status. Oftentimes, the protection of some of these values results in a conflict with another entrenched value. In the circumstances, the liberal project's commitment to individual freedoms and the practice of democratic engagement faces a paradoxical challenge that requires it to reconcile internal conflicts between these deeply held values especially when these freedoms stand to challenge the very rights framework from which they derive. Modern pluri-national states demand an alternative discourse that facilitates the reconciliation between meaningful plurality and the potential accompanying threats to the political structures that facilitate such plurality in the first place.

The course examines this conflict through comparative and interdisciplinary lenses, drawing on material from law, political theory, philosophy, and postcolonial studies to better understand the nature of identity, rights, citizenship and the discourse of oppression, violence and conflict. This work will be used to equip students with an enriched analytic framework through which to conceptualise the problems as they emerge in various countries today and to examine and understand the use of various governance structures, approaches and arguments to reconcile conflicting rights within the liberal constitutional framework in light of international human rights commitments. The course considers the use of various tools by courts around the world in dealing with multicultural difference as

manifested in the form of language, dress, religious symbols and religious or cultural practices as well as their impact on immigrant and sub-national identities, and evaluates these outcomes in terms of the guarantees of equality and non-discrimination. In doing so, the course material draws on case studies from a range of jurisdictions, including America, Australia, Canada, France and other parts of Europe, Hong Kong in addition to salient international cases that have come before regional courts such as the European Court of Human Rights and international tribunals like the United Nations Human Rights Committee to compare the practices of various jurisdictions to explore the focal themes of the course and to consider the feasibility of integrated approaches to address this contemporary challenge.

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

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

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### **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: 50% case comments, 50% research paper

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

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

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

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

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### **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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### **JDOC6188 Intellectual property policy and practice (6 credits)**

This course aims to add the theoretical aspects to the current IP courses and ask students to re-examine recent major cases in the US and commonwealth countries. The first part of the course would deal with the theories and policy analysis that justify IP protection and the rest deals with legal doctrines and practice with reference to the theories and policy analysis.

Assessment: 20% class participation, 80% weekly response papers or a research paper

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

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 (6 credits)**

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 (6 credits)**

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

Assessment: 100% take home examination

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

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.

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

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

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

Assessment: 100% take home examination

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### **JDOC6196 Preventative law: approach 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 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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### **JDOC6197 Law and social theory (6 credits)**

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

contemporary legal problems.

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

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

Assessment: 20% presentation, 80% research essay

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### **JDOC6199 Law and policy (6 credits)**

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

Assessment: 100% research assignment

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### **JDOC6200 Topics in trademark law (6 credits)**

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 (6 credits)**

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: 20% participation, 80% research paper

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**JDOC6204 Public law in common law jurisdiction (6 credits)**

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

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

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

Assessment: 25% presentation, 75% minor dissertation

**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.

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

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

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

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

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

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

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

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

All topics are covered from a comparative perspective.

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

Assessment: 25% class participation, 75% research paper

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**JDOC6210 Energy law (6 credits)**

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

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

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

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**JDOC6211 World trade law, policy and business (6 credits)**

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

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

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

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

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: 10% class participation, 90% four short essays

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**JDOC6213 Property protection in China: law, politics and culture (6 credits)**

Due to China's unique economic structure and political culture, property protection has loomed large for many multinational companies to operate business in China. The vast growth of their investment in the Chinese property market makes it increasingly important for them to understand and use the complex legal system to protect their property interests. Moreover, a host of problems caused by the rapidly developing economic reform in China have made property protection a core issue at the forefront of human rights debate. Since the passage of the Property Law in 2007, there has been a more heated debate over the ways in which property system should be further reformed to address the problems such as social inequality and political change in China.

Situated in the watershed moment of institutional transition in China, this course aims to

examine the legal protection of property rights under the Chinese law and its related economic, cultural and political issues. All the topics of this course will be discussed through case studies. With a focus on the newly adopted Property Law, the first part of the course deals in detail with the basic principles and rules that protect property rights. For example, we will discuss the civil law principles of property protection, acquisition of property, exclusive rights conferred on property owners, and the limitations on exclusive rights. The second part of the course considers the economic, social and political issues of protecting property rights in China. To do so, we will discuss issues such as the development of the real estate market, the protection of cultural property, and takings of property and land reforms.

Assessment: 30% participation, 70% two short essays or a research paper

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

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: 100% research paper

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#### **JDOC6215    Seminar on human rights and constitutionalism in Asia (6 credits)**

The Seminar on Constitutionalism and Human Rights in Asia offers a opportunity to explore human rights in its social and institutional contexts. Students will explore the important themes of constitutionalism and human rights in Asia, a region that houses nearly two-thirds of the world's population and includes a wide range of cultures and developmental contexts. In thinking about human rights we confront a common observation that human rights practice is ultimately local. While the human rights movement has made extraordinary efforts in the post-World War II era to develop global standards and institutions it has been plagued by weak implementation. Significant regional human rights treaties and institutions in Europe, Africa and the Americas have sought to address this deficiency with mixed success. Even in those regions with such regional human rights regimes domestic implementation and enforcement through the institutions of constitutionalism provide a vital link for human rights implementation. As the only region without a regional human rights regime, Asia has relied more completely on domestic constitutionalism and practices to articulate and implement human rights commitments. This has made the human rights debate more seriously a matter of local politics and legal culture. In this respect, Asia has had a noteworthy engagement with some of the central themes in the human rights debate, relating human rights to culture, to the political economy of development, democratization, autonomy, development of civil society and to war and conflict. Asian discussions of these concerns have intimately connected issues of human rights, security and development. The seminar will explore these rich Asian themes and efforts. The course is open to any student interested in



exploring these themes in a seminar context. There are no prerequisites. *For the basic content to be addressed each week see the course schedule below.*

Assessment: 100% continuous assessment

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### **JDOC6216 Graduate seminar (6 credits)**

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

Assessment: 100% continuous assessment

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

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

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

No prior technical knowledge is required for this class.

Assessment: 50% research, 50% take home examination

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

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

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

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**JDOC6224 Mergers and 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. The process of negotiating and executing transactions will be considered as well as the typical documents involved. This will cover standard terms in contracts, such as purchase price payment mechanisms, warranties and undertakings. Other aspects of the transaction process will be considered, in particular, the role of due diligence will be examined closely including as to how due diligence interacts with contractual documentation and the negotiation process. Problems arising in the cross-border context will also be considered.

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

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

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

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

The course aims at promoting students' understanding of 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. The examination answers can be written in either English or Chinese as selected by the student. Problem-solving approach with case studies will be adopted.

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

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

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

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

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### **JDOC6227 Introduction to private international law (conflict of laws) (6 credits)**

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

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

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

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

Assessment: 100% take home assignment

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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% general participation in in-class debate and discussion

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### **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 Clinical Legal Education Programme – Refugee Stream (“the Clinic”) is offered to undergraduate and post-graduate students in the Faculty of Law at the University of Hong Kong (HKU) in partnership with the Centre for Comparative and Public Law (CCPL) and Justice Centre Hong Kong. Justice Centre provides information and individual assistance to claimants seeking non-refoulement protection in Hong Kong (known as “protection

claimants”) and advocates for their rights in policy spheres and through campaigns to raise public awareness and change perceptions.

The Clinic allows students to learn both the theory and practice of non-refoulement law in Hong Kong . Students will learn the legal Hong Kong for assessing protection needs and develop their legal skills in a real practice setting. Specific skills include: interviewing protection claimants, working with an interpreter, fact investigation, legal research and analysis, and legal writing and drafting.

Students will also have opportunities to develop professional judgment through encounters with real legal and ethical dilemmas. Students will learn to take a human rights-based approach to legal work, to recognise challenges, to creatively identify options, and to diligently and ethically assist protection claimants

Students work under the direct supervision of Justice Centre’s Legal Officer and/or other Justice Centre staff.

Assessment: 100% clinical work: Pass/Fail in two components, namely 1) preparation and participation in group seminars and clinical sessions; 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.
10. Regional financial policies: concepts and institutional aspects of regional financial integration.

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

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

The course will introduce students to the practice of international arbitration with a focus on administered arbitration (utilizing the HKIAC Administered Arbitration Rules) and investment arbitration. Utilizing a case study as the basis for the course, students will apply the theory of arbitration to a mock case. The course will provide students with the opportunity to manage a case from the beginning to the end. From negotiating and drafting an arbitration clause to drafting pleadings, students will have the opportunity to enhance their legal writing skills in the context of an arbitration. Students will also learn how to 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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### **JDOC6238 Comparative arbitration in Asia (6 credits)**

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

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

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

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

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### **JDOC6239 Law and regulation of private banking and wealth management I (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.

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

Many banks and financial institutions, particularly private banks and wealth management institutions, have shifted their focus from risk enhancement to business growth. For practitioners (risk and compliance professionals, bankers and lawyers) and those prepare to enter into the private banking and wealth management industry, to stay advanced in the game, a good understanding of the business, compliance, law and regulations would be highly advantageous.

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

Assessment: 80% research paper, 20% presentation

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### **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:

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

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

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

This course is intended for students who are already familiar with the main contours of intellectual property law and would like to explore the subject further. The course teacher will examine in depth a series of topics that, in recent years, have proven especially controversial or troublesome in many countries:

1. the fair use/fair dealing defense in copyright law;
2. possible solutions to the crisis in the entertainment industry;
3. intellectual property protection for fashion;
4. the treatment of standard-essential patents;
5. reverse-payment settlement agreements in the pharmaceutical industry;
6. extralegal intellectual property norms;
7. traditional knowledge;
8. how legal reform might help address the health crisis in the developing world;
9. the relationship between intellectual property and business strategy.

Assessment: 25 class participation, 75% take home examination

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### **JDOC6244    Securities regulation II (6 credits)**

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

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

A focus of the course will be on the rapidly developing body of case law in the Hong Kong courts arising out of the increased activity of the Securities and Futures Commission in bringing misconduct matters under the Securities and Futures Ordinance (SFO) to trial.

Regulatory enforcement cases will also be examined. This will require a closer examination of the relevant provisions of the SFO.

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

How the regulatory system is responding to relatively new phenomena, such as dark pools and high-frequency trading, as well as developing new approaches to existing issues, such as the position of the fiduciary concept and the treatment of information in the regulated marketplace, will also be considered. The development of behavioural or smart regulation will also be considered. A focus will be to develop a deeper understanding of the factors that influence such developments.

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

Prerequisite: successful completion of JDOC6049 Securities regulation I, or demonstrated knowledge of the industry

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

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

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### **JDOC6245 Compliance in the Hong Kong securities industry (6 credits)**

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

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

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

While the focus of the course will be on regulated intermediaries such as securities dealers, corporate finance advisers and asset managers, the course will also consider the

position of issuers, particularly the challenges facing newly listed issuers.

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

With a view to giving students closer contact with the realities of the compliance task, the course will make extensive use of speakers from the industry and the regulators. The format of each lecture will in general be comprised of two halves, the first being in a lecture format, the second being discussion-based and driven by small group work and question and answer discussions. Accordingly, student participation is expected and required to contribute to the learning context.

Prerequisite: successful completion of JDOC6049 Securities regulation I, or demonstrated knowledge of the industry

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

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

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### **JDOC6246 Law and regulation of private banking and wealth management II (6 credits)**

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

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

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

Assessment: 20% individual presentation and 80% research paper

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### **JDOC6247 Medico-legal issues (6 credits)**

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

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

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

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

Closely tied to the question of property in the body is the concept of human organ



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

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

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

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

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

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## **JDOC6250 The regulation of biomedical research (6 credits)**

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

The course is aimed at students seeking a understanding of the framework of legal and ethical regulation (both locally and internationally) of biomedical research in all its common aspects, particularly in the context of international standards for clinical trials (pharmaceutical trials); direct human experimental and biomedical research involving human subjects; 'non-invasive' epidemiological and other studies involving only the use

of data; human tissue banking; cohort studies; biobanking; genetic testing and screening, genomic research; the use of 'legacy' diagnostic tissue or data collections; the sharing of personal, medical and genomic information ('Big Data'); public 'diseases registries' and the use of medical information for public health purposes; the legal and ethical regulation of multi-centre and multi-jurisdictional collaborative biomedical research; international standards for ethical governance of biomedical research at the institutional level (through IRBs, ECs, HRECs); EMR (electronic medical records) databases; data-mining and the implications of migration to large-scale national health records systems.

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

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

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

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## **JDOC6252 Construction of commercial contracts (6 credits)**

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

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

Prerequisite: Students must have previously studied (and passed) the law of contract  
Assessment: 80% take home assignment, 20% group project

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### **JDOC6253 Law of the cities (6 credits)**

Building on the joint strength of the two teachers, this course explores legal institutions of cities in the world, including two parts: the political law of cities and the economic law of cities. The first part explores the constitution of city governments (e.g., whether it is authoritative or democratic, and in the latter situation whether it is dominated by the legislative council or the executive branch; its relationship with upper level governments; etc.) and its influence on city development. The second part focuses on laws and regulations that govern various economic issues, in particular land use regulations, immigration policies, affordable housing, environmental and other social issues. We will investigate cases from different cities around the world, including but not limited to Chinese cities such as Beijing and Shanghai, and American cities such as New York and Philadelphia. Chinese and American cities are facing similar problems today, such as conflicts in land use, sky-rocketing housing prices, and tension between property protection and economic development. This course endeavors to provide an universal framework for students to understand urban governance in different contexts. We hope students in this course will learn how to address various challenges to urban governance. . This course takes an interdisciplinary approach by building on frontier research in law, politics, sociology and economics. Through this course, we endeavor to answer the question why cities fail or succeed, and hope to improve students' understanding of city governance from both theoretical and comparative perspectives.

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

- Expose students to basic principles of local government.
- Examine different local government structures and assess their strengths and weaknesses.
- Examine various challenges facing global cities.
- Develop theoretical and practical tools to assess the appropriate responses to the challenges global cities are facing.
- Develop and improve their skills of doing research in the fields of local government law, land use regulations, urban governance, etc.

Assessment: 30% class participation, 70% final essay

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### **JDOC6262 Comparative law of elections (6 credits)**

This course will focus on how Asian courts have responded to deficiencies in the electoral processes and the concomitant problem of partisan self-dealing. Specifically, partisan self-dealing occurs when the political actors devise electoral rules that govern voting, political parties, electoral boundaries, apportionment, the administration of elections, and campaign finance that are designed to entrench themselves in power.

This course will only examine Asian jurisdictions, with a specific focus on Hong Kong, but also examine Western countries as a comparative foil. Western jurisdictions to be examined include Australia, Canada, and United States of America.

This course seeks to illuminate an interesting phenomenon. In jurisdictions like Hong Kong, Malaysia and Singapore where a dominant political party or coalition has remained in power since independence or decolonisation, their courts may formally superintend the electoral process, but in reality they do so at the fringes of the entity's political life. On the other hand, in dynamic democracies where there have been extended periods of competing political parties taking turns in office, their courts play a more central role in democratic consolidation. Such courts, as those found in India, South Korea, and Taiwan would ameliorate systemic inequalities in electoral systems and provide constitutional redress for vulnerable or unpopular groups that have been excluded from the voting process. Finally, we have fragile or unstable democracies where the armed forces are not under firm control of the civilian government and the country oscillates regularly between military and civilian rule. In these fragile democracies. Asian courts that get too close to the 'live wire of electoral politics' and become partisan tools that assist one political camp to dislodge its rivals, as the Constitutional Court of Thailand did, or pose existential threats to military interests, as the Supreme Court of Pakistan did under the stewardship of Chief Justice Iftikhar Muhammad Chaudhry would only accelerate a political crisis that sends the country over the constitutional cliff.

This course will examine the landmark election cases in the common law jurisdictions of Hong Kong, Bangladesh, India, Malaysia, Pakistan, and Singapore, and also the civil law jurisdictions of South Korea, Taiwan, and Thailand. The course will examine how courts operate when key election results and electoral restrictions are challenged in dominant party democracies, dynamic democracies, and fragile democracies in Asia.

Prerequisite: Students who have completed a course on constitutional law in Hong Kong or overseas.

Assessment: 50% take home assignment, 50% take home exam

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### **JDOC6263 Introduction to U.S. class action law (6 credits)**

This course will cover all of the major topics of U.S. class action law. Actual class action cases will be examined, including some of the largest and most highly publicized cases in U.S. history. The following topics will be addressed:

1. The history of the U.S. class action rule (Fed. R. Civ. P. 23);
2. Overview of the current Rule 23;
3. Threshold requirements for class certification, including class definition;
4. Rule 23 mandatory requirements: numerosity, commonality, typicality, and adequacy of representation;
5. Various types of class actions (money damages, injunctive relief, etc.);
6. Class action settlements;
7. Multi-district litigation;

8. Attorneys' fees;
9. Case study: British Petroleum oil spill class action;
10. Case study: National Football League Concussion Injury class action;
11. Comparative analysis: How U.S. class action law differs from that in other major countries.

Assessment: 10% class participation, 90% in-class exam

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**JDOC6265 Law, regulation and compliance for insurance industry in Hong Kong (6 credits)**

Insurance is playing a more prominent role in the business portfolio of many financial institutions. Since the financial crisis in 2008, consumers have become more risk-averse in choosing financial solutions, those relatively complex investments like derivative products are less receptive by the market. People are looking for other long-term financial planning solutions to give themselves a better protection and security for future, while getting a decent return. Insurance becomes an obvious choice among various financial products. Further, some banks are offering lending facilities for insurance products, with the low-interest environment, this further boosts up the attractiveness.

Insurance is historically a less regulated industry when compared to the banking world. Laws and regulations in the whole financial industry is generally getting more stringent, there is quite a significant change in the regulatory landscape in the insurance industry. This course will cover the essential laws, regulations and compliance requirements for the insurance business in Hong Kong from a practical perspective.

This course is suitable for students who would like to understand the latest laws, regulations and compliance requirements for the insurance industry in Hong Kong and how they apply in the industry from a practical perspective.

Assessment: 80% research paper, 20% presentation

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**JDOC6266 Regulatory compliance in international finance and OTC derivatives documentation (6 credits)**

Regulatory Compliance in International Finance and OTC Derivatives Documentation is a course for students planning to venture into today's interconnected legal and financial world. Theories will be explored in this course, complemented by practical insights, with an aim to provide students with hands-on understanding of complex legal, compliance and risk management concepts applicable to international finance, particularly in respect of client on-boarding and over-the-counter derivatives ("OTC derivatives").

This course will introduce students to the client on-boarding processes, which are crucial to banking institutions to ensure that anti-money laundering, anti-terrorist financing and sanctions regulations are followed. Moreover, emphasis will be placed on the compliance framework and the standard contractual documentation for OTC derivatives, which are

essential for international financial risk management. The relevant OTC regulations and documentation under certain common law jurisdictions and the PRC jurisdiction will be explored.

Assessment: 25% in-class participation, 40% test, 35% exam (oral)

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### **JDOC6267 Courts (6 credits)**

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

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

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### **JDOC6268 Administrative law and governance in China (6 credits)**

This course introduces the administrative law in China and discusses its role in enhancing the governance. It provides perspectives of both comparative law and legal realism on the scope and growth of PRC administrative law, analysing this law's doctrinal foundations and exploring its interaction with China's political and societal transformation during the past three decades. The course focuses on legal control of the public authorities' decision-making process, and highlights the dynamic domains where legal transplantation interacts with indigenous system-building. Specifically, topics that are covered include:

1. Historical background (both political and intellectual) for the institutional development of administrative law in contemporary China;
2. Governance structure in China, and its impacts on the scope of the PRC administrative law (particularly in relation to the nature of administrative power and the basis for judicial intervention);

3. Fundamental concepts, principles and general doctrines of PRC administrative law, and their inspirations from and comparison with administrative law in western countries;
4. Grounds of judicial review of administrative decisions (excess of competence, legal errors, insufficient evidence, procedural impropriety, and abuse of (discretionary) power);
5. Judicial control of the rule-making power of public authorities, and sources of administrative law;
6. Scope of judicial review and conditions for the access to court;
7. Non-curial scrutiny of public authorities' decision-making (administrative review, letters and visits, administrative supervision);
8. Procedural control of decision-making (hearing, freedom of information);
9. Theories for assessing PRC administrative law, and salient factors that influence its function related to individual rights protection and governance accountability.

Pre-requisites: Subject to special approval by the course coordinator, students taking this course must demonstrate that he or she has basic knowledge on PRC law. A positive proof would be the successful completion of one course on PRC law (e.g. LLAW6008 Introduction to Chinese law and legal system, or its equivalent).

Assessment: 70% research paper, 30% group project presentation