

## **REGULATIONS FOR THE DEGREE OF MASTER OF LAWS IN CHINESE LAW [LLM(CHINESE LAW)]**

*(These regulations apply to candidates admitted to the LLM(Chinese Law) curriculum in the academic year 2017-18 and thereafter.)*

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

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### **LLMCL1. Admission requirements**

To be eligible for admission to the courses leading to the degree of Master of Laws in Chinese Law, a candidate

- (a) shall comply with the General Regulations and the Regulations for Taught Postgraduate Curricula;
  - (b)
    - (i) shall hold the degree of Bachelor of Laws with at least second class honours of this University, or a qualification of equivalent standard from this University or another comparable institution accepted for this purpose; or
    - (ii) shall hold the degree in a discipline other than law with at least second class honours of this University, or a qualification of equivalent standard from this University or another comparable institution accepted for this purpose; and have at least two years of relevant experience and professional qualifications; or
    - (iii) shall have obtained either the Common Professional Examination of England and Wales or the Common Professional Examination Certificate of this University provided that in either case the candidate has also obtained a degree with at least second class honours of this University or a qualification of equivalent standard from this University or another comparable institution accepted for this purpose; and
  - (c) for a candidate who is seeking admission on the basis of a qualification from a university or comparable institution outside Hong Kong of which the language of teaching and/or examination is not English, shall satisfy the University English language requirement applicable to higher degrees as prescribed under General Regulation G2(b).
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### **LLMCL2. Advanced Standing**

Advanced Standing may be granted to candidates in recognition of studies completed successfully no more than 5 years before admission to the curriculum. Candidates who are awarded Advanced Standing will not be granted any further credit transfer for those studies for which Advanced Standing has been granted. The amount of credits to be

granted for Advanced Standing shall be determined by the Board of the Faculty of Law, in accordance with the following principles:

- (a) a candidate may be granted a total of not more than 9 credits (one course) for Advanced Standing unless otherwise approved by the Senate; and
  - (b) credits granted for Advanced Standing shall not normally be included in the calculation of the GPA unless permitted by the Board of the Faculty of Law but will be recorded on the transcript of the candidate.
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**LLMCL3. Period of study**

- (a) The curriculum for the degree of Master of Laws in Chinese Law shall normally require one academic year of full-time study or two academic years of part-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 two academic years in the case of full-time candidates and three academic years in the case of part-time candidates, unless otherwise permitted or required by the Board of the Faculty of Law.
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**LLMCL4. Completion of curriculum**

To complete the curriculum for the degree of Master of Laws in Chinese Law, a candidate shall

- (a) satisfy the requirements prescribed under TPG 6 of the Regulations for Taught Postgraduate Curricula; and
  - (b) satisfactorily complete 72 credits in the case of a full-time study in one academic year, including a capstone experience, or 36 credits in the case of a part-time study in each of the two academic years of study, including a capstone experience.
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**LLMCL5. Selection of courses**

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

- (b) Withdrawal from courses beyond the designated add/drop period will not be permitted, except for medical reasons or with the approval of the Board of the Faculty of Law. Withdrawal without permission will result in a fail grade in the relevant course(s).
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**LLMCL6. Dissertation**

- (a) Candidates, whether full-time or part-time, who elect to submit a dissertation shall submit the title not later than six months before presenting the dissertation for examination. The dissertation must be presented not later than August 31 of the year in which the candidate would like to graduate.
- (b) In exceptional circumstances a candidate may apply to the Board of the Faculty of Law for an extension of the period within which the dissertation must be presented at least three months before the prescribed date of submission. Late applications for extension will not be considered, except for medical reasons or with the approval of the Board of the Faculty of Law.
- (c) The candidate shall submit a statement that the dissertation represents his or her own work undertaken after registration as a candidate for the degree. The examiners may require an oral examination on the subject of the dissertation.
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**LLMCL7. 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 who are on a one-year full-time mode of study shall normally be required to take not fewer than 27 credits nor more than 36 credits in any one semester (except the summer semester).
- (ii) Candidates who are on a two-year part-time mode of study shall normally be required to take not fewer than 9 credits nor more than 18 credits in any one semester (except the summer semester).
- (iii) Where candidates are required to make up for failed credits, the Board of the Faculty of Law may give permission for candidates to exceed the required curriculum study load of 72 credits.
- (iv) In each case under (i) or (ii) above, the total number of credits taken shall not exceed the required curriculum study load of 72 credits for the normative period of study specified in LLMCL3(a).

- (b) Candidates may, with the approval of the Board of the Faculty of Law, transfer credits for courses completed at other institutions during their candidature. The number of transferred credits may be recorded in the transcript of the candidate, but the results of courses completed at other institutions shall not be included in the calculation of the GPA. The combined total number of credits to be granted for Advanced Standing and credit transfer shall not exceed half of the total credits normally required under the curriculum of the candidates during their candidature at the University.
  - (c) Unless otherwise permitted by the Board of the Faculty of Law, candidates shall be recommended for discontinuation of their studies if they have:
    - (i) failed to complete successfully 45 or more credits (under one-year full-time study) or 18 or more credits (under two-year part-time study) in two consecutive semesters (not including the summer semester), except where they are not required to take such a number of credits in the two given semesters, or
    - (ii) failed to achieve an average semester GPA of 1.5 or higher for two consecutive semesters (not including the summer semester); or
    - (iii) exceeded the maximum period of registration specified in LLMCL3(b).
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**LLMCL8. Exemption**

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

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**LLMCL9. Assessment**

- (a) Candidates shall be assessed for each of the courses for which they have registered, and assessment may be conducted in any combination of continuous assessment of coursework, written examinations and/or any other assessable activities. Only passed courses will earn credits.
- (b) Candidates suspended under Statute XXXI shall not be allowed to take, present themselves for, and participate in any assessments during the period of suspension, unless otherwise permitted by the Senate.
- (c) Candidates shall not be permitted to repeat a course for which they have received a passing grade for the purpose of upgrading.

- (d) Candidates are required to make up for failed courses in the following manner:
- (i) undergoing re-assessment/re-examination in the failed course to be held no later than the end of the following semester (not including the summer semester); or
  - (ii) re-submitting failed coursework, without having to repeat the same course of instruction; or
  - (iii) repeating the failed course by undergoing instruction and satisfying the assessments; or
  - (iv) for elective courses, taking another course in lieu and satisfying the assessment requirements.
- (e) Where candidates are permitted or required to present themselves for re-assessment/ re-examination/ assessment in an alternative course under (d) above, the new grade obtained together with the previous F grade shall be recorded on the transcript and be included in the calculation of the semester GPA, year GPA and the cumulative GPA. Such candidates shall not be eligible for any mark of distinction.
- (f) There shall be no appeal against the results of examinations and all other forms of assessment.
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**LLMCL10. Absence from an examination**

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

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**LLMCL11. Requirements for graduation**

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

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**LLMCL12. Grading system**

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

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**LLMCL13. Classification of awards**

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

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# SYLLABUS FOR THE DEGREE OF MASTER OF LAWS IN CHINESE LAW

## COURSEWORK

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

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## OBJECTIVES

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

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## DISSERTATION

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

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## STRUCTURE

Candidates are required to complete 72 credits, including a capstone experience in accordance with the regulations for this degree and the syllabus as set out below. Candidates may choose courses from the course outlines of individual areas of law below, and courses from any of the specialist programmes, but in any event no more than two courses from other LLM specialist programmes.

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## COURSE OUTLINES

*(Each of the courses listed below carries 9 credits unless otherwise stated.)*

### **Capstone course**

LLAW6056 Law and development of the People's Republic of China

## **Electives**

- LLAW6268 Administrative law and governance in China
- LLAW6115 Advanced seminar on Chinese law
- LLAW6185 China investment law
- LLAW6186 China trade law
- LLAW6278 Chinese judicial reform in comparative perspective
- LLAW6003 Civil and commercial law in the People's Republic of China
- LLAW6025 Company law and securities regulation in the People's Republic of China
- LLAW6226 Comparative constitutional law theories
- LLAW6248 Comparative contract law
- LLAW6279 Comparative corporate law and theories
- LLAW6251 Comparative property law
- LLAW6264 Competition law and policy in China
- LLAW6171 Corruption: China in comparative perspective
- LLAW6114 Cross-border legal relations between the Mainland and Hong Kong
- LLAW6214 Current issues in Chinese law
- LLAW6054 9-credit Dissertation
- LLAW6014 18-credit Dissertation (18 credits)
- LLAW6111 E-business law
- LLAW6070 Human rights in the People's Republic of China
- LLAW6212 Intellectual property in China: law, politics and culture
- LLAW6008 Introduction to Chinese law and legal system
- LLAW6110 Law and regulation of banking and insurance in the People's Republic of China
- LLAW6178 Law, economics, regulation and development
- LLAW6253 Law of the cities
- LLAW6029 Managing commercial disputes in China: law, issues and techniques
- LLAW6165 PRC economic law
- LLAW6139 PRC information technology law
- LLAW6047 PRC property law
- LLAW6225 PRC shipping law (in Putonghua)
- LLAW6048 PRC security and insolvency law
- LLAW6201 PRC taxation law and policy
- LLAW6167 PRC tort law
- LLAW6213 Property protection in China: law, politics and culture
- LLAW6277 The theory and history of the PRC constitution
- LLAW6211 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.***

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**COURSE DESCRIPTIONS FOR THE DEGREE OF MASTER OF LAWS IN  
CHINESE LAW [LLM(CHINESE LAW)]**

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*Capstone course*

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**LLAW6056 Law and development in the People's Republic of China**

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: 20% two response papers; 40% group project; 40% final essay

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*Elective courses*

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

This course examines PRC civil and commercial law from a functional perspective. In the course students will be introduced to the fundamental legal concepts relating to civil and commercial relations and transactions in China as well as the principles underlying the areas of law, including contracts, secured transactions, and payment mechanisms. In addition to teaching the formal law in these areas, the course will examine the relationship between contract enforcement and economic development. In the teaching, both a descriptive account of law and interdisciplinary methods of studying some areas of law will be provided. Through the study of the above specific areas of law and their theoretical foundations, students will be provided with the necessary analytical skills and judgmental power essential for their future work.

Assessment: 100% research paper

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

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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**LLAW6014 18-credit Dissertation**

An individual research project on an approved topic carried out under the supervision of an assigned teacher, resulting in the submission of a research paper not exceeding 20,000 words (excluding tables of cases and statues, notes, appendices and bibliographies). The dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

Assessment: 100% research paper

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

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

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### **LLAW6029 Managing commercial disputes resolution in China: law, issues and techniques**

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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### **LLAW6047 PRC property law**

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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#### **LLAW6048 PRC security and insolvency law**

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

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

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

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

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

An individual research project on an approved topic carried out under the supervision of an assigned teacher, resulting in the submission of a research paper not exceeding 10,000 words (excluding tables of cases and statutes, notes, appendices and bibliographies). The dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

Assessment: 100% research paper

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

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

Assessment: 100% research paper

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

This course involves an examination of the legal framework governing banking and insurance. The course begins with a discussion of the central bank, the People's Bank of China, regarding its role, activities, and regulatory power. 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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### **LLAW6111 E-business law**

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

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

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

Prior knowledge of the subject matter is not required.

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

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

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

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

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

Assessment: 100% research paper

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

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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### **LLAW6139 PRC Information technology law**

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
- National Security and Anti-Terrorism Measures relating to Online Businesses
- Anti-Monopoly and Anti-Unfair Competition Issues relating to Online Businesses
- 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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### **LLAW6165 PRC economic law**

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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### **LLAW6167 PRC tort law**

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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### **LLAW6171 Corruption: China in comparative perspective**

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

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

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

The law and regulation component of the course seeks to examine the role of law as an instrument of regulating economic and social activity. The course will explore theories of regulation, regulatory techniques and instruments, and issues of efficiency, accountability and legitimacy in relation to regulation. It will also explore the

application of economic concepts to the law, focusing on areas such as torts, contracts, and property rights. For instance, the course will examine how economic concepts have been applied to provide a benchmark for determining negligence in torts.

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

Assessment: 30% class participation; 30% homework; 40% final essay

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### **LLAW6185 China investment law**

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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### **LLAW6186 China Trade law**

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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### **LLAW6201 PRC taxation law and policy**

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

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

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

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

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### **LLAW6212 Intellectual property protection in China: law, politics and culture**

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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### **LLAW6213 Property protection in China: law, politics and culture**

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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### **LLAW6214 Current issues in Chinese law**

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

Assessment: 100% research paper

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### **LLAW6225 PRC shipping law (in Putonghua)**

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 charter parties; 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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### **LLAW6226 Comparative constitutional law theories**

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

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

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### **LLAW6248 Comparative contract law**

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

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

Assessment: 90% research paper; 10% class participation

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### **LLAW6251 Comparative property law**

In 1766, Blackstone wrote that “there is nothing which so generally strikes the imagination, and engages the affections of mankind, as the right of property.” In 1848, Karl Marx and Friedrich Engels wrote that property in land should be abolished in the most advanced countries. Property rights have been at the very heart of human development in the past centuries. On one hand, property has been viewed as the basis for liberty and economic development. On the other hand, as Proudhon said, property is just another word for theft. In China, land-related social conflicts occur every day and

everywhere. From ordinary farmers to university scholars, each person has his own idea of property rights. However, in the fierce debates around property rights, there is lack of consensus on such basic questions: What is property? What things should we keep for ourselves? And what should we share with others? Why should a piece of land belong to you rather than me? How is property rights structured and defined? What is the relationship between property and development? On the other hand, property rights are behind many challenges facing human beings: can a market of pollution permits save us from air pollution? How to govern the common resources in the oceans? Have intellectual property rights deterred or encouraged technological innovation? Are property rights the key to economic prosperity in the U.S.? How about China? Why have land reform programs sponsored by the World Bank failed in many developing countries? Are indigenous residents in the New Territories of Hong Kong entitled to the development value of their land? This seminar will provide students with the theoretical and comparative perspectives to investigate such questions.

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

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

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

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### **LLAW6253 Law of the cities**

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:

1. Expose students to basic principles of local government.
2. Examine different local government structures and assess their strengths and weaknesses.
3. Examine various challenges facing global cities.
4. Develop theoretical and practical tools to assess the appropriate responses to the challenges global cities are facing.
5. 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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## **LLAW6264 Competition law and policy in China**

The unveiling of the Anti-Monopoly Law (the “AML”) on August 30, 2007 marked a symbolic commencement of a new era of competition for China. Long heralded as the economic constitution, the AML is the first modern competition law adopted in China. Although China only began to enforce the law in 2008, Chinese administrative antitrust agencies have not shied away from bringing high-profile cases with lasting impact on both the domestic and global markets. For instance, in 2015, China’s National Development and Reform Commission (NDRC) imposed a record-high fine against Qualcomm for charging excessive licensing fees in China, fueling speculation that China is using its competition policy to protect domestic industries from foreign competition. However, the AML has not only been applied to foreign firms. Chinese domestic firms, including state-owned firms, are also frequent targets under the law.

This course aims to provide students with a comprehensive and in-depth understanding of the AML and its enforcement practice by situating the discussion in the broader institutional context of the Chinese political economy. It covers all the substantive aspects of the AML, including horizontal agreements, vertical agreements, abuse of dominance, concentrations, and abuse of administrative monopoly. It also covers the procedural aspects of the AML, including the enforcement structure, the administrative agencies, the courts, the merger review process, remedies, leniency and fines, and the newly introduced fair competition review system. More specifically, this course will introduce students to the major investigations brought by the administrative agencies and the leading cases decided by the Chinese courts in civil litigations. It will conduct a critical evaluation of the enforcement record by Chinese administrative agencies and will compare enforcement practices in China and those in other major jurisdictions, such as the EU and the United States. To help students understand the pattern of

enforcement, this course will also examine the forces that have propelled the active enforcement of the AML in recent years.

This course encourages active class participation. When appropriate, experienced practitioners and enforcers will be invited to share with students their experience and insights with Chinese antitrust practice. The course aims to develop skills that will be of benefit to those students who seek to enter professional practice after their degree, and those who would prefer a career in business. A range of practical skills will be developed including the ability to think broadly beyond just solving legal problems to considering how global businesses can adapt to the new regulatory environment in China.

Assessment: 10% class participation, 90% examination

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### **LLAW6268 Administrative law and governance in China**

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

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### **LLAW6277 The theory and history of the PRC constitution**

This course takes a historico-theoretical approach to explain the nature and purpose of the PRC Constitution and introduces the complex constitutional context in which the Basic Law of the Hong Kong SAR is grounded. The origin of the present-day Constitution of the People's Republic of China is neither 'Western', nor "Far Eastern" or "East Asian". It is entirely based on the "Eastern" or essentially Russian 1936 Constitution of the Soviet Union. This course will illuminate these conceptions and clarify common misconceptions by discussing the history and theories since the 19th century which forms the often neglected bedrock of the present day Chinese Constitution.

**Rationale:** Legal minds in the English-speaking Common Law world routinely attempt to understand the Chinese Constitution by employing a Western Anglo-American intellectual framework. This is uncritical. In the West, it is far too convenient to attempt an understanding of the Chinese Constitution by simple application of British and American constitutional concepts. Their comparatively minor difference in approach is not useful to fully comprehend the Chinese Constitution because its textual structure is based on a traditional Russian/Continental European model. It is also common for students of constitutional law to casually apply the textbook Western concept of "separation of powers" in such analyses. Hence, common law students taking this course will acquire a fresh approach to the law and constitution of China.

Assessment: 40% two short essays, 60% research essay

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### **LLAW6278 Chinese judicial reform in comparative perspective**

This course examines the current judicial reforms in the People's Republic of China in comparative perspective. This course will consider Chinese judicial reforms in the wider context of the judiciary and judicial reforms in advanced and developing economies (considering practice as well as theory) as well as the context of China's history, political system, and society. It will give students an overview of the issues involved a chance to learn more about the judicial reforms from a variety of viewpoints, including if possible, from participants themselves. Some of the topics to be covered include the judicial profession, role of the judiciary, judicial autonomy/independence, relationship among the judicial organs, role of the circuit courts, and splitting jurisdiction from administrative areas. Why has the Communist Party decided that judicial reform is necessary? What are the goals? To what extent are issues unique to China or found/controversial in other jurisdictions?

Assessment: 10% class participation, 30% oral presentation, 60% coursework

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**LLAW6279 Comparative corporate law and theories**

This course examines corporate law from comparative and interdisciplinary perspectives. In the course students will be introduced to the fundamental legal principles concerning limited liability, corporate contract, voluntary and/or mandatory nature of corporate law, directors' duties, shareholder protection and external finance, disclosure, insider trading, takeover, shareholder value maximization or stakeholder theories, convergence and divergence of corporate law, and corporate social responsibility.

Through the examination of the above convent/topics, several fundamental issues will be dealt with. They include freedom of contract and its limits, externalities and collective action, transaction costs, goals of corporate law, legal rules and finance, methods of enforcement, interaction of corporate law and market means, and globalization.

The comparative aspects will deal with materials from the US, UK, Germany, Japan and China. Teaching is interdisciplinary. Readings will be drawn from legal and social science literature, including works from economics and finance. This course is theory-based and has a significant research component.

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

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

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

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

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