

City University of Hong Kong
Course Syllabus

offered by School of Law
with effect from Semester B 2019/20

Part I Course Overview

Course Title:	Intensive Seminar
Course Code:	LW5663*
Course Duration:	From one week to the full duration of a given semester
Credit Units:	1 credit (total contact hours: 13) or 2 credits (total contact hours: 26) in Semester A, Semester B or Summer semester
Level:	P5
Medium of Instruction:	English
Medium of Assessment:	English
Prerequisites: (Course Code and Title)	Nil
Precursors: (Course Code and Title)	Nil LW4662 * Intensive Seminar (* This being an umbrella course, the course codes of seminars offered under this course will be labeled as LW4662A, LW4662B and so on.) LW650E* Intensive Seminar (* This being an umbrella course, the course codes of seminars offered under this course will be labeled as LW650AE, LW650AB and so on.)
Equivalent Courses: (Course Code and Title)	
Exclusive Courses: (Course Code and Title)	Nil

* This being an umbrella course, the course codes of seminars offered under this course will be labeled as LW5663A, LW5663B and so on. The code numbers and the exact title of each seminar will be recorded in Appendix-A to this Form.

Part II Course Details

1. Abstract

This course aims to:

- provide students opportunities to study, on an intensive basis, an existing or emerging area of law so as to meet the challenges of working in a global environment;
- allow students to get exposed to leading foreign legal scholars who might be willing to spend few weeks at our Law School to offer a course;
- offer more flexibility to students to plan and complete their studies; and.
- develop further the research and analytical abilities of students.

2. Course Intended Learning Outcomes (CILOs)

(CILOs state what the student is expected to be able to do at the end of the course according to a given standard of performance.)

No.	CILOs	Weighting	DEC related learning outcomes		
			A1	A2	A3
1.	Describe and explain the basic concepts and principles related to the given seminar			✓	
2.	Apply the concepts and principles to solve hypothetical or real situations			✓	✓
3.	Communicate ideas, arguments or advice clearly and coherently both orally and in writing		✓	✓	✓
4.	Critically analyse and evaluate concepts, principles and policy underpinning the area of law covered by the seminar		✓	✓	✓
		100%			

A1: *Attitude: Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.*

A2: *Ability: Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to self-life problems.*

A3: *Accomplishments: Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.*

Alignment of CILOs with PILOs:

PILOs		CILOs
1	Explain and assess specified areas of the law and the legal system of Hong Kong, with particular emphasis on the law in action and the dynamic interplay between law and other social phenomena.	1
2	Assess the common law system and its values, and its interaction with the law and legal system of mainland China, the East Asian region and the wider world.	2
3	Explain, interpret and apply main principles of ethics, civil duty, and social and professional responsibility.	
4	Critically assess the strengths and weaknesses of law as a means of regulating society in the context of competing and conflicting interests.	
5	Demonstrate and apply skills of legal analysis and reasoning, of legal research, or problem solving, and of oral and written communication to a level appropriate to a graduate-entry degree in law.	2

3. Teaching and Learning Activities (TLAs)

(TLAs designed to facilitate students' achievement of the CILOs.)

TLA	Brief Description	CILO No.				Hours/week (if applicable)
		1	2	3	4	
1	Lectures or interactive seminars – students will acquire basic knowledge of the relevant concept and principles, including by asking or responding to questions	✓				
2	Group discussions/exercises – students will get an opportunity to apply law or legal principles to practical situations; Tutorials – students will apply their understanding of legal concepts and principles to solve hypothetical situations		✓			
3	Tutorials – oral presentations and written submissions; Consultations			✓		
4	Lectures or interactive seminars – students will develop critical analytical abilities by observing and participating in discussions; Guided reflective pre/post-class reading				✓	

A range of TLAs are likely to be employed to achieve CILOs prescribed for a seminar. The combination and duration of the TLAs will be determined as per the needs of a particular seminar, which might in a given case be taught – wholly or in part – through video-conferencing facilities. Nevertheless, below is an indicative list of TLAs.

4. Assessment Tasks/Activities (ATs)

(ATs are designed to assess how well the students achieve the CILOs.)

Again, although precise assessment tasks will be determined the visiting faculty and/or the course leader so as to ensure a proper alignment with CILOs and TLAs, few potential assessment tasks are specified below. Taking into account the nature of the subject and the duration of the seminar, the visiting faculty and/or the course leader will decide if the assessment will be wholly by coursework or by a combination of coursework and examination. The nature of examination (whether closed book or open book) will also be determined by the visiting faculty and/or the course leader. The exact assessment tasks will be notified to students at the beginning of the seminar.

Assessment Tasks/Activities	CILO No.				Weighting	Remarks
	1	2	3	4		
Continuous Assessment: to be decided by the individual course leader						
Attendance and participation in tutorials and other exercises	✓	✓	✓	✓		
Coursework and/or End-of-course examination: to be decided by the individual course leader						
					100%	

Students' achievements will be graded on the basis of their performance in assessment tasks/activities. To pass this course, students must obtain an aggregate mark of 40% and a minimum of 40% in each of the specified assessment tasks/activities.

5. Assessment Rubrics

(Grading of student achievements is based on student performance in assessment tasks/activities with the following rubrics.)

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B, B-)	Fair (C+, C, C-)	Marginal (D)	Failure (F)
1. Attendance and participation in tutorials and other exercises presentation)	Demonstration of concentration on tutorials and other exercises. Demonstration of ability and willingness to answer questions in tutorials and to participate in group discussion. Demonstration of oral presentation skills and willingness.	Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.	Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.
2. End-of-course examination	Demonstration of understanding of concepts, principles, and theories. Demonstration of ability to identify legal issues. Application of knowledge to specific legal problems, to discuss questions, and to comment on legal phenomenon. Application of legal writing and research skills. Demonstration of ability to engage in argument-based analysis based on critical thinking. Demonstration of aptitude for formulating innovative solutions to designated fact-based questions.	Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.	Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

These courses are assessed on pass/fail basis, students are required to have good attendance (normally 75% plus) and to write an essay of 2,000 words.

Part III Other Information (more details can be provided separately in the teaching plan)

1. Keyword Syllabus

(An indication of the key topics of the course.)

2. Reading List

2.1 Compulsory Readings

(Compulsory readings can include books, book chapters, or journal/magazine articles. There are also collections of e-books, e-journals available from the CityU Library.)

1.	
2.	
3.	
...	

2.2 Additional Readings

(Additional references for students to learn to expand their knowledge about the subject.)

1.	
2.	
3.	
...	

This is merely an umbrella course and it has no syllabus of its own. The syllabus and the reading list (if any) of each intensive seminar offered under this course will be decided by the visiting staff and/or the course leader and included in Appendices-B to this Form.

**Appendix A: Course Codes and Titles of
Intensive Seminars Offered under LW5663**

<i>Course Code</i>	<i>Course Title</i>	<i>Credit Units</i>
<u>LW5663A</u>	CIF and FOB Contracts	1
<u>LW5663B</u>	Global Class actions and Collective redress	1
<u>LW5663C</u>	Governing International Contracts: Comparative Conflict of Laws and Uniform Law before Courts and Arbitral Tribunals	1
<u>LW5663D</u>	Dispute Resolution In A Global World	1
<u>LW5663E</u>	Comparative Contract Law	1
<u>LW5663F</u>	Introduction to Comparative Corporate Governance	1
<u>LW5663G</u>	Harmonization of Private Law: Legal and Cultural Challenges – The European Example To Be Avoided?	1
<u>LW5663H</u>	Online Platforms	1
<u>LW5663I</u>	International Trade Law	1
<u>LW5663J</u>	Medical Law and Ethics	1
<u>LW5663K</u>	International and Comparative Secured Transaction Law	1
<u>LW5663L</u>	The Law of Family Relations	1
<u>LW5663M</u>	The Regulation of Corporate Social Responsibility	1
<u>LW5663N</u>	Federalism in the United States	1
<u>LW5663O</u>	Online Dispute Resolution	1
<u>LW5663P</u>	Legal Regulation in the Fourth Industrial Age	1

Appendices B: Syllabus of Intensive Seminars Offered under LW5663

LW5663A CIF and FOB Contracts

1. International trade: a legal overview
2. Negotiations and the use of standard forms
3. CIF, C&F and FOB Contracts: carriage and insurance
4. Risk and property
5. The goods
6. The documentary performance
7. The duty to pay, banks and letters of credit
8. The bill of lading as a contract of carriage
9. The bill of lading as a document of title
10. The bill of lading as a receipt
11. Breaches and remedies
12. Force majeure/prohibitions

Pre-requisite: Law of Contract

LW5663B Global Class actions and Collective redress

This is certainly a different type of law enforcement.

The course will deal with the special features of the unique procedure which enable one or few representatives to enforce legal rights in certain areas of law on behalf of large group of harmed class members.

The special features of the procedure and its developments in many jurisdictions around the globe will be discussed.

LW5663C Governing International Contracts: Comparative Conflict of Laws and Uniform Law before Courts and Arbitral Tribunals

- I) Private International Law and Conflict of Laws
 - a. Subject Matter
 - b. Sources
 - c. Scope
 - d. Objectives
 - e. Comparative Methodologies
 - f. National Courts and Arbitral Tribunals

- II) Comparative Conflict of Laws in Contract
 - a. Distinguishing domestic and international contracts
 - b. Interactions between Jurisdiction and Applicable Law
 - c. Governing International Contracts
 - i. Choice of Law
 - 1. Renvoi
 - 2. Freedom of Contract v. Party Autonomy
 - ii. Absence of Choice of Law
 - 1. General
 - 2. Specific Types
 - iii. Mandatory Rules and Public Policy
 - iv. Overriding Mandatory Rules
 - v. Protection of the Weaker Party

- III) Uniform Tools
 - a. Standard Contracts
 - b. Uniform Terminologies: Incoterms
 - c. Standard Guarantees and other tools

- IV) Uniform Law
 - a. Uniform Conflict of Laws
 - b. Uniform Substantive Law
 - i. Source, Nature, Scope, Objectives
 - ii. Interactions with Conflict of Laws
 - iii. The CISG: Theory and Practice
 - iv. International Transport

- V) Governing International Contracts: Selected Topics and Examples

LW5663D Dispute Resolution In A Global World

For many decades there has been a global sense of crisis in the administration of justice. Most legal systems struggle with how best to adjust their adjudication system to meet the needs of its members. In this course, we will explore the universal principles and values underlying any legal system that seeks to afford effective access to justice and maintain the rule of law. We will also explore the challenges and problems that have preoccupied reformers for more than a century. You will acquire theoretical and practical knowledge of various modes of dispute resolution in a changing global world, and benefit from the experiences of many other jurisdictions. The interdisciplinary and comparative approaches employed in this course will deepen and enrich your understand of the civil justice process in your own jurisdiction.

The general themes that will be covered in this course include the following:

1. Universal Principles of Access to Justice and Fair Trial
2. Rule of Law and Law Enforcement
3. Adversarial, Inquisitorial and Mixed Dispute Resolution Systems
4. Cost Rules (including Costs Shifting)
5. Litigation Funding (and Third Party Funding)
6. Self-Representation, and Lay Representation
7. Settlements, Mediation, and Alternative Dispute Resolution
8. Arbitration
9. Digital Justice and Online Dispute Resolution

LW5663E Comparative Contract Law

The course will look at a number of laws of contract (English/HK, French, German and some of the other contract laws of Asia) and international instruments (such as the Unidroit Principles of International Commercial Contracts, the Principles of European Contract law and, to a lesser extent, the Vienna Convention on the International Sale of Goods). The course starts with a general overview (e.g explaining the relevance of soft law principles, and covering some of the areas in which there is broad similarity between the various laws and instruments) and then, in the remaining classes, looks at a number of key areas in which there are substantial differences (such as breaking off negotiations; pre-contractual information and duties of disclosure; unfair terms; and adjustment for change of circumstances). It will concentrate on business-to-business contracts, though with some comparisons to consumer contract law.

Pre-requisite: Law of Contract

LW5663F Introduction to Comparative Corporate Governance

This course on comparative corporate governance introduces the discipline that deals with social institutions - both legal and extra-legal - that purport to provide social regulation of relationships within the business corporation. The company is a complex mechanism for cooperation with a view to making money and doing other good deeds. Successful operation of the corporation requires overcoming a series of problems stemming from our human nature. While the basic structure of corporations in modern economies is relatively uniform, different countries address these issues in various ways, including through different legal systems, different market structures, and other social institutions such as social norms and culture. This situation presents a challenge to policy-makers, lawyers, and business people. This course provides an introduction to comparative analysis of corporate governance. We will first identify the fundamental problems that every corporate governance system must address. Next, we will point out some prominent examples of the different ways that countries implement for this task, review the reasons for this diversity and will try to get to its roots. The last part of the course deals with special challenges that face emerging markets and with the interaction between legal systems and other social institutions.

Pre-requisite: Company Law

LW5663G Harmonization of Private Law: Legal and Cultural Challenges – The European Example
To Be Avoided?

The course explores the tensions that arise between legal integration and cultural diversity in the making of European private law. In the last decades, many have claimed that the European Single Market could not exist without a unified law of obligations, at least. Very few however objected that such law would clash with legal, social, linguistic and cultural diversity across the member States. Today, the attempts to unify the law of obligations have failed, leaving most of the challenges unresolved. While the question of unified regulations will be discussed, the focus will be on the role that the European Court of Justice has played so far to eliminate legal divergences in various fields of private law, especially in the law of contract and tort. By looking at the cultural challenges faced in Europe, the course will also aim to establish comparisons with Asia.

LW5663H Online Platforms

This seminar deals with the law relating to online platforms, in particular those which act as intermediaries between suppliers and customers. It brings together aspects of contract law, tort law, and unfair competition law. Students are also introduced to the Draft Model Rules on Online Intermediary Platforms proposed by the European Law Institute.

Suggested Reading:

Discussion Draft of a Directive on Intermediate Online Platforms, proposed by the Research Group on the Law of Digital Services, 2016 Journal of European and Consumer Market Law 164-169

Lesson 1

What are online platforms and online intermediary platforms

Overview of contract law, tort law, unfair commercial practices law relating to online intermediary platforms

Conflict of law aspects

Listings in online intermediary platforms

Lesson 2

Reputation systems in online platforms

Lesson 3

Duties of online intermediary platforms

Lesson 4

Liability of online intermediary platforms

Pre-requisite:

Knowledge of Law of Contract

LW5663I International Trade Law

This course mainly includes three 3-hour and one 4-hour seminars:

- (1) Introduction to International Trade Law (3 hours).
- (2) International Trade Terms – FOB Contracts (3 hours).
- (3) International Trade Terms – CIF Contracts + Vienna Convention (4 hours).
- (4) Carriage of Goods by Sea (3 hours)

Pre-requisite:

Law of Contract

LW5663J Medical Law and Ethics

Seminar 1: Mental Capacity

- Legal tests for Mental Capacity
- Capacity in Specific Areas: testamentary; marriage, sex, medical
- Substitute Decision Making – how and when can a court decide if someone lacks capacity.
- Procedural aspects of judicial decision making for those who lack capacity
- Evidential Aspects of Mental Capacity Law – the role of psychiatrists and psychologists.

Seminar Two: Medical Law and Human Rights

- Regional and International Instruments for Protection of Human Rights in Medical Law
- UN Convention Protection Rights of the Disabled
- Protection Against torture and inhumane treatment
- Right to respect for a private life
- Right to respect for family life
- How courts balance competing human rights.

Seminar Three: Medical Law and Ethics

- What role do ethics play in medical law decisions?
- The limits of parental decision making on behalf of their children.
- What and how are a child's/ patients' best interests determined by the courts.
- Examples of ethically difficult cases courts have decided and how: conjoined twins; religious belief and blood transfusion.

Seminar Four: Mental Health

- Comparative Approaches to Mental Health Law
- International Instruments to protect the mentally unwell
- Deprivation of Liberty
- Compulsory Treatment

LW5663K International and Comparative Secured Transaction Law

This is an intensive module. It will be providing a comparative analysis of the law of secured transactions in common and civil law jurisdictions with international instruments aiming to modernise secured transactions laws. The module will be divided into three parts. The first part will be introduction. The second part will focus on the principles of the law of secured credit and title financing under common law (English law, UCC Article 9 and PPSAs) and civil law. The third part will focus on the reform of secured transactions law around the world, particularly, in light of the principles of the UNCITRAL Legislative Guide on Secured Transactions Law and the UNCITRAL Model Law on Secured Transactions.

Contact hours: 4 lessons over a week.

Workload: Intensive module.

Mode of assessment: Pass/Fail, Class participation/attendance (75%+); coursework essay of 2000 words to be submitted after completion of the course.

Student eligibility: LLB (Year 3 or above with CGPA 3.1), JD and LLM.

Prerequisites: No prerequisite

Syllabus

Seminar 1: Introduction to secured transactions law, debt vs equity financing, problems with access to finance and financial inclusion, nature of security interest and distinctions, quasi security interests.

Seminar 2: Scope of UCC Article 9, PPSAs, English secured transactions law and Civil Law systems - civil and common law principles governing secured transactions law; Secured Transactions law reform in different jurisdictions, the World Bank Toolkit, UNCITRAL Legislative Guide and UNCITRAL Model Law on Secured Transactions.

Seminar 3: Creation/attachment, registration, perfection requirements, notice filing

Seminar 4: Priority, enforcement, financial collateral and emerging subjects (*e.g.* blockchain and secured transactions).

Preliminary reading

Akseli, *'International Secured Transactions Law: Facilitation of Credit and International Conventions and Instruments'* (Routledge, 2011).

Akseli (ed), *'Availability of Credit and Secured Transactions in a Time of Crisis'* (Cambridge University Press, 2013)

Bazinas and Akseli (eds) *'International and Comparative Secured Transactions Law'* (Hart, 2017) – for model law and legislative guide

Beale, Bridge, Gullifer & Lomnicka *'The Law of Security and Title Financing'* (3rd edn 2018)

Goode: *Legal Problems of Credit and Security* (L. Gullifer ed., 6th edn, 2017)

Goode, *Commercial Law*, (Penguin, 5th ed., 2017)

Gullifer and Akseli (eds) '*Secured Transactions Law Reform: Principles, Policies and Practice*' (Hart, 2016) – for civil law comparisons and reform

Gullifer and Payne, '*Corporate Finance Law: Principles and Policies*' (2nd ed)

McCormack, 'American private law writ large? The UNCITRAL secured transactions guide', *International and Comparative Law Quarterly* [2011] 597-625

<http://securedtransactionslawreformproject.org/reform-in-the-uk/recent-reform/>

<https://securedtransactionslawreformproject.org/reform-in-other-jurisdictions/>

http://www.uncitral.org/pdf/english/texts/security-1g/e/09-82670_Ebook-Guide_09-04-10English.pdf

<https://securedtransactionslawreformproject.org/policy-documents/>

<https://securedtransactionslawreformproject.org/draft-policy-paper/>

http://www.uncitral.org/pdf/english/texts/security/ML_ST_E_ebook.pdf

http://www.uncitral.org/pdf/english/texts/security/MLST_Guide_to_enactment_E.pdf

<https://www.ebrd.com/news/publications/guides/model-law-on-secured-transactions.html>

<https://www.ifc.org/wps/wcm/connect/c5be2a0049586021a20ab719583b6d16/SecuredTransactionsSystems.pdf?MOD=AJPERES>

<http://www.worldbank.org/en/topic/financialsector/brief/collateral-registries>

UCC Article 9 <https://www.law.cornell.edu/ucc/9/>

Saskatchewan PPSA <http://www.publications.gov.sk.ca/details.cfm?p=803>

Ontario PPSA <https://www.ontario.ca/laws/statute/90p10>

Australian PPSA <https://www.comlaw.gov.au/Details/C2016C00073>

New Zealand PPSA <http://www.legislation.govt.nz/act/public/1999/0126/latest/versions.aspx>

LW5663L The Law of Family Relations

Overview: This course works mostly but not entirely with American materials in an exploration of how the law regulates dealings and conflicts that arise among couples, parents, and children. It focuses more closely on problems that arise all over the world than on United States doctrine: Cases are here to illustrate scenarios rather than deliver announcements by courts about how they ruled on the law and why. To support this emphasis, students will read excerpts of case law that focus on the family problem and exclude much of what the judge-authors wrote. (Full cases are available in PDF should you want to read any of them, but only short versions are assigned.)

Requirements: Classes Two, Three, and Four feature mandatory participation in which each student will cover a share of the readings as a classroom discussion leader. (Professor Bernstein will be the discussion leader for all materials covered in Class One.) The second course requirement is a paper of at least 2000 words that reflects on material the student-author covered in class and the experience of discussion leadership. Notes and other preparation for these presentations will provide a starting point for the paper.

LW5663M The Regulation of Corporate Social Responsibility

The course looks particularly at how regulation has evolved to promote CSR issues. This purpose of this course is to consider how regulation can influence CSR. In doing this, it draws upon a large and diverse body of ideas, as well as a range of theories and debates, concerning the importance of regulation and governance to the modern business and regulatory environment.

Pre-requisite: for 3rd year students and postgraduates

LW5663N Federalism in the United States

This course focuses on the allocation of authority between the states and the national government in the United States. Topics include the history, structure, and function of federalism. Attention is given to the allocation of fiscal authority among the national and state governments. The course draws on accounts of federalism developed by economists and political theorists, as well as legal scholars, and offers comparisons to federal systems in other countries.

LW5663O Online Dispute Resolution

This short course provides an overview of developments in the use of technology in dispute resolution processes. It focuses especially on “online dispute resolution” (ODR). Various government and industry bodies around the world have been actively working to develop a policy and practice framework for ODR, but it remains in its early stages. Further research and lessons learnt from practice will be required before ODR can be used confidently while avoiding potential risks. Covered in this course are: the nature of the new technologies that enable ODR, the advantages and disadvantages of applying technology in this context, and the policy and regulatory issues associated with ODR.

Learning outcomes for the unit

On successful completion of this unit students will be able to:

No	Unit Learning Outcome
1	demonstrate cognitive knowledge of nature of ODR; nature of ODR processes, advantages and disadvantages of ODR and international developments seeking to develop a common ODR standard
2	evidence an ability to analyze legal, ethical and practical issues in connection with ODR and the diverse range of contexts in which it is being used.
3	develop research skills related to ODR and ability to use research, and analytical skills to solve a legally related problems and challenges.
4	Show an awareness of ethical and philosophical issues related to ODR
5	demonstrate global awareness through the study of comparative developments in various countries and contexts of use and future potential of ODR.
6	evidence a high level written and oral communication skills

Topics included in the unit

1	Introduction to and Overview of Online Dispute Resolution (ODR)
1.1	Administrative: How this course will work
1.2	The ODR Process
1.3	Advantages of ODR
1.4	Disadvantages of ODR
2.	The Many Practice contexts of ODR
2.1	Use of ODR by Courts; Jurisdiction; ODR; Enforcement of Judgments; Enhancing Access to Justice’ How Technology is Impacting Litigation and Administration of Justice
2.2	Enforceability of ODR/ADR agreements
2.3	ODR in Commercial World
2.4	Dispute Prevention
3.	Problems and Challenges related to the Practice of ODR
4.	International Standards and ODR
4.1	EU Regulation and Directive on ODR
4.2	UNCITRAL and ODR
4.3	The Future of ODR

Assessment Method (decided by School of Law)

Pass/Fail Grade only

1. Good attendance (75% plus) and active participation
2. One essay of 2,000 words to be submitted after completion of the course

4. Rubric for Attendance/Class Participation

Task Description: Includes attendance; preparation, quality of questions, respect for others, quality and quantity of participation on Discussion Lists for this unit					
Criteria		Exemplary	Effective	Pass	Fail
Level of Engagement	50P ass FaF ail	<ul style="list-style-type: none"> ▪ Contributes to class activities by offering quality ideas and asking appropriate questions on a regular basis ▪ Actively engages others in class discussions by inviting their comments ▪ Constructively challenges the accuracy and relevance of statements made ▪ Effectively identifies and summarises main points 	<ul style="list-style-type: none"> ▪ Contributes to class activities by offering ideas and asking questions on a regular basis ▪ Often engages others in class discussions by inviting their comments ▪ Challenges the accuracy and relevance of statements made ▪ Identifies and summarises main points 	<ul style="list-style-type: none"> ▪ Occasionally contributes to class activities by offering ideas and asking questions ▪ Sometimes engages others in class discussions ▪ Sometimes has an understanding of main points ▪ Identifies and summarises some of the main points 	<ul style="list-style-type: none"> ▪ Fails to contribute to class activities ▪ Fails to invite comment/opinions from other students ▪ Demonstrates little understanding of main points ▪ Does not identify or summarise main points ▪ Shows up for 50% or less of classes
Preparedness	25 Pas s FaF ail	<ul style="list-style-type: none"> ▪ Always prepared for class with assignments and required materials ▪ Accurately expresses foundational knowledge pertaining to issues raised during the discussion 	<ul style="list-style-type: none"> ▪ Usually prepared with assignments and required materials ▪ Expresses basic foundational knowledge pertaining to class discussions 	<ul style="list-style-type: none"> ▪ Seldom prepared with assignments and required materials ▪ Expresses limited foundational knowledge pertaining to class discussions 	<ul style="list-style-type: none"> ▪ Consistently unprepared for class ▪ Expresses no relevant foundational knowledge
Attitude	25 Pas s FaF ail	<ul style="list-style-type: none"> ▪ Consistently positive, cooperative attitude during class ▪ Always supportive of other students' ideas 	<ul style="list-style-type: none"> ▪ Usually positive and cooperative with classroom projects and discussions ▪ Often supportive of other students' ideas 	<ul style="list-style-type: none"> ▪ Seldom actively participates in classroom projects and discussions ▪ Sometimes supportive of other students' ideas 	<ul style="list-style-type: none"> ▪ Rarely if ever participates in classroom projects and discussions ▪ Occasional disruptive behaviour

2000 Word Assignment

Students are free to choose the topic of their papers themselves, provided that it relates to some aspect of ODR. Students are expected for the final paper to discuss their chosen topic in a well-researched and well-reasoned manner. It should not be longer than 2000 words, not counting footnotes and bibliography. The submission date will be announced in the first class, but will be AFTER the class sessions.

For written assignments, students need to check that the pages are numbered.

Students must retain a copy of their research assignment in paper and electronic copy.

Note the 2000-word limit means that the topic must be specific and able to be covered adequately within that word limit. Students are encouraged to consult with me regarding their topic.

Key areas the research assignment will be assessed on include:

1. Development and articulation of a precise thesis the paper, clearly articulated and with appropriate evidence;
2. Research methodology – evidence of an understanding of key primary and secondary sources in support of the arguments made.
3. Legal research – demonstrates breadth and depth in the use of US legal and, where relevant, non-legal resources;
4. Substantive knowledge – shows in-depth understanding of the legal topic area, and strongly comprehends the perspectives of the main commentators and in the main cases and statutes (where relevant);
5. Critical analysis – engaged with the material in an insightful manner, examining key arguments for relevance and logic, identifies gaps and inconsistencies, as well as underlying policy imperatives;
6. Contribution – develops a sound argument which demonstrates creativity and innovation.
7. Presentation – appropriate logical structure including a title page, expressed clearly and precisely, without grammar or typographical errors, with adequate and compliant referencing including a bibliography

Prescribed and recommended reading

Provide below, in formal reference format, a list of the prescribed and recommended reading for the unit.

Prescribed text: None

- Readings will be posted prior to each class session.

Recommended reading

- For purposes of your research assignment and select and random/order bibliography related to ODR:

Ethan Katsh and Colin Rule, 'What we Know and Need to Know About Online Dispute Resolution' (2016) 67 *South Carolina Law Review* 329

B L Mann, *Smoothing Some Wrinkles in Online Dispute Resolution* (2009) (Spring) *International Journal of Law and Information Technology* 83.

A Lodder and J Zeleznikow, *Developing an Online Dispute Resolution Environment: Dialogue Tools and Negotiation Support Systems in a Three-Step Model* (2005) 10 *Harvard Negotiations Law Review* 287.

M C Tyler and D Bretherton, *Online Alternative Dispute Resolution in E-commerce Dispute Settlement* (2003) 7 *Vindobona Journal of International Commercial Law and Arbitration* 199 at 201:
<http://www.odr.info/unece2003/pdf/Tyler.pdf>.

F Galves, *Virtual Justice as Reality: Making the Resolution of E-commerce Disputes More Convenient, Legitimate, Efficient, and Secure* (2009) 1 *University of Illinois Journal of Law, Technology and Policy* 1

H Perritt, *Resolution Cyberspace: Demand for New Forms of ADR* (2000) 15 *Ohio State Journal on Dispute Resolution* 675

E Katsh and J Rifkin, *Online Dispute Resolution: Conflict Resolution in Cyberspace* (Jossey-Bass, San Francisco, 2001);

M Schellekens and L van der Wees, *ADR and ODR in Electronic Commerce* in J E J Prins, P M A Ribbers, H C A van Tilborg, A F L Veth and J G L van der Wees (eds), *Trust in Electronic Commerce* (Kluwer Law International, The Hague, 2002) Ch 10, pp 271-300.

L J Gibbons, R M Kennedy and J M Gibbs, *Frontiers of Law and Internet and Cyberspace: Cyber-mediation Communications Medium Messaging the Message* (2002) 32 *New Mexico Law Review* 27.

David Carneiro, Paulo Novais, Francisco Andrade, John Zeleznikow and Jose Neves, 'Online Dispute Resolution: an Artificial Intelligence Perspective' (2014) 41 *Artificial Intelligence Review* 211, 215

I Q Hang, *Online Dispute Resolution Systems: The Future of Cyberspace Law* (2001) 41 *Santa Clara Law Review* 837.

Ethan Katsh and Colin Rule, 'What we Know and Need to Know About Online Dispute Resolution' (2016) 67 *South Carolina Law Review* 329

B L Mann, *Smoothing Some Wrinkles in Online/Dispute Resolution* (2009) 17(1) *International Journal of Law and Information Technology* 83.

Sourdin T, *Alternative Dispute Resolution* (2016) (Sydney: Thomson-Reuters Co)

Ben Martin 'Modra and the Future of Dispute Resolution' (1 October 2015):

<https://biglawbusiness.com/modria-and-the-future-of-dispute-resolution/>

Roger Sidaway, *Resolving Environmental Disputes: From Conflict to Consensus* (NY: Routledge 2013)

E. Clark. 'Achieving regulatory compliance in a digital world' *China.org.cn* (4 October 2017):

http://www.china.org.cn/opinion/2017-10/04/content_41666311.htm

National Center for Preventive Law: <http://www.preventivelawyer.org/>

[<http://www.preventivelawyer.org/>].

M Castellanos, U Dayal and T Sellis, *Business Intelligence for the Real-Time Enterprise*, Revised Selected Papers, Second International Workshop, BIRTE 2008, Auckland, New Zealand, 24 August 2008);

M. Legg, The Future of Dispute Resolution: Online ADR and Online Courts, [2016] *UNSWLRS* 71:

<http://138.25.65.17/au/journals/UNSWLRS/2016/71.pdf>

Maurits Barendrecht et al, *Trend Report 4 - ODR and the courts: The promise of 100% access to justice?* (The Hague Institute for Innovation of Law, 2016).

R Magnes, *The Confluence of Law and Policy in Leveraging Technology: Singapore's Judiciary's Experience* (2004) 12(3) *William & Mary Bill of Rights Journal* 661.

Jin Ho Verdonschot, 'In The Netherlands, Online Application Helps Divorcing Couples in Their Own Words, on Their Own Time' (2015) 21 (2) *Dispute Resolution Magazine* 19'

http://www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/legalaid-brochure_online-2015.pdf

E Cunha, *The Potential Importance of Incorporating Online Dispute Resolution Into a Universal Mediation Model for International Child Abduction Cases* (2008) 24 *Connecticut Journal of International Law and Commerce* 117.

Rafal Morek, 'The Regulatory Framework for Online Dispute Resolution: A Critical View' (2006) 38 *University of Toledo Law Review* 163;

Scott Shackelford and Anjanette Raymond, 'Building the Virtual Courthouse: Ethical Considerations for Design, Implementation, and Regulation in the World of ODR' (2014) *Wisconsin Law Review* 615

Thomas Schultz, 'Does Online Dispute Resolution Need Governmental Intervention? The Case for

Architectures of Control and Trust' (2004) 6 *North Carolina Journal of Law & Technology* 71, 73 n 4.

Elisabeth Wentworth, 'Online Dispute Resolution: Global Issues and Australian Standards' (2002) 21(2) *The Arbitrator & Mediator* 21.

European Commission, **Alternative and Online Dispute Resolution (ADR/ODR)**
http://ec.europa.eu/consumers/solving_consumer_disputes/non-judicial_redress/adr-odr/index_en.htm

K. C. Liyanage, 'Online consumer protection, *Deakin Law Review*, Vol 16, no 2, pp 251-82 (2012)

UNCITRAL website at:

http://www.uncitral.org/uncitral/en/uncitral_texts/odr/2016Technical_notes.html

¹ The Technical Notes as well as Bibliography and other resources on ODR are available at:

http://www.uncitral.org/uncitral/en/uncitral_texts/odr/2016Technical_notes.html

José Edgardo Muñoz-López, 'Internet Conflict of Laws: A Space of Opportunities for ODR' (2009) 14 *International Law, Revista Colombiana de Derecho Internacional* 163, 182.

<http://scholar.google.com/scholar?q=+Internet+Conflict+of+Laws%3A+A+Space+of+Opportunities+for+ODR%2C+&hl=en&as_sdt=0%2C5>.

S Shoshray, *Charting the Future of Online Dispute Resolution: An Analysis of the Constitutional and Jurisdictional Quandary* (2006) 38 *University of Toledo Law Review* 317.

Marita Shelly and Professor Margaret Jackson, 'Doing Business with Consumers Online: Privacy, Security and the Law' (2008) 17(2) *International Journal of Law and Information Technology* 180, 186.

H Haloush and B H Malkawi, *The Liberty of Participation in Online Alternative Dispute Resolution Schemes* (2007) 11 *SMU Science and Technology Law Review* 119.

Building Trust in the Online Environment: Business-to-Consumer Dispute Resolution:
http://www.oecd.org/document/22/0,3746,en_21571361_34590630_1864982_1_1_1_1,00.html.

Regulation EC No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European small claims procedure.

P Cortés, *Does the Proposed European Procedure Enhance the Resolution of Small Claims?* (2008) 27(1) *Civil Justice Quarterly* 94.

LW5663P Legal Regulation in the Fourth Industrial Age

We are entering into an era of new technological possibilities. Many benefits will be derived for consumers from the development of data and computer driven innovation. We will have new products and services and new ways of making and supplying goods and services. This course will assess how without unduly inhibiting innovation this course explores how, if at all, in this new environment the legal system can remain committed to a legal framework that supports consumer protection. It will explore how the technology and legal agendas interface, and explore if mere adaptations should be made or if there is a need for a critical review of whether traditional forms of regulation are needed in the Fourth Industrial Age. Topics studies may include inter alia, smart contracts, personalised contracting, the Internet of Things, AI and driverless cars, 3D printing, platform liability, the sharing economy and cryoto-currencies.

Pre-requisite: Contract Law