



## Centre for Comparative and Transnational Law

# Annual Activities Report

2021 - 22



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## The Centre for Comparative and Transnational Law (CCTL) at CUHK LAW

The Centre for Comparative and Transnational Law 比較法與跨國法研究中心 (CCTL) began operation in April 2020 to encourage, and provide institutional support to, comparative and transnational law research at CUHK LAW. Now, two years later, CCTL has established itself as one of the world's leading convenors of legal seminars, conferences, and workshops, and a hub of collaborative, cutting-edge research.

### Mission

CCTL aims to

- conduct cutting-edge and innovative research in the areas of comparative and transnational law;
- foster collaborative research projects within CUHK LAW and with external parties;
- create high impact through research in academia and non-academic circles;
- develop policy proposals for consideration of government bodies in Hong Kong and beyond;
- be recognised as the leading centre of excellence in the areas of comparative and transnational law in Asia;
- contribute to excellence in teaching across the University by promoting interdisciplinary approaches to course design and materials, as well as teaching-related collaboration with other Faculties;
- contribute to the betterment of society locally, regionally and internationally through knowledge transfer activities, including media engagement and consultation with international and non-governmental organisations.

CCTL reaches a broader audience through a strong presence on social media platforms such as Facebook, Twitter, and LinkedIn. Video recordings of its events are available on the Faculty's website and YouTube channel. The Centre's online presence has also brought it greater visibility and increased engagement among scholars and with the audience via ZOOM. Thanks to its large number of seminars, book talks, and conferences, CCTL has been able to offer high-quality online content free of charge, reaching demographic groups (including students and scholars in the Global South) who would not have been able to access this content otherwise.

## Organisation

CCTL is organized into seven research clusters that pursue innovative and impactful comparative research across several fields including comparative constitutional law, private international law, transnational economic law, legal history, environmental law, corporate law and governance, and the law of obligations.



Each cluster is chaired by a CUHK LAW faculty member and includes other CUHK LAW faculty members, postdoctoral scholars, postgraduate students, and affiliated scholars from other CUHK faculties and other universities.

## Internal Organisation

### *Executive Director*

**Prof. Rehan Abeyratne** is an Associate Professor of Law and Executive Director of the Centre for Comparative and Transnational Law (CCTL) at The Chinese University of Hong Kong. He teaches undergraduate and postgraduate courses on the Hong Kong Legal System, Constitutional Law, Comparative Constitutional Law, and the Laws & Legal System of the United States. Professor Abeyratne's primary research area is comparative constitutionalism. He is a co-editor of *Towering Judges: A Comparative Study of Constitutional*



*Judges* (Cambridge University Press 2021) and *The Law and Politics of Unconstitutional Constitutional Amendments in Asia* (Routledge 2021). His published works have appeared in the International Journal of Constitutional Law (I-CON), Yale Journal of International Law, Global Constitutionalism, Asian Journal of Comparative Law, Texas International Law Journal, Minnesota Journal of International Law, Nebraska Law Review, Brooklyn Journal of International Law, and George Washington International Law Review, as well as in edited volumes published by Hart, Cambridge University Press, and Oxford University Press.

### *Deputy Director*

**Prof. James Si Zeng** is an Assistant Professor of law and Deputy Executive Director of the Centre for Comparative and Transnational Law (CCTL) at the Chinese University of Hong Kong. He works on corporate law, financial regulation, and law and economics. His scholarship has appeared or will appear in leading student-edited law reviews such as the University of Pennsylvania Journal of International Law, Columbia Journal of Asian Law, Review of Banking and Financial Law, as well as peer-review journals such as the European Business Organizational Law Review, Peking University Law Journal (中外法学), and Hong Kong Law Journal. His doctoral dissertation, *State Ownership as a Substitute for Costly Regulation*, was supported by



the Oscar M. Reubhausen Fund at Yale Law School. He is also conducting research on Chinese corporate law supported by the Early Career Scheme of the Research Grant Council of Hong Kong, China. Professor Zeng graduated from Yale Law School with an LL.M and a JSD. degree. Prior to that Professor Zeng graduated from Peking University (LL.B., BA in Economics, Mphil in Law). He passed the National Judicial Examination of China and is admitted to the New York State Bar.

### *Staff*

**Dr. Dini Sejko** is a Research Associate at the Centre for Comparative and Transnational Law at the Chinese University of Hong Kong, Faculty of Law and a research affiliate at The Fletcher Network for Sovereign Wealth and Global Capital, Tufts University. His research focuses on international economic law, state capitalism, and dispute resolution. Dr Sejko has held visiting positions at the University of Melbourne, King's College London, and the University of Leeds.



Dr Sejko is a mediator and has advised stakeholders on transnational legal issues. In 2022, Dr Sejko was awarded an Early Career Fellowship Grants as part of a Marie Skłodowska-Curie Actions - European Postdoctoral Fellowship by the University of Turin and Collegio Carlo Alberto. For his research on the impact of UN sanctions on Libyan SWF's governance, Dr Sejko received the Society of International Economic Law PEPA Best Paper Award 2018. Dr Sejko is the author of the book "*The Transnational Law of Sovereign Wealth Funds: Governing State Capitalism at the time of Protectionism*" forthcoming with Edward Elgar Publishing, and co-editor of the book "*Regulation of State-Controlled Enterprises*" published by Springer in 2022. Dr Sejko has obtained a Combined Bachelor and Master of Science in Law from Bocconi University, a Master of Laws in International Economic Law and a PhD in Laws from the Chinese University of Hong Kong.

**Ms. Bonnie Leung** is Project Co-ordinator at the Faculty of Law of the Chinese University of Hong Kong. She provides administrative support to the Faculty's two research centres, the



Centre for Comparative and Transnational Law (CCTL) and the Centre for Legal Innovation and Digital Society (CLINDS) (previous known as Centre for Financial Regulation and Economic Development).

## CCTL Research Clusters

### *Comparative Constitutional Law Research Forum*

The Comparative Constitutional Law Research Forum engages with global scholarship on comparative constitutional law. The aims of the Forum are threefold: knowledge, theory, and practice. The Forum seeks to generate substantive knowledge about comparative constitutional law; to engage in debates on important comparative constitutional concepts and theories; and to provide a reference resource on constitutional issues for constitution-makers, judges, and other practitioners.

The Forum pursues these aims through the following activities: research, teaching, consultancy, and academic exchange and collaboration.

#### Members

- Prof. Mara Malagodi (Cluster Chair)
- Prof. Rehan Abeyratne
- Prof. Stuart Hargreaves
- Prof. Ryan Mitchell
- Prof. Christopher Roberts

### *Corporate Law and Governance Cluster*

The cluster group's central area of speciality lies in comparative corporate law and governance. Members have carried out notable research in the area that addresses issues of global and regional significance, such as corporate takeovers, corporate charters, corporate veil piercing, corporate ownership, corporate boards, securities enforcement actions, and shareholder voting. The standing of members in the field is recognised by their publications in leading peer-reviewed international journals. One member has recently secured a book contract from the Cambridge University Press to co-edit the Handbook on Comparative Shareholder Engagement



and Voting, a major comparative undertaking involving 19 jurisdictions. Members have also engaged in generating impact by way of giving media interviews and contributing op-eds. Members of the cluster group have had established links with non-academic beneficiaries of their research. These include regulatory/statutory bodies, courts and NGOs in Hong Kong and mainland China, such as Securities and Futures Commission of Hong Kong, China Securities Regulatory Commission, Asset Management Association of China, and China Securities Investor Services Centre.

#### Members

- Prof. Chao Xi (Cluster Chair)
- Prof. Dicky Tsang
- Prof. James Zeng
- Dr. Ning Cao

#### *Environmental, Energy and Climate Law Cluster*

This Cluster aims to promote research and collaboration on environmental, energy and climate law. It organises events on a regular basis in collaboration with various academic and non-academic partners in the region and beyond. It also engages students enrolled in CUHK's Energy and Environmental Law LLM, and PhD researchers.

#### Members

- Prof. Benoit Mayer (Cluster Chair)
- Prof. Anatole Boute
- Prof. Jae Woon Lee
- Prof. Hao Zhang
- Prof. Yuhong Zhao
- Ms. Yang Han
- Ms. Sara Mathilda Soini

#### Affiliated Scholars

- Ms. Zhen Chen, Founding partner, Sunshine Law Firm (PRC) Vice President, Energy Law Institute, China Law Society Deputy Director, Renewable Energy Professional Committee, China Energy Research Society





- Prof. Kaj Hobér, Professor, Department of Law, University of Uppsala
- Prof. John Paterson Chair in Law, School of Law, University of Aberdeen
- Prof. Yuan Xu Associate Professor, Department of Geography and Resource Management, CUHK

### *Obligations Lab Asia*

The Obligations Lab Asia aims to challenge conventional wisdom regarding the law of obligations with the ultimate goal of developing new lines of thinking so as to stimulate and re-invigorate related debates. It does so by engaging in innovative comparative research regarding different aspects of the law of obligations. It concentrates on the core private law areas of the law of obligations, i.e., contract law, tort law and the law of unjust enrichment, but also explores the relationships with other areas such as property law and equity and trusts as well as with public law themes. Special attention is given to the practical impact of doctrinal questions as well as the impact of new technologies.

#### Members

- Prof. Normann Witzleb (Cluster Chair)
- Mr. Michael Fisher
- Mr. Elliot Fung
- Prof. Steven Gallagher
- Mr. Alan Gibb
- Mr. Arthur Lee
- Prof. Eliza Mik
- Prof. Peter Rhodes
- Prof. Lutz-Christian Wolff

### *Private International Law Group*

With the ever-increasing international traffic, communication and trades, there is no time in history private international law has played a more important role. Private international law is particularly important for Hong Kong given its role as the hub of cross-border transactions and



legal disputes. It is the mission of our cluster to promote the understanding of private international law for both academics and practitioners. This is not limited to the private international law of Hong Kong, but also other private international law systems. The interactive nature of our discipline calls for a comparative approach. The key initiative of our cluster is the Cross-Border Legal Issue Dialogue Seminar Series. This seminar series invites leading practitioners and academics to speak on a regular basis on topics on cross-border legal matters, particularly those relevant to private international law, and provides opportunities for interactive dialogue. Cross-Border Legal Issue Dialogue Seminar Series

#### Members

- Prof. Dicky Tsang (Cluster Chair)
- Prof. Lutz-Christian Wolff
- Mr. Alan Gibb
- Prof. Jyh-An Lee

#### *Transnational Economic Law and Dispute Settlement Group*

The Transnational Economic Law and Dispute Settlement (TELDS) group focuses on transnational economic law, including international trade and investment law, international taxation, aviation law, and transnational dispute settlement. Members research in areas that address issues of global and regional significance, such as the crisis of multilateralism, trade and investment issues related to the Belt and Road Initiative, investment arbitration and mediation, cross-border data regulation, double taxation issues, investment in the energy sector, aviation sector, and the transnational governance of state capitalism.

TELDS' members have a strong track record of securing internal and external competitive grants from a variety of academic and non-academic granting bodies, publications in leading peer-reviewed international journals and well-received books. Members continuously engage in and impact public discourse through media appearances and the publication of policy-focused opinion pieces. TELDS' members collaborate with academic and non-academic entities that include international, and regional agencies such as the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), World Intellectual Property Organization (WIPO), the Association of Southeast Asian Nations (ASEAN), and the Energy

Charter Treaty (ECT) and think tanks such as the Heinrich Foundation, Konrad-Adenauer-Stiftung (KAS) and Cato Institute.

#### Members

- Prof. Bryan Mercurio (Cluster Chair)
- Prof. Anatole Boute
- Prof. Jae Woon Lee
- Prof. Jyh-An Lee
- Prof. Noam Noked
- Prof. Jingyi Wang
- Dr. Dini Sejko

#### *Transnational Legal History Group*

The Transnational Legal History Group at CUHK LAW is geared towards producing innovative work exploring under-studied areas of global legal history. The group is organised around three thematics: Asian Legal History, Comparative Approaches to International Law, and the History of Empire. The group aims to provide a forum for the discussion and dissemination of scholarship, to explore new opportunities for inter-faculty collaboration, and to develop channels and networks through which the insights generated by scholarship may be connected to, and help to shape, contemporary practices on the global level.

#### Members

- Prof. Christopher Roberts (Cluster Chair)
- Prof. Steven Gallagher
- Prof. Gregory Gordon
- Prof. Mara Malagodi
- Prof. Ryan Mitchell
- Prof. Shixue Hu

#### Affiliated Scholars

- Prof. Ngoc Son BUI, Associate Professor of Asian Laws, Faculty of Law, University of Oxford

- Prof. Norman P. Ho Professor of Law, Peking University School of Transnational Law
- Prof. Stuart McManus Assistant Professor, Department of History, CUHK
- Prof. James Morton Assistant Professor, Department of History, CUHK
- Dr. Christopher C. Munn HKIHSS Fellow, Hong Kong Institute for the Humanities and Social Sciences, The University of Hong Kong
- Prof. Leilah Vevaina Assistant Professor, Department of Anthropology, CUHK

### Clusters' Chairpersons

#### *Prof. Mara Malagodi*

Mara Malagodi is an Assistant Professor at the Faculty of Law, Chinese University of Hong Kong. She joined CUHK in August 2019. Dr. Malagodi is a comparative constitutional lawyer and socio-legal scholar with a linguistically-informed specialism in South Asian law and politics (in particular Nepal, India, and Pakistan), human rights law, gender and law, legal history, and law and film. She is a non-practising barrister in England and Wales, and an award-winning documentary filmmaker. Dr. Malagodi holds her Doctorate (2009), MA in South Asia Area Studies, and BA (Hons) in Nepali & Politics from the University of London (SOAS). She completed the Bar Professional Training Course (BPTC) at the City Law School, obtained her Graduate Diploma in Law (GDL) from the then College of Law and her BA in International Relations & Diplomacy from the University of Trieste. Dr. Malagodi is a scholar of the Honourable Society of the Middle Temple, which called her to the Bar of England and Wales in 2016 and awarded her the Quatercentenary Scholarship and Blackstone Entrance Exhibition to support her professional legal training. In 2014 Dr. Malagodi was selected for the UCL Documentary Film Summer School at the Escuela de Cine y TV in Cuba, where she co-directed the short documentary film 'Walking through Havana' (2014). Her film won the award for Best Short Doc at the 2015 Raindance Film Festival and was nominated for Best Student Doc at the 2015 Sheffield International Documentary Festival and for Best Short Doc at the 2015 Shuffle Film Festival.



*Prof. Chao Xi*

Chao XI is Professor and Outstanding Fellow of the Faculty of Law at The Chinese University of Hong Kong, where he concurrently serves as Associate Dean (Research) and Head of Graduate Division of Law, and chairs the CCTL Corporate Law and Governance Cluster. He also directs the Chinese Law Program of the Hong Kong Institute of Asia-Pacific Studies, CUHK. Professor Xi specialises in comparative corporate law, securities regulation, and financial regulation, with a particular focus on the case of China. He has published extensively in leading peer-reviewed



international journals, including the *Banking and Finance Law Review*, *European Business Organization Law Review*, *Journal of Business Law*, and *Journal of Comparative Law*, *Statute Law Review*, and *Tort Law Review*. His research has received significant funding support from the Hong Kong SAR Government Research Grants Council, the PRC Ministry of Education, the Government of India, and the Sumitomo Foundation. He has been appointed by the Policy Innovation and Co-ordination Office (PICO) of the Hong Kong SAR Government to serve on the Assessment Panel of its Public Policy Research (PPR) and Strategic Public Policy Research (SPPR) Funding Schemes. Professor Xi holds visiting positions at various leading overseas institutions. He serves on the Editorial Board of a number of international peer-reviewed journals, including *The China Review* (SSCI-indexed), *the Hong Kong Law* (SSCI-indexed), and *the Journal of Banking and Finance Law and Practice*. Professor Xi is also a Member of the Chartered Institute of Arbitrators (CI Arb), UK, and is on the panels of arbitrators in several arbitration institutions. He has regularly been engaged by law firms, multinationals, and government departments and agencies as an expert.

*Prof. Benoît Mayer*

Benoît Mayer was appointed Assistant Professor at the Faculty of Law of the Chinese University of Hong Kong in 2016, and currently chairs the CCTL Environmental, Energy and Climate Law Cluster. He is also a Research Associate at McGill University's Hans & Tamar Oppenheimer Chair in Public International Law, a Senior Research Fellow at the Centre for International Sustainable Development Law (CISDL), an Associate Member at the National University of Singapore's Asia-Pacific Centre for Environmental Law, and a Research Fellow at the Earth System Governance project. He is the Managing Editor of the Chinese Journal of Environmental Law. Professor Mayer holds degrees from the University Paris 1 – Panthéon-Sorbonne, Sciences Po Lyon, McGill University, and the National University of Singapore. From 2015 to 2016, he was an Associate Professor at the University of Wuhan. His publications include three books and more than 60 journal articles and book chapters on the international governance of climate change. His critical outlook on the concept of climate migration and his analysis of the interactions between climate change and general international law have had a growing impact on the study of international climate change law.



*Prof. Normann Witzleb*

Normann Witzleb joined CUHK Law in 2021. He was previously an Associate Professor and Associate Dean (International and Engagement) in the Faculty of Law of Monash University Australia. His research focus is on privacy and data protection law, the law of torts and remedies, as well as comparative law. His recent book publications include *Big Data, Political Campaigning and the Law: Democracy and Privacy in the Age of Micro-Targeting* (Routledge, 2020), with M Paterson & J Richardson (eds) and *Remedies: Commentary and Materials*, 7th ed (Thomson Reuters, 2020), with E Bant, S Degeling & K Barker. Prof Witzleb maintains an adjunct position at Monash Law. He is admitted to practice in the Australian Capital Territory, a barrister of the High Court of Australia and a fully qualified German lawyer. In 2019 and 2020,



he consulted with the Australian Attorney-General's Department and the Office of the Australian Information Commissioner on law reform projects in privacy and information law.

*Prof. Dicky Tsang*

Dicky Tsang is an Associate Professor in the Faculty of Law at The Chinese University of Hong Kong. His main research areas are private international law and company law. His work has appeared in a number of leading international journals, including the Virginia Journal of International Law, the Vanderbilt Journal of Transnational Law and multiple articles in the Journal of Private International Law. Prior to joining academia, he practised as a corporate finance lawyer at two leading international law firms, working in their New York, London, Hong Kong, Beijing and Shanghai offices. He is admitted to practice in the state of New York, England & Wales and Hong Kong. Dr. Tsang was awarded his LL.B. and PCLL at the University of Hong Kong. He also holds degrees from Georgetown University (SJD), Columbia University (LL.M., JD) and University College London (LL.M.).



*Prof. Bryan Mercurio*

Bryan Mercurio is the Simon F.S. Li Professor of Law at the Chinese University of Hong Kong (CUHK), having served as Associate Dean (Research) from 2010-14 and again from 2017-19. Professor Mercurio specialises in international economic law (IEL), with particular expertise in the intersection between trade law and intellectual property rights, free trade agreements, trade in services, dispute settlement and increasingly international investment law. Professor Mercurio is co-author of one of the most widely used textbooks on WTO law (Hart Publishing, 2018, 3rd ed) and co-editor of the leading collection on bilateral and regional trade agreements (Cambridge University Press, 2nd ed, 2016). His most recent monograph explores the international and domestic framework for pharmaceutical patent law and policy (Cambridge University Press, 2018). His next





monograph focuses on the legality of capital controls under the various strands of IEL (Cambridge University Press, 2021/22). Professor Mercurio currently holds three competitive grants, namely a grant from the Hong Kong General Research Fund entitled ‘When Regimes Clash on Capital Controls: Managing the Conflicting Norms and Standards of the IMF, WTO and International Investment Agreements’, a grant from the Hong Kong Policy Innovation and Co-ordination Office Public Policy Research Funding Scheme entitled, ‘Regulating Cross-Border Data: A Public Policy Framework for Hong Kong’ and a grant from the Humanities and Social Sciences Prestigious Fellowship Scheme entitled ‘Reshaping Global Trade: The Impact and Effects of the US-China Trade War’.

*Prof. Christopher Roberts*

Christopher Roberts is an Assistant Professor and the Deputy Director of the LLB Programme at the Chinese University of Hong Kong. Professor Roberts’ academic interests include comparative approaches to human rights, procedural issues before human rights tribunals, the relationship between international sanctions regimes and public international law, and approaches to systemic and structural harms within national and international law. Professor Roberts’ current research focuses on the historical evolution of public order legality in



nineteenth and early twentieth century Britain and the British Empire. From 2021, he will be pursuing a University Grants Committee-funded ECS project, exploring the exportation and evolution of vagrancy laws in the nineteenth-century British Empire. Professor Roberts is the Chair of the Transnational Legal History Group within the Law Faculty’s Centre for Comparative and Transnational Law, and a member of the Comparative Constitutional Law Forum. In addition to his academic work, Professor Roberts has worked as an expert legal consultant addressing issues such as constitutional and legal reform, the rule of law and human rights standards with intergovernmental and non-governmental organisations such as the United Nations High Commissioner for Refugees, the United Nations Children’s Fund, the International Institute for Democracy and Electoral Assistance, the African Commission on Human and Peoples’ Rights, the International Foundation for Electoral Systems, the



International Center for Not-for-Profit Law, the International Federation for Human Rights, Avocats Sans Frontières, the International Service for Human Rights, the International Refugee Assistance Project, the Cairo Institute for Human Rights Studies, the Egyptian Initiative for Personal Rights, the Arab Center for the Promotion of Human Rights, Transparency Maldives, and many others. Professor Roberts is currently serving as a senior adviser to the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association.

### Steering Committee

#### *Prof. Lutz-Christian Wolff (Chair)*

Lutz-Christian Wolff is Dean of the Faculty of Law and Wei Lun Professor of Law. Prior to that he was the Dean of the CUHK Graduate School from September 2014 to August 2019. Professor Wolff was a founding member of the Faculty of Law (then: School of Law). He has served amongst others as Associate Dean (Faculty Development) (9/2008 to 7/2010), as Director of the Master of Laws Programmes in International Economic Law, Common Law and Chinese Business Law (9/2008 to 7/2011) and as Associate Dean (Graduate Studies) & Head of Graduate Division of Law (8/2010 to 8/2014). Professor Wolff specialises in International and Chinese Business Law, Comparative Law, and Private International Law. He has studied, worked and conducted research in a number of jurisdictions, including mainland China, Taiwan, and the USA. He is admitted to practice in England & Wales and in Germany. He is frequently invited to work as a consultant with multi-national companies and law firms on investment projects in the Greater China region.



#### *Prof. Rehan Abeyratne*

Associate Professor, CUHK LAW (see bio above)

*Prof. Anatole Boute*

Anatole Boute, PhD in Law (2011, University of Groningen), is a Professor at the Chinese University of Hong Kong, specialising in the fields of energy, environmental and investment law. His research focuses on the legal aspects of the transition of energy systems towards sustainability, with a special interest for energy market reforms in emerging economies. Anatole Boute graduated in Political Sciences (2003) and Law (2004) from the University of Leuven and holds an advanced master (LLM) in Energy and Environmental Law (2005) from the same university. In 2005, he was called to the Brussels bar where he practiced until 2009 with the Energy Law team of Janson Baugniet. He advised on and was involved in litigation concerning the promotion of renewable energy sources, energy efficiency, greenhouse gas emissions trading, the liberalisation of energy markets and nuclear energy. In January 2011, he defended his PhD on the modernisation of the Russian electricity production sector at the University of Groningen under the supervision of Professor Martha Roggenkamp. Based on the results of this research, he advised the United Nations Conference on Trade and Development (World Investment Report 2010), the International Energy Agency (2014 In-Depth Review of the Russian Energy Sector) and the Energy Charter Secretariat (Power Sector Reform in Central Asia). Between 2011 and 2016, he was legal advisor to the International Finance Corporation Russia Renewable Energy Program (The World Bank). He is the author of *Russian Electricity and Energy Investment Law* (Leiden/Boston: Brill Nijhoff, 2015) and of articles in several internationally peer reviewed journals, including the *Fordham International Law Journal*, *ICSID Review*, *Common Market Law Review*, *Transnational Environmental Law*, *Journal of Environmental Law*, *European Law Review*, *Europe-Asia Studies*, *Energy Policy*. In 2009, he received the Willoughby Prize for his articles published in the *Journal of Energy & Natural Resources Law*. Anatole Boute is the founder of the LLM program in Energy and Environmental Law and is in charge of the program's coordination.



*Prof. Chao Xi*

Professor, CUHK LAW (see bio above)

*Prof. James Zeng*

Assistant Professor, CUHK LAW (see bio above)

*Prof. Jaclyn Neo*

Jaclyn Neo is Associate Professor at National University of Singapore and Director, Centre for Asian Legal Studies. Jaclyn is a scholar of comparative constitutional law as well as law and religion in Asia. She also has an emerging research interest in access to justice issues in Singapore. Jaclyn is a recipient of multiple academic scholarships from NUS, including the NUS Overseas-Graduate Scholarship. During her time at Yale Law School, where she completed her Master of Laws and her Doctor of the Science of Law (JSD), Jaclyn co-founded the JSD program's now flagship Annual Doctoral Scholarship Conference and the Yale Law School's Debating Law and Religion series. Jaclyn is a principal investigator and co-principal investigator of multiple competitive research grants from the Ministry of Education, the Singapore Judicial College, Humboldt-Universität zu Berlin-NUS Joint Project, and the NUS Law-Melbourne Law School Research Partnership. She has received awards for her scholarship. Her article on domestic incorporation of international human rights law in a dualist state won the Asian Yearbook of International Law's DILA International Law Prize. In 2017, in recognition of her research on religious freedom in Southeast Asia, she was awarded the SHAPE-SEA Research Award. Jaclyn has published in leading journals in her field, including the International Journal of Constitutional Law (I-CON), the Oxford Journal of Law and Religion, and the Asian Journal of Comparative Law. She is editor/co-editor of multiple volumes, including the Constitutional Interpretation in Singapore: Theory and Practice (Routledge, 2017), Pluralist Constitutions in Southeast Asia (Hart, 2019), Regulating Religion in Asia: Norms, Modes, and Challenges (CUP 2019), Constitutional Change in Singapore: Reforming the Singapore Elected Presidency (Routledge, 2019), and Religious Offences in Common Law Asia: Colonial Legacies, Constitutional Rights and Contemporary Practice (Hart, 2020). She has also served as guest editor for the Singapore Academy of Law Journal, Journal of Law, Religion, and State, Journal of Comparative Law, Journal of International and Comparative Law, and the Asian Journal of Law and Society. Her



work has been cited by the courts in Singapore and by the Supreme Court of India. Her co-authored monograph on Litigants in Person in Singapore will be published by Singapore Academy of Law Publishing in 2021.

*Prof. (em.) Michael Martinek*

Michael Martinek holds the chair for Civil and Commercial Law, Business Organisation Law, Comparative Law and Private International Law of University of Saarland in Saarbruecken, Germany, since 1986. He is also director of the Institute of European Law. He was born on October 5, 1950 near Duesseldorf where he went to school until 1969, specialising in ancient languages (Latin, Greek, Hebrew). Thereafter he underwent a practical apprenticeship in his father's transport and shipping business which lasted two years, one of which he spent abroad (London, Birmingham, Paris, Milan). From 1971 to 1976, he studied law and philosophy in Berlin, London and Hamburg and passed the first state examination in law (1976). After two years of practical experience as lawyer in different positions he passed the second state examination in Hamburg (1979). He wrote a doctoral thesis in law (Dr.iur., Berlin 1978) and one in political sciences (Dr.rer.publ., Speyer 1981). He was awarded the degree "Master of Comparative Jurisprudence" by New York University in 1982 after one year of studies in the USA. Thereafter he was an assistant to Professor Dieter Reuter at the universities of Tuebingen and Kiel. Having achieved the professorial qualification (*venia legendi*) in 1986, he was a docent at the University of Muenster/Westfalia, before he was appointed professor for life at Saarland University in Saarbruecken.





## Overview of Activities

This report covers the period from 1 **April 2021 to 31 July 2022**. In its second year of operation, CCTL organized 46 events including:

- Book Launch and Book Discussions
- Online seminars
- Conferences/symposiums

Due to the COVID-19 restrictions, most events were conducted online (via ZOOM). These events were recorded, and many of them are available on the CUHK LAW YouTube Chanel and on the Faculty's website. These recordings were also shared through the CCTL and CUHK LAW social media accounts and written summaries of the events are regularly published in The Hong Kong Lawyer.

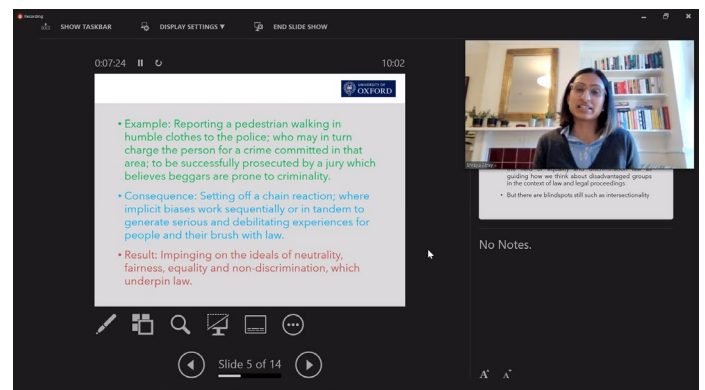
During the past year, CCTL has established several collaborations and organized high-impact events that have involved local and foreign public officials, judges, lawyers, and diplomats.

## Nepal Judicial Training

Professors Rehan Abeyratne and Mara Malagodi of the Comparative Constitutional Law Research Forum within CCTL organized a judicial training programme for Supreme Court and High Court justices, District Court judges, and judicial officers in Nepal (including Bench officers of the Supreme Court and members of the publication committee of the Supreme Court of Nepal). The programme was conducted via Zoom over two days.

The keynote address was presented in the form of a pre-recorded interview with the Hon. Mr. Justice Kemal Bokhary, Non-Permanent Judge of the Hong Kong Court of Final Appeal on “Judgment Writing and the Factors Influencing Judgments” (available [here](#)).

The remaining sessions on Day 1 were led by Mr. Antonio Da Roza (Director, Hong Kong Judicial Institute and PhD Candidate, CUHK LAW), on the topic of “Judicial decision-making: ethics, bias, and capacity.” The second day consisted of presentations of new academic research on judicial decision-making, including on “Towering Judges and Collegiality on the Bench” (Prof. Rehan Abeyratne), “Judicial strategies for opinion writing in a polarised political climate” (Prof. Stuart Hargreaves), “Judicial decision making and gender equality in Asia” (Prof. Mara Malagodi), and “Implicit bias and the bench: Intersectionality” (Prof. Shreya Atrey, Oxford). The feedback from the judges and judicial officers in attendance was very positive.



## EU – China Seminar Series

The CCTL Transnational Economic Law and Dispute Settlement Group at CUHK LAW, in collaboration with DLA Piper, and University College London (UCL) Centre for Commercial Law, brought together leading practitioners and academics from Europe, the United Kingdom, and China to examine and address critical regulatory developments that affect the future of EU-China trade and investment relations. The seminars, convened by Dr. Dini Sejko (CUHK LAW, CCTL), Ms. Tugce Yalcin (DLA Piper) and Dr. Alessandro Spano (UCL), took place from November 2021 to January 2022 and addressed the complex relationship of cooperative partnership, economic competition, and systemic rivalry between EU and China. The uncertain future of the EU – China Comprehensive Agreement on Investment (CAI), the EU’s new FDI-Screening-Regulation, the fears of influence and interferences by Chinese sovereign and private investors in European markets, and the geopolitical and geoeconomics considerations affect trade and investment relations. Ambassador Thomas Gnocchi, Head of Office of the European Union to Hong Kong SAR and Macao SAR, delivered a keynote address.

The seminars focused on the following topics:

### *EU-China Investment Relation & FDI Regime - November 2021*

Speakers:

- Prof. Lutz Christian Wolff, Wei Lun Professor of Law, Dean, CUHK LAW
- Prof. Rehan Abeyratne, Executive Director CCTL, CUHK LAW (Chair)
- Ambassador Thomas Gnocchi, Head of Office of the European Union to Hong Kong SAR and Macao SAR (Keynote Speaker)
- Dr. Dini Sejko, Research Associate at CCTL, CUHK LAW
- Prof. Bryan Mercurio, Simon F.S. Li Professor of Law, CUHK LAW
- Dr. Christoph Mager, Partner and Head of Austrian Corporate/M&A Department at DLA Piper
- Ms. Tugce Yalcin, Senior Consultant at Corporate/M&A Department and Head of Austria-China-Desk
- Mr. Nathan Bush, Partner and Head of Antitrust and Competition of Asia at DLA Piper: Interplay of Competition Law and Trade Policy in Contemporary China



- Dr. Alessandro Spano, Lecturer in EU and Chinese Law at The Faculty of Laws and European & International Social & Political Studies (EISPS), Director of the China Centre for Politics, Law and Culture at UCL (Discussant)

### ***Sustainability in EU-China Investment Relation - December 2021***

#### Speakers:

- Prof. Anatole Boute, Professor, CUHK LAW
- Prof. Manjiao Chi, Professor and Founding Director, Center for International Economic Law and Policy, Law School, University of International Business and Economics
- Ambassador Declan Kelleher, Senior Advisor, APCO Worldwide
- Prof. Jingjing Zhang, Lecturer in Law, University of Maryland Law School, and Director of the Center for Transnational Environmental Accountability
- Prof. Bryan Mercurio, Simon F.S. Li Professor of Law, CUHK LAW (Chair)
- Dr. Dini Sejko, Research Associate, CCTL, CUHK LAW (Discussant)

### ***Innovation Chains, Tech Investments and Data - January 2022***

#### Speakers:

- Mr. Ji Ma, Senior Lecturer in Law, Peking University School of Transnational Law; Research Associate with the China, Law and Development Project, Oxford University
- Mr. Nicholas Klein, DLA Piper, Partner
- Mr. Simon Lacey, Senior Lecturer, University of Adelaide's Institute for International Trade; former Vice-President of Trade Facilitation and Market Access, Huawei Technologies
- Prof. Bryan Mercurio, Simon F.S. Li Professor of Law, CUHK LAW (Chair)
- Dr. Dini Sejko, Research Associate, CCTL, CUHK LAW (Discussant)



- Ms. Tugce Yalcin, Head of China Desk, DLA Piper (Discussant)



### **International Society of Public Law (ICON-S) New Scholarship Showcase**

CCTL, along with the Centro de Estudios Políticos y Constitucionales (Madrid, Spain), co-sponsored the New Scholarship Showcase organized by the International Society of Public Law (ICON-S) Committee on New Directions in Scholarship. The Committee is co-chaired by CCTL Executive Director, Professor Rehan Abeyratne. The New Scholarship Showcase organizes monthly virtual seminars to highlight new books in public law. A summary of these events follows.

#### ***Book Discussion on ‘Constitutional Processes and Democratic Commitment’ by Professor Donald Horowitz (Online) 25 January 2022***

The event featured a discussion on *Constitutional Processes and Democratic Commitment* (Yale University Press 2021) by Professor Donald Horowitz (Duke University, USA). Donald L. Horowitz argued that constitutional processes ought to be geared to securing commitment to democracy by those who participate in them. Using evidence from numerous constitutional processes, he makes a strong case for a process intended to increase the likelihood of a democratic outcome. The lecture provided a fresh perspective on constitutional processes that will interest students and scholars. It also offers sound advice for everyone involved in the surprisingly common practice of constitution-writing. Dr. Silvia Suteu (University College London, UK) and Dr. Dinesha Samararatne (University of Colombo, Sri Lanka) continued an engaging discussion. The event was chaired by Prof. Rehan Abeyratne (CUHK LAW, Hong Kong), co-chair of the Committee on New Directions in Scholarship.

#### **Speakers:**

- Prof. Donald L. Horowitz (Duke University, USA)
- Dr. Silvia Suteu (University College London, UK)
- Dr. Dinesha Samararatne (University of Colombo, Sri Lanka)
- Prof. Rehan Abeyratne (CUHK LAW, Hong Kong; Co-chair of the Committee on New Directions in Scholarship)

***Book Discussion on ‘Foreign Judges in the Pacific (Hart, 2021)’ by Dr. Anna Dziejic (Online) 28 February 2022***

Anna Dziejic (University of Melbourne, Australia) covered a widespread but often unarticulated assumptions about the significance of nationality to the functions and qualities of constitutional judges. The presentation showed how the nationality of judges matters, not only for the legitimacy and effectiveness of the Pacific courts that use foreign judges, but for legal and theoretical scholarship on courts and judging. The event will be chaired by Maja Sahadzić (University of Antwerp, Belgium), co-chair of the Committee on New Directions in Scholarship who moderated an engaging discussion with the discussants Prof. Erin F. Delaney, Northwestern University, USA and Prof. Rohit De, Yale University, USA, and the audience.

**Speakers:**

- Dr. Anna Dziejic, University of Melbourne, Australia (Speaker)
- Prof. Erin F. Delaney, Northwestern University, USA (Discussant)
- Prof. Rohit De, Yale University, USA (Discussant)
- Prof. Maja Sahadzić, University of Antwerp, Belgium (Chair)

***Book Discussion on “Property Rights and Social Justice: Progressive Property in Action” (Cambridge University Press 2021) by Rachel Walsh (Trinity College Dublin, Ireland) 4 May 2022***

Rachel Walsh analysed 'progressive property' in action by examining the role of constitutional property rights guarantees in mediating private ownership and social justice. The author argued that primacy is perhaps inevitably afforded to political determinations about the appropriate mediation of property rights and social justice, meaning that the political impact of constitutionalisation needs to be disentangled from its strict legal effects.

**Speakers:**

- Dr. Rachel Walsh (Trinity College Dublin, Ireland) (Speaker)
- Prof. Antonia Baraggia (University of Milan, Italy) (Chair)
- Prof. Rosalind Dixon (University of New South Wales, Australia) (Discussant)
- Prof. Heinz Klug (University of Wisconsin, USA) (Discussant)

***Book Discussion on Systemic Corruption: Constitutional Ideas for an Anti-Oligarchic Republic (Princeton University Press 2020) by Camila Vergara (University of Cambridge, UK) 19 May 2022***

Camila Vergara delivered a provocative presentation. The seminar offered a compelling and original genealogy of political corruption from ancient to modern thought and showed how representative democracy was designed to protect the interests of the already rich and powerful to the detriment of the majority.

Speakers:

- Dr. Camila Vergara (University of Cambridge, UK) (Speaker)
- Prof. Berihun Gebeye, University College London (UK) (Chair)
- Dr. Ana Cannilla (University of Glasgow, UK) (Discussant)
- Prof. Zoran Oklopcic (Carleton University, Canada) (Discussant)

***Book Discussion on Shari'a, Inshallah: Finding God in Somali Legal Politics (Cambridge University Press 2021) by Mark Fathi Massoud (UC Santa Cruz, USA) 27 June 2022***

Mark Fathi Massoud presented the book, which is the first major attempt to study modern legal politics in Somalia in all its complexities. The presentation touched upon an ethnographic approach that studies not just the law but also the meanings and understandings that Somalis give to and produce from the law. In the depth of the archival research, the author, over three years of fieldwork, conducted hundreds of personal interviews and that the author ethnographic observations of dispute resolution activities in courts, legal aid centres, and workshops organized by international and local groups.

Speakers:

- Prof. Mark Fathi Massoud (UC Santa Cruz, USA) (Speaker)
- Dr. Maja Sahadzic (University of Antwerp, Belgium) Chair)
- Matthew Erie (University of Oxford, UK) (Discussant)



***Las cláusulas durmientes de integración latinoamericana. Orígenes, funciones y opciones para despertarlas by Juan C. Herrera (Universidad de los Andes, Colombia)***

Speakers:

- Dr. Juan C. Herrera (Universidad de los Andes, Colombia) (Speaker)
- Aday Jiménez (Centro de Estudios Políticos Constitucionales, Spain) (Chair)
- Prof. Dr. Armin von Bogdandy (Instituto Max Planck de Derecho público comparado y Derecho internacional público, Germany) (Discussant)
- Prof. Liliana Obregón (Universidad de los Andes, Colombia) (Discussant)
- Prof. Ana Micaela Alterio (Instituto Tecnológico Autónomo de México, Mexico) (Discussant)

## Book Discussions

*CCTL Transnational Legal History Group seminar – ‘The Constitutional History of Macau’  
by Prof. Jason Buhi (Online) 11 May 2021*

The seminar was based on Professor Buhi’s book “Global Constitutional Narratives of Autonomous Regions: The Constitutional History of Macau” (Routledge 2021). During the speech, the speaker explored the historical evolution of Macau’s constitutional system in Macau and its recent status as an ‘autonomous region.’ The presentation also provided a comparative overview of the similarities and differences between Macau and Hong Kong. The seminar was chaired by Prof. Christopher Roberts at CUHK LAW who also moderated a lively discussion.

Speaker:

Jason Buhi is an assistant professor of law at Barry University’s Dwayne O. Andreas School of Law in Orlando, Florida, USA.

*CCTL Transnational Economic Law and Dispute Settlement Group Book Discussion – ‘The Hunt for Unicorns: How Sovereign Funds Are Reshaping Investment in the Digital Economy’  
by Mr. Winston Ma (Online) 4 June 2021*

Sovereign wealth funds (SWFs) have grown their presence and changed their investment strategy in recent years, shifting towards a more active role in the management of their investments, and expanding the sectors of their investments, which now include not only passive and conservative investment instruments but also FDI in infrastructure, energy, and consumer good. More importantly, SWFs are increasingly investing in the digital economy, gaining control over companies that operate in telecommunication, data management, and artificial intelligence. The state’s involvement in the economy has always generated debate between the supporters of the public (state-owned and state-controlled) model and the private one. This struggle is not only ideological, but it has practical economic, political, geopolitical, and legal implications.

In the seminar, Mr. Ma clarified the main typologies of SWFs and explored their investment strategies shedding light on their operations, paying particular attention to the role of Vision

Fund and Ant Financial, including some of the major SWFs among their key investors. Mr. Ma also focused on national security issues focusing on the role of the Committee of Foreign Investment in the United States and its role in unwinding some acquisitions in the tech and data-related sectors during the Trump administration. In the last part of the presentation, Mr. Ma examined the case of SMIC, a leading Chinese semiconductor manufacturer that counts among its investors a Chinese dedicated sovereign fund that focuses on semiconductors. Ma detailed how US governmental measures have significantly affected the Hong Kong-listed company. Ma concluded the presentation with a dire forewarning of a new beginning of the Chinese – US tech war under the Biden administration, in which SWFs will play a leading role.

As a discussant, Dr Sejko focused on the triggering effect of the BRI in the inception of the European Union investment screening mechanism and, more broadly, on the rise of co-investment strategies of SWFs. Professor Howse shifted the discussion to the role of multilateral institutions such as the World Trade Organisation (WTO) in addressing state capitalism and emphasized that one of the hurdles to the reform of the WTO is the significant presence of SWFs and the use of subsidies by western economies. Professor Mercurio chaired the book discussion and moderated an engaging Q&A session. The role of SWFs in the economy is expected to continue to grow in particular with respect to environmental issues, which will become increasingly important.

Speakers:

- Mr. Winston Ma, Investor, attorney, author, and adjunct professor in the global digital economy NYU School of Law (Book author)
- Dr Dini Sejko, Research Associate at the Centre for Comparative and Transnational Law at CUHK LAW (Discussant)
- Prof. Robert Howse, Lloyd C. Nelson Professor of International Law at NYU School of Law (Discussant)
- Prof. Bryan Mercurio, Simon F.S. Li Professor of Law at CUHK LAW (Chair)



*CCTL Transnational Legal History Group Book Seminar – ‘Thai Legal History’ (Online) 8 July 2022*

The two editors discussed the first book to provide broad coverage of Thai legal history in the English language. The contributions cover areas of pre-modern law, the civil law reforms of the late 19th and early 20th centuries, and the constitutional developments post-1932. It reveals outstanding scholarship by both Thai and international scholars, of interest to anyone interested in Thailand and its history, providing an indispensable introduction to Thai law and the legal system. The speakers discussed different areas focusing also on the notable civil law reforms providing interesting comparative analysis on the diffusion of civil law.

Speakers:

- Prof. Andrew James Harding, Visiting Research Professor, NUS Faculty of Law (Book editor)
- Prof. Munin Pongsapan, Dean, Thammasat University Faculty of Law (Book editor)
- Prof. Christopher Roberts, Assistant Professor, CUHK LAW (Chair)
- Prof. Tom Ginsburg, Leo Spitz Professor of International Law, Ludwig and Hilde Wolf Research Scholar, Professor of Political Science, University of Chicago Law School (Commentator)





*CCTL Transnational Legal History Group book talk- 'The Suicide of Miss Xi: A "Crime of Economics"?' by Prof. Bryna Goodman (Online) 12 October 2021*

Prof. Bryna Goodman provided a historical analysis accompanied with visual representation of the development of financial sector in Shanghai during the beginning of the XX century. On September 8, 1922, the body of the young female clerk Xi Shangzhen was found hanging in the Shanghai newspaper office where she worked. Although her death in Shanghai's semicolonial International Settlement fell under extraterritorial jurisdiction, Chinese authorities kidnapped her US-educated social activist employer, Tang Jiezhi, for trial in a Chinese court. Xi's family accused Tang of two crimes. The court dismissed for lack of evidence their first charge, that Tang was responsible for compelling her suicide (an old crime that was a carryover from the Qing code). Tang would be tried instead and found guilty on their second charge, that he had defrauded her of money in an investment scheme during the "Trust and Exchange Storm," a speculative financial bubble that shook the city in the previous year. In this talk on *The Suicide of Miss Xi: Democracy and Disenchantment in the Chinese Republic*, Bryna Goodman probes the unfolding scandal of Xi's suicide and the controversial trial of her US-educated May Fourth activist employer as a window into ideas and practices of liberal democracy and economic liberalism in this era of emerging stock exchanges in a time and space of colonialism, legal pluralism, and fragmented sovereignty.

Speakers:

- Prof. Bryna Goodman is professor of history at the University of Oregon.
- Prof. Chao Xi, Professor, CUHK LAW (Commentator)



*CCTL Obligations Lab Asia book talk – ‘Punishment and Private Law’ (Online) 27 October 2021*

The seminar featured presentations by Prof. Elise Bant and Prof. Katy Barnett, based on their respective book chapters for the edited collection ‘Punishment and Private Law’ (Hart, 2021), with a comment provided by Mr. Martin Rogers.

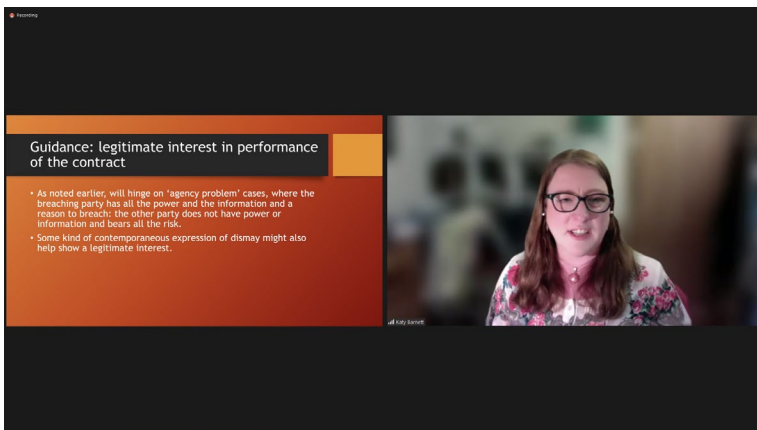
Professors Elise Bant and Jeannie Marie Paterson’s chapter ‘*Effecting Deterrence through Proportionate Punishment: An Assessment of Statutory and General Law Principles*’ explored some lessons offered by the rich interplay between common law, equitable and statutory principles concerned to deter serious misconduct. The chapter’s principal thesis is that statutory and general law deterrent regimes embrace punitive concepts and elements to effect their goals. However, they also show a concern that punishment should be proportionate and not excessive. The chapter argues that the principles of proportionate punishment can and should be articulated. Proportionate punishment can be understood by reference to general law principles, which render it amenable to curial oversight and consistent with the goals of civil law. Here, the particular focus is on the contribution offered by equity’s longstanding jurisdiction to strip profits from wrongdoers. While equity’s aims here are ostensibly general and specific deterrence, it employs mechanisms that visit proportionate punishment on defendants in order to achieve those goals. These equitable strategies can be used to render modern civil pecuniary penalty regimes, such as those widely adopted in Australia and increasingly employed in other jurisdictions, highly effective and secured upon a principled basis.

The presentation by Katy Barnett, ‘*Exemplary Damages in Contract Law*’, examined common law tradition. The common law has refused to award exemplary damages for breach of contract.

It is said that punishment is incompatible with the aims of contract. In modern times, only one common law jurisdiction has been prepared to award exemplary damages for breach of contract (Canada). The presentation suggested that exemplary damages for breach of contract are not necessarily entirely incompatible with the aims of contract law, but that any availability of punitive awards should be carefully contained and very exceptionally awarded. By referring to the case law, Prof Barnett suggested some principled guidance for the award of exemplary damages in contract.

Speakers:

- Prof. Elise Bant is Professor of Private Law and Commercial Regulation at The University of Western Australia, a Professorial Fellow at the University of Melbourne and Fellow of the Australian Academy of Law.
- Prof. Katy Barnett is a professor at Melbourne Law School.
- Mr. Martin Rogers, Partner and Chair (Asia), Davis Polk & Wardwell (Commentator)
- Prof. Normann Witzleb, Associate Professor, CUHK LAW (Moderator)





*CCTL Transnational Legal History Group book talk- 'Going the Distance: Eurasian Trade and the Rise of the Business Corporation, 1400-1700' by Prof. Ron Harris (Online) 12 November 2021*

This event explored Professor Ron Harris's *Going the Distance: Eurasian Trade and the Rise of the Business Corporation, 1400–1700* (Princeton University Press, 2020). In the book, Professor Harris explains why the business corporation first developed in the context of long-distance Eurasian trade, why around the year 1600, and why only in England and the Dutch Republic. The book asserts that four of the major attributes of the modern business corporation—joint-stock equity finance, lock-in of investment, transferability of interest and protection from expropriation by rulers—were designed in this formative period. Two attributes, separate legal personality and collective decision-making appeared in the context of pre-1600, non-business corporations, while a seventh attribute, limited liability, was formulated in a later period. *Going the Distance* explores the history behind a cornerstone of the modern economy, and how this organizational revolution contributed to the formation of global trade and the creation of the business corporation as a key factor in Europe's economic rise.

Speaker:

- Prof. Ron Harris is the Kalman Lubowsky Professor of Law and History and immediate past Dean, School of Law Tel-Aviv University.

## Seminars

### *CCTL Transnational Economic Law and Dispute Settlement group seminar - 'DataFlow 2 Go' 20 May 2021*

Data Flow 2 Go gathered academic and industry specialists both in government and business to address pivotal issues in the governance of data flows. Some of the revelations and insights provided during the session included:

- The importance of data flows to Hong Kong's attractiveness as a place to do business and for the competitiveness of local businesses;
- Considerations of access to personal data by American national security agencies in the Schrems I and II decisions;
- The extraterritorial effect of legal initiatives on Hong Kong's business and legal environment, such as the effect of Europe's GDPR;
- Hong Kong's unique advantage in allowing local users the ability access to free data flows from China and the rest of the world;
- The design and nature of various policies, such as those governing privacy;
- Why data flows are critical to future innovations.

The ubiquity of data and the global interconnection of systems renders cross-border data governance more complex, and the continuous and fast-moving technological transformation more difficult to address. Data Flow 2 Go provided important new awareness but could only superficially deconstruct such complexity and highlight the need for more research in this area where fast-moving technological transformation challenges existing legal structures and requires proactive policies.

The event was funded by the Hong Kong Policy Innovation and Co-ordination Office's Public Policy Research Funding Scheme for a project entitled Regulating Cross-Border Data: A Public Policy Framework for Hong Kong (Project No. 2019.A4.064.19D).



*CCTL Corporate Law and Governance Cluster seminar – ‘Japan’s Corporate Governance Code from the Perspective of “Sustainable Growth of the Company and Improvement of Medium- to Long-Term Corporate Value”’ by Prof. Hiroyuki Watanabe (Online) 27 May 2021*

Professor Watanabe discussed the regulatory developments of the Japan’s Corporate Governance Code focusing on the significance of this Code, and what issues and problems it has, from the perspective of “sustainable growth of the company and improvement of medium- to long-term corporate value”. Professor Watanabe’s presentation provided a thorough analysis of the 2018 version of the Code, in anticipation of the direction that the expected reform was going to take.

Speakers:

- Prof. Hiroyuki Watanabe is a Professor at the Faculty of Law at Waseda University.
- Prof. Christoph Van der Elst is a professor of Business Law and Economics at Tilburg University (The Netherlands) and at Ghent University (Belgium). (Discussant)



*CCTL Cross-Border Legal Issues Dialogue Seminar Series – ‘Conflicting Limitation Periods – A Comparison between Hong Kong and Mainland China’ by Prof. Alan Gibb and Prof. Dicky Tsang (Online) 11 June 2021*

The presentation examined the differences between the Mainland limitation periods which are much shorter than Hong Kong limitation periods. So how do the Hong Kong courts deal with a situation where the claim is statute-barred under Mainland law, which is the proper law of the contract, but not barred under Hong Kong’s limitation period rules? Which limitation period will be applied? Conversely, how do Mainland courts react in the mirror image situation of a claim being statute barred under Mainland law but not under Hong Kong Law where Hong Kong law is deemed the applicable law for the dispute? The seminar first focused on the Mainland rules on conflicting limitation periods highlighting the findings of Dr Tsang, who has recently carried out some empirical research into Mainland judicial practice in relation to the problem. The speakers then dealt with the position in Hong Kong and explained the extremely complex and uncertain common law rules that still apply in this jurisdiction in order to determine which limitation period applies. In particular, the seminar focused on how Hong Kong’s private international law rules would classify Mainland law on limitation periods – substance or procedure? In addition, the seminar considered the Hong Kong courts’ attitude to the argument that even though Hong Kong is not the natural forum for the dispute, they should accept jurisdiction on *forum conveniens* grounds because the plaintiff’s claim is statute-barred in the Mainland. Is this a good enough reason for a Hong Kong court to decide that Hong Kong is the appropriate forum for the dispute? The seminar concluded with suggestions as to how Hong Kong can improve its current private international law rules on conflicting limitation periods by enacting legislation on the matter in line with jurisdictions such as the UK and Singapore.

Speakers:

- Prof. Alan Gibb, Associate Professor of Practice in Law & Professional Consultant, CUHK LAW
- Prof. Dicky Tsang, Associate Professor, CUHK LAW

*CCTL Transnational Economic Law and Dispute Settlement Group organised an online seminar on 'Non-Fungible Tokens (NFTs): What's Beyond the Hype?' 15 June 2021*

NFTs have been in the news lately, mostly for the prices people have paid for related artwork, tweets, virtual real estate, and even for a 140,000 USD purchase for an NFT of a picture of a model. NFTs' functions and applications go beyond click baiting news, and they can be used to represent patents as IP are doing in conjunction with IBM, or the original code for the World Wide Web as a British computer scientist and inventor Sir Tim Berners-Lee has done with an NFT titled "This Changed Everything". NFTs are central to a new emerging economic model of the ownership economy that is building businesses on top of the creator economy that encourages creators, operators and the community to collaborate under a new, interdependent ownership mechanism that combines the best of both (legacy and creator economy) worlds and then some. The seminar interspersed discussions about NFTs with a balanced examination of the nature and potential of NFTs and analysis of the relevant legal considerations, notably focusing on their implications on securities and IP law, as well as discussions on some of the business and investment opportunities. Yat Siu and Jehan Chu, two of the world's leading evangelists on NFTs provided important background and insight to the discussion. Both speakers explored how NFTs are being used to deliver digital property rights to billions of gamers, thereby creating a new asset class, enabling play-to-earn economies, and creating a more equitable digital framework, and the possibilities of NFTs, well beyond the art world. Pádraig Walsh provided key insights into the legal issues surrounding securitization and NFTs and Ron Yu discussed the IP issues, with particular focus on copyright and the complications caused by the co-evolution of the law with regards to NFTs as well as other technologies such as AI. Pawee Jenweeranon provided insights from Southeast Asia, while Professor Bryan Mercurio chaired the well-received seminar and moderated an engaging Q&A session. The event was closed by a very thought-provoking speech from Yat Siu that left the audience that clearly, the nexus of law and NFTs is a space to watch.

Speakers:

- Mr. Yat Siu, Co-founder & Chairman, Animoca Brands; Founder & CEO, Outblaze
- Mr. Jehan Chu, Co-founder & Managing partner, Kenetic
- Mr. Pádraig Walsh, Partner, Tanner De Witt



- Mr. Ron Yu, Research Associate, CUHK LAW
- Mr. Pawee Jenweeranon, Lecturer, Thammasat University, Thailand (Commentator)
- Prof. Bryan Mercurio, Simon F.S. Li Professor of Law, CUHK LAW (Moderator)



*CCTL Corporate Law and Governance Cluster seminar – ‘Are US-Listed Chinese Firms a Minefield? A Board Perspective’ by Prof. Chao Xi (Online) 28 June 2021*

On 28 June 2021, CCTL Corporate Law and Governance Cluster organized a seminar on the topic “Are U.S.-Listed Chinese Firms a Minefield? A Board Perspective” delivered by Professor Chao Xi. During the presentation Prof. Xi, raised and aimed to address two research questions: a) Are the U.S.-listed Chinese firms, as a group, truly a corporate governance minefield to be avoided at all costs? b) Did the Luckin scandal reveal the commonly shared, deep-rooted governance deficiencies of the U.S.-listed Chinese firms or was Luckin an outlier? In order to address these questions, Prof. Xi and his co-author created two unique comprehensive datasets to empirically examine the corporate governance and in particular, the board and board committees of the NYSE- and NASDAQ-listed Chinese firms. Prof. Xi explained some challenges in constructing the datasets including issues with the definition of the U.S.-listed Chinese firms. The sample firms have their place of incorporation in different jurisdictions and a significant number of them were incorporated in British Virgin Islands or Cayman Islands. By invoking the foreign private issuers (FPIs) exemption, they are entitled to follow its home country practice in lieu of most corporate governance standards. Since both BVI and Cayman Islands grant companies an extraordinary degree of contractual freedom and flexibility, FPIs incorporated in these two jurisdictions can therefore opt to deviate from the corporate governance standards set out by the SEC, NASDAQ and NYSE. The research

indicated that the Chinese companies listed on the NYSE and NASDAQ, on average, have a less independent board of directors and board committees than S&P 500 and Russell 3000 firms do. Care should be taken in interpreting these findings, however. Board and board committees of Luckin were among the least independent in the group of NASDAQ-listed Chinese firms. Prof. Xi concluded that their research did not offer much support to the views categorically labelling the whole cohort of the U.S.-listed Chinese firms as a minefield insofar as border-level governance is concerned, but further research is still warranted in this area. Prof. Lutz Christian Wolff, the Dean of CUHK LAW, chaired the seminar and moderated the Q&A session. The seminar was based on an article by Prof. Chao Xi and CUHK LAW PhD student Yurong Huang entitled “Are U.S.-Listed Chinese Firms a Minefield? A Board Perspective”, which has been published in *The International Lawyer* 54 (2021) 201.

Speakers:

- Prof. Chao Xi, CUHK LAW
- Prof. Lutz Christian Wolff, Dean, CUHK LAW (Chair)



*Covid-19 Vaccine Injury Compensation Schemes: Comparative Perspectives (Online) 6 July 2021*

This event examined critically the provision made for the small numbers of those who have suffered adverse reactions after the administration of one of the Covid-19 vaccines. The presentations focussed on the compensation schemes established at a national and international level (including the COVAX / GAVI scheme) to provide compensation and support for those

affected. The workshop enabled interesting discussion among experts from around the globe on this important and topical issue. The event was convened by Prof. Duncan Fairgrieve, Senior Research Fellow in Comparative Law and Director of the Product Liability Forum, BIICL.

Speakers:

- Prof. Duncan Fairgrieve, BIICL and Université de Paris Dauphine PSL
- Prof. Jean-Sébastien Borghetti, Université Paris II (Panthéon-Assas)
- Prof. Samuel Dahan, Queens University Canada, Cornell Law School
- Prof. Richard Goldberg, Durham Law School
- Prof. Sam F. Halabi, University of Missouri and O'Neill Institute for National and Global Health Law, Georgetown University
- Prof. Geraint Howells, NUI Galway and University of Manchester
- Mr. Alex Forrest, Chubb
- Dr. Jennifer Keelan, University of Toronto
- Prof. Eleonora Rajneri, University of Piementonti Orientale
- Prof. Marco Rizzi, University of Western Australia
- Prof. Normann Witzleb, CUHK LAW

*CCTL Transnational Legal History Group Seminar – ‘History of International Law and China: Eurocentrism, Multi-Normativity and the Politics of History’ by Prof. Maria Adele Carrai (Online) 7 July 2021*

China has reclaimed the central stage in international affairs, after what has been defined by Chinese elites as ‘the century of humiliation’ Especially now that it has re-emerged as a great power, capable of shaping international norms in its own interests, new questions about the nature, history, and resilience of the so-called ‘international rule-based order’ and international law continue to surface. In light of recent scholarship developments, the seminar focused on presented different approaches to the history of international law in China. While exposing the politics of history behind most of the historical constructions, the presentation provided some general remarks about these different methodologies and suggests unexplored areas that deserve further study.

Speaker:

- Dr. Maria Adele Carrai is an Assistant Professor of Global China Studies at NYU Shanghai.

*CCTL Transnational Legal History Group seminar - 'Shifting Sands - History of Land Reclamation in Hong Kong in the Twentieth Century' by Prof. Nurfadzilah Yahaya (Online)  
13 September 2021*

Land reclamation became part of a larger history of control over natural resources and territory in the British Empire. Land reclamation rather than naval exploration became the dominant mode of imperial expansion in maritime spaces during this time, especially in colonies like Hong Kong, with densely populated coastal areas by the end of the nineteenth century. During the first half of the twentieth century, British colonial officials in Hong Kong built on earlier land reclamation projects which were funded more by private enterprises. Over the course of 50 years, various branches of colonial government in different offices based in London, such as the Treasury and later, the Colonial Development Corporation, jockeyed for influence and financial resources vis-à-vis authorities based in the colonies. From the perspective of these offices in London, land reclamation projects would only be financed and supported if colonial governments believed investments in costly infrastructure would eventually pay off although accurate projections were difficult to calculate. Compensation for large-scale coastal transformations was granted by the government to private firms but rarely to local Hong Kongers. Destruction of the natural environment of Hong Kong was also not considered. Funding by colonial subjects in the form of lotteries and outright lump sum donations by wealthy local denizens were sometimes encouraged but even then, a sense of unease continued to linger as colonial authorities were neither willing to be indebted to colonial subjects nor grant them the same access to developed facilities they had helped build.

Speakers:

- Prof. Nurfadzilah Yahaya is a historian at the National University of Singapore.

- Prof. Leilah Sohrab Vevaina, Assistant Professor, Department of Anthropology, The Chinese University of Hong Kong (Chair)



*CCTL Corporate Law and Governance Cluster seminar – ‘The Future of Corporate Governance in Capital Markets Following the COVID-19 Crisis’ by Dr. Yun Tang (Online) 20 September 2021*

The seminar focused on the presentation of the OECD report which provided an evidence-based overview of developments in capital markets globally leading up to the COVID-19 crisis. *Dr. Yun Tang* then documented the impact of the crisis on the use of capital markets and the introduction of temporary corporate governance measures. Although the structural effects of the crisis on capital markets and its interplay with corporate governance remain to be fully understood, this report presented trends that can be used to shape policies that will support the recovery and formulates key policy messages that will guide the upcoming review of the G20/OECD Principles of Corporate Governance. The report emphasized that the road to recovery will require well-functioning capital markets that can allocate substantial financial resources for long-term investments. It also highlights the need to adapt corporate governance rules and practices to the post-COVID-19 reality, particularly in areas such as increased ownership concentration, environmental, social and governance (ESG) risk management, digitalization, insolvency, and audit quality and creditor rights.

Speaker:

- Dr Yun Tang is an Economist in the Corporate Governance and Corporate Finance Division at the OECD.

*CCTL Transnational Economic Law and Dispute Settlement Group seminar - 'The "Palm Oil Wars" and the EU's Common Commercial Policy' by Dr. Szilárd Gáspár Szilágyi (Online) 28 September 2021*

This seminar focused on the concept of ‘inflation’ in the EU’s recent trade agreements and how it poses serious hurdles to the conclusion of new trade agreements. Dr. Szilárd Gáspár Szilágyi relies on the recent ‘Palm Oil Wars’ with Indonesia and Malaysia as a case study on how the WTO-extra commitments the EU is trying to include in its new PTAs create a hard to manage CCP, which is not yet producing some of the results it was expected to produce following the Lisbon amendments. As a possible solution, Dr. Szilágyi proposes that the EU should create a hierarchy (in the sense of prioritisation) within its non-trade values, among which one can mention the prohibition of forced labour, the promotion of democratic values, sustainable development, environmental protection, and investment protection. For higher non-trade values, the EU should follow a principle-based approach, even if the risk is that no agreement will be concluded; for lower- or medium-level values, the EU should be willing to accept trade-offs in order to keep concluding trade agreements and remain a credible international partner.

*CCTL Transnational Legal History Group seminar- ‘Assembling International Order: Inter-Organizational Relations as Translation’ by Dr. Guy Fiti Sinclair (Online) 5 October 2021*

The talk applied a new framework for examining the relations among international organisations. In most accounts of inter-organisational relations in international law, international relations, and transnational sociology, international organisations are taken to be unitary, ‘real’ and ‘solid’ actors. The talk outlined an alternative approach, which analyses international organisations as assemblages-in-action, or actor-networks, comprising heterogeneous elements which are cobbled together in an ongoing and improvisational way. In this view, international organisations – and even more so, the relations among them – are constituted via a vast series of associations through practices of strategic, physical, and linguistic translation. Drawing on original archival research, the talk illustrated this mode of analysis through a case study of inter-organisational relations in the late 1960s, when anxieties about institutional fragmentation drove efforts to re-constitute the international ‘system’.



Speaker:

- Prof Guy Fiti Sinclair is an Associate Professor and Associate Dean (Pasifika) at Auckland Law School, as well as a Senior Research Fellow of the New Zealand Centre for Public Law (NZCPL).



*CCTL Cross-Border Legal Issues Dialogue Seminar Series – ‘The Recognition and Enforcement of International Mediated Settlement Agreements’ by Prof. Bélih Elbalti (Online) 7 October 2021*

In 2018, the United Nations Commission on International Trade Law (UNCITRAL) adopted the “Convention on International Settlements Resulting from Mediation”, baptized as “the Singapore Convention”. The Convention, which entered into force only one year later, has been largely described by commentators and observers as “a game-changer” in the sense that it provides dispute resolution outcomes acquired from a non-adjudicative process, i.e. international mediated settlement agreements (iMSAs), with a legal status comparable to foreign arbitral awards and foreign judgments. It is indeed argued that, if widely ratified, the Convention would “expand the number and nature of legal instruments susceptible to recognition and enforcement under private international law rules”. As such, iMSAs – which are no more than private contractual agreements – would be “recognized” and “enforced” within the private international law framework in the same way foreign arbitral awards and foreign judgments are “recognized and enforced” under the 1958 New York Convention and the 2005 and the 2019 Hague Conventions. In this respect, the seminar addressed the question:



“Does the Convention really allow the “recognition” and “enforcement” of iMSAs in the same way as foreign arbitral awards and foreign judgments or is it only an “illusion” due to the imprecise use of the terms “recognition” and “enforcement” in the context of iMSAs?”

The presentation showed that the avoidance of using the term “recognition” in the Convention is not only due to different conceptions of the notion, but also because the premises underlying its use are absent in the context of iMSAs. It also showed that the notion of “enforcement” in the Convention does not necessarily correspond to “enforcement” as traditionally understood in the context of private international law. Therefore, despite the apparent similarities between the different international schemes, the presentation argued that the uniform regime introduced by the Singapore Convention is fundamentally different from the legal frameworks that the New Convention and the Hague Conventions provide for the recognition and enforcement of foreign arbitral awards and foreign judgments.

Speaker:

- Dr. Bélig Elbalti is an associate professor at the Graduate School of Law and Politics – Osaka University.

*CCTL Corporate Law and Governance Cluster seminar - 'Gross Negligence Manslaughter: Lessons Learnt from HKSAR v Chow Heung Wing, Stephen, Chan Kwun Chung & Mak Wan Ling' by Ms Tracy Cheung (Online) 15 October 2021*

Corporate manslaughter is rarely prosecuted in Hong Kong following deaths of individuals arising out of the acts and knowledge of a corporation. Following the medical negligence claims against a group of private limited companies (the DR Group) operating beauty clinics and a laboratory and death of a “customer” (deceased) in October 2012 after receiving an experimental form of cancer treatment (cytokine-induced killer (CIK) treatment), the prosecution laid charges of gross negligence manslaughter (GNM) against the DR Group owner (Chow Heung Wing, Stephen) and two employees (laboratory manager and medical doctor, Dr. Mak). Following lengthy police investigations after the death, a trial lasting 100 days, an appeal to the Hong Kong Court of Final Appeal and a retrial of Dr Mak, all 3 Defendants were convicted by the jury and sentenced to lengthy terms of imprisonment. In this

seminar, we look at the background of this tragic unprecedented case, the principles of GNM and discuss the lessons that can be learnt from the Court's directions and approach to sentencing. We will also touch on the impact of these cases on private corporate healthcare providers and the regulatory landscape.

Speakers:

- Ms Tracy Cheung is a qualified Solicitor in Hong Kong and England & Wales.
- Prof. Mark Hsiao, Associate Professor, Leicester Law School (Discussant)



*CCTL Transnational Legal History Group seminar – ‘Jack the Ripper, The First Media Serial Killer’ 22 October 2021*

In the late summer of 1888, London was the setting for a series of gruesome murders. Five women often characterised as prostitutes, were subject to various mutilations as part of their murders. These crimes were never solved, and no one was ever prosecuted for them, however, the perpetrator has become infamous under the contemporary pseudonym, “Jack the Ripper”.

This seminar consisted of three parts. Initially, the discussion provided an overview of the legal and historical issues surrounding this series of murders and the never identified killer. In particular, why the murders perpetrated by Jack, or Jill, caught the attention of the public to the extent that his identity is still the subject of speculation today, 133 years after the crimes. In the second part of the seminar, Yasmine Zahir, Barrister, Liberty Chambers, one of Hong Kong's foremost young counsel and CUHK LAW alumna, considered the continued

fascination with serial killers around the world, focusing on Hong Kong's notorious serial killers- "The Jars Murderer", The Tuen Mun Rapist" and, although technically not a serial killer, Rurik Jutting. In the final part, Jeremy Dein QC, media expert and personality, and one of Britain's most experienced and highly regarded criminal defence counsel, addressed issues that may have arisen if Jack or Jill had been caught and brought to trial, including contemporary and present-day evidential issues and what defences might have been run to defend the seemingly indefensible.

Speakers:

- Mr. Jeremy Dein QC, 25 Bedford Row
- Prof. Ian Morley is an Associate Professor of Urban History at the Chinese University of Hong Kong.
- Ms. Yasmine Zahir, Barrister is a practitioner in both civil and criminal litigation.
- Prof. Steven Gallagher is a Professional Consultant, Professor of Practice in Law (by courtesy), and Associate Dean (Academic & Student Affairs).



*CCTL Transnational Legal History Group seminar – ‘Thomas Spence and Common Property: A Political Plan against Poverty and Empire’ by Dr Matilde Cazzola (Online) 28 October 2021*

This presentation surveyed the political ideas of English radical thinker Thomas Spence (1750–1814), who was renowned for his ‘Plan’, a proposal for the abolition of private landownership and the replacement of state institutions with a decentralized parochial organization. This system would be realized by means of the revolution of the ‘swinish multitude’, the poor

labouring class despised by Edmund Burke and adopted by Spence as his privileged political interlocutor. While he has long been considered an eccentric and anachronistic figure, this presentation sets out to demonstrate that Spence was a deeply original thinker, who was well-known in his own day within and beyond Britain and whose political views had an enduring impact on the nineteenth-century British labour movement. It also shows that the Plan featured an excoriating critique of colonialism and slavery as well as a project of colonial emancipation by means of the global abolition of private land ownership. By virtue of its transnational scope, the Plan made landfall in the British West Indies a few years after Spence's death, as it was intellectually implicated in Bussa's rebellion of 1816, the largest slave revolt in the history of Barbados. The presentation also illustrated Spence's original notion of commonality as encompassing both the natural commons and the sphere of production. Alongside the abolition of private land ownership, the Plan featured a system of 'dividends', quotas of money to be redistributed quarterly among all parishioners, which can be interpreted as an early version of the unconditional basic income. As the dividends would ensure the basic means of subsistence for everyone without requiring work, the Plan would achieve men's emancipation from poverty and the coercion of labour.

Speaker:

- Dr Matilde Cazzola, Max Planck Institute

*CCTL Cross-Border Legal Issues Dialogue Seminar Series – 'English as Contract Language – Legal Aspects of a Dying Animal' by Professor Stefan Vogenauer (Online) 4 November 2021*

The seminar explored the frictions that arise between the governing law and the contractual clauses that are drafted against an English, New York or Hong Kong law background: under the governing law, these clauses might generate unforeseen (and sometimes undesirable) results or they are, at best, superfluous. Moreover, the terminology often does not fit: any talk of 'representations and warranties', for example, does not make sense if the governing law does not have anything resembling representations and warranties. This problem cannot simply be resolved by better efforts at legal translation. It rather requires lawyers to understand that legal



language and national contract laws are the products of a particular culture, history and worldview.

Speaker:

- Professor Stefan Vogenauer, Director at the Max Planck Institute for Legal History and Legal Theory, Frankfurt/Main; Chair Max Planck Law

*CCTL Obligations Lab Asia seminar – ‘The Contractual Problems of Transaction Automation: from Vending Machines to AI’ by Dr. Eliza Mik (Online) 23 November 2021*

The seminar provided a thought-provoking discussion and challenge of sensationalistic claims about the potential of Artificial Intelligence (“AI”) and “smart” or “algorithmic” contracts that suggest that technological progress renders traditional legal principles obsolete or, at least, inadequate. Seemingly, technological change must lead to legal change. Opposing such uninformed generalisations, the presentation explored how contract law can deal with contract formation and contract performance where one or both parties deploy sophisticated computer programs. It addressed the purported absence of human intention in the transacting process and clarified the legal implications, if any, of automating various aspects of contracting, by asking:

- Are the old cases on vending machines still applicable to trading algorithms?
- Can we stretch the objective theory of contract so far as to encompass autonomous systems?
- Is there a point where the degree of transaction automation renders it impossible to speak of human participation and hence intention?
- Should there be a difference depending on whether we are automating physical or cognitive tasks?

The fundamental legal principles that contractual intention can be communicated in any manner and that it is evaluated objectively are the point of departure in addressing these questions. Although AI can optimise many aspects of commercial activity, Dr. Mik argued that there is no need to abandon long-established contract law principles “just because” computers operate faster than a human brain or because they can process more transaction parameters than a human trader.

Speaker:

- Dr. Eliza Mik is Assistant Professor at the Chinese University of Hong Kong, Faculty of Law

*CCTL-CFRED Joint Seminar – ‘The Ping-Pong Olympics in Antisuit Injunction in FRAND’  
(Online) 3 December 2021*

The seminar focused on antisuit injunction (ASI) and subsequent legal proceedings associated with standard-essential patents (SEPs) subject to fair, reasonable, and nondiscriminatory (FRAND) commitments have proliferated in multiple jurisdictions, in particular in the recent years. This phenomenon reveals not only the transnational nature of technical standards and FRAND-encumbered SEPs but also the jurisdictional tension between different national courts. In this seminar, Professors Tsang and Lee explained the emergence of ASIs in FRAND scenarios and recent developments in six jurisdictions with major interests in standard development and adoption. Currently, courts in multiple jurisdictions are competing to grant ASIs and anti-anti-suit injunctions (AASI), leading to fragmented decisions and significant costs for global standardization. Professors Tsang and Lee introduced a novel, realistic, and cost-effective proposal to solve the transnational legal problem concerning ASI and AASI in FRAND context.

Speakers:

- Prof. Dicky Tsang, Associate Professor, CUHK LAW
- Prof. Jyh-An Lee, Professor and Executive Director of CFRED, CUHK LAW





*CCTL Cross-Border Legal Issues Dialogue Seminar Series – ‘The Asian Principles for the Recognition and Enforcement of Foreign Judgments’ by Prof. Adeline Chong (Online) 25 February 2022*

The portability of foreign judgments across borders helps to facilitate cross-border transactions by lowering transaction costs and associated legal friction among countries. This is important for Asia given initiatives to establish greater economic integration in Asia such as the establishment of the ASEAN Economic Community, the Belt and Road Initiative and free-trade agreements such as the CPTPP and RCEP. The Asian Principles for the Recognition and Enforcement of Foreign Judgments (ABLI, 2020) is one of the publications resulting from a project conducted under the auspices of the Asian Business Law Institute (ABLI). The ABLI Foreign Judgments project considered the recognition and enforcement of foreign judgment rules in the ten ASEAN Member States and five of ASEAN’s major trade partners i.e., Australia, China, India, Japan and South Korea. The Asian Principles is a statement of the laws on foreign judgments in the region. It sets out the common principles and differences in the laws and suggests ways in which harmonisation of the foreign judgment rules can occur. This seminar discussed the Asian Principles and considered the extent to which harmonization of the foreign judgment rules is possible in the region. Harmonization would, of course, increase the portability of judgments across borders. The seminar also examined the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, and the likelihood of the Convention being adopted by Asian countries.

Speaker:

- Prof. Adeline Chong is an Associate Professor at the Yong Pung How School of Law, Singapore Management University.

*CCTL Corporate Law and Governance Cluster seminar – ‘Sustainability and Corporate Mechanisms in Asia’ by Prof. Ernest Lim (Online) 7 March 2022*

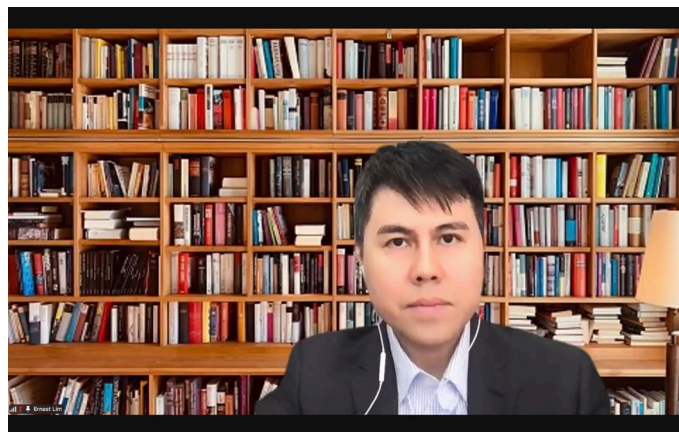
This talk analysed why and how six corporate mechanisms — (1) sustainability reporting; (2) board gender diversity; (3) constituency directors; (4) stewardship codes; (5) directors’ duty to act in the company’s best interests; and (6) liability on companies, shareholders and directors—



have been or can be used to promote sustainability in four leading common law jurisdictions in Asia (Singapore, Hong Kong, India and Malaysia). A central challenge is, whether and if so, how the corporate mechanisms should be reconceptualised to promote sustainability in an environment that is characterised by controlling shareholders, particularly the government in state-owned enterprises. Because controlling shareholders are the norm for the majority of the world's companies, and state-owned enterprises play a significant role, this talk provided important insights on the problems and prospects of advancing sustainability in concentrated and mixed ownership jurisdictions.

Speaker:

- Prof. Ernest Lim is a Professor at the Faculty of Law, National University of Singapore (NUS).



*Seminar on “‘Systems Intentionality’”: Revolution and Evolution in Corporate Regulation”  
by Prof. Elise Bant (Online) 24 March 2022*

A new model of ‘systems intentionality’ provides a ground-breaking method for identifying, and proving culpable corporate mental states. Drawing on a range of existing legal, moral and organisational theories, and the insights of criminal and civil law reforms, this presentation explained the key features of the model, its advantages over existing models of corporate attribution, and how it would apply in a range of high-profile cases of corporate wrongdoing. The model provides powerful reasons for courts, regulators and directors to attend closely to

the design, implementation and audit of corporate systems, policies and practices, as critical to issues of compliance and liability.

Speaker:

- Dr Elise Bant is Professor of Private Law and Commercial Regulation at the UWA Law School, a Professorial Fellow at the University of Melbourne and a Fellow of the Australian Academy of Law.

*CCTL Transnational Legal History Group seminar - 'Hong Kong as Historical Crucible of Refugee and Migration Crises and Governance' by Dr. Christopher Szabla (Online) 25 March 2022*

The postwar decades saw Hong Kong experiencing repeated migration and refugee crises, originating both in mainland China and Vietnam. How were these crises approached by international organizations, and governed by international law, far from these structures' then-European focus? Drawing on the presenter's larger work on the history of global migration governance, this talk addressed how Hong Kong's refugee history can help illustrate a split in approaches to refugees and other migrants with reverberations felt to the present day. While both refugee and migration law and organizations initially focused on European refugees in Hong Kong, refugee systems were eventually able to pivot to tackle the broader Chinese refugee crisis. Yet migration governance maintained a divided focus, with its chief organization remaining legally concerned principally with European emigrants. Consequently, it was only able to assist non-Europeans in "emergency" situations, with Vietnamese refugees cited as a primary example of success. The focus of both systems on refugees in emergencies, however, left lacunae in form of rights monitoring and assistance for regular migrants, and left many migrants scrambling to assert refugee status in ways that have intensified anti-refugee sentiment worldwide.

Speaker:

- Dr Christopher Szabla joined the Faculty as a Global Academic Fellow in 2020.

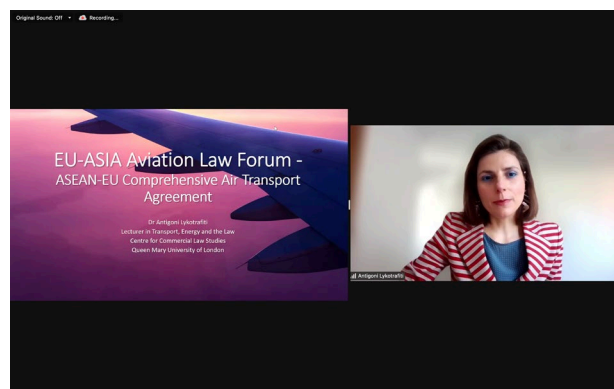
*EU-Asia Aviation Law Forum – ‘The ASEAN-EU Comprehensive Air Transport Agreement: Impact and Implications’ (Online) 1 April 2022*

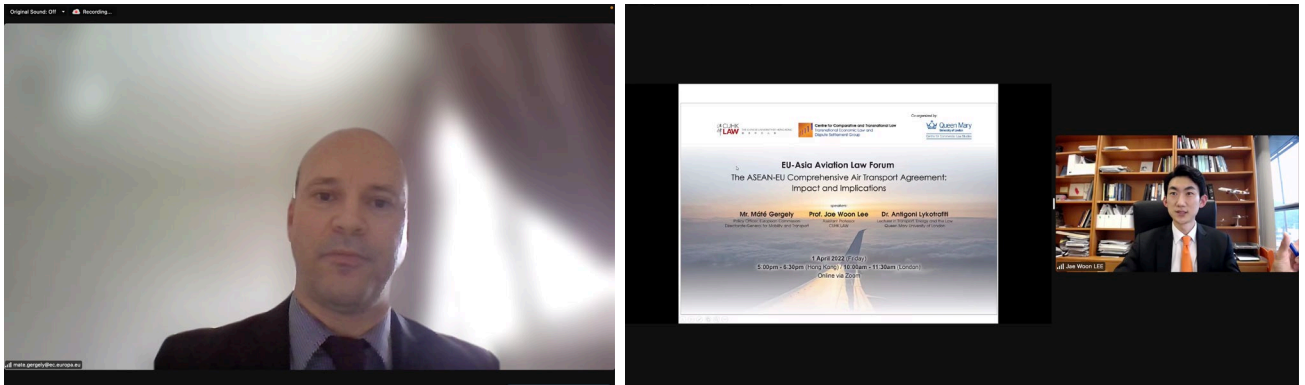
Jointly organized by CUHK LAW CCTL and the Centre for Commercial Law Studies at the Queen Mary University of London, the EU-Asia Aviation Law Forum aims to engage in debates on aviation law issues in the EU and Asia.

The 1st EU-Asia Aviation Law Forum examined the ASEAN-EU Comprehensive Air Transport Agreement (AE CATA). EU and ASEAN concluded the negotiations on the AE CATA in June 2021, and the AE CATA is currently in the final stage for signature. The AE CATA is the world’s first bloc-to-bloc air transport agreement. It will not only bolster connectivity and economic development between the regions but will also have considerable implications for the rest of the world. In this inaugural forum, three renowned aviation law experts introduced the background of the AE CATA and offered in-depth insight into the various issues of the AE CATA.

Speakers:

- Dr. Antigoni Lykotrafiti, Lecturer in Transport, Energy and the Law, Queen Mary University of London
- Professor Jae Woon Lee, Assistant Professor, CUHK LAW
- Mr. Máté Gergely, Policy Officer, European Commission, Directorate-General for Mobility and Transport





*CCTL Cross-Border Legal Issues Dialogue Seminar Series – ‘Determining the Appropriate Forum by the Applicable Law’ by Prof. Richard Garnett (Online) 1 April 2022*

The conflict of laws has traditionally drawn a sharp distinction between jurisdiction and applicable law. The conventional approach suggests that a court only reaches the question of the law to be applied to the merits after the tribunal has determined that it has the power to adjudicate the action. Common law systems have, however, long recognised that a court has the discretion to accept or decline jurisdiction (determine the appropriate forum) and that a relevant factor in this discretion is the applicable law. The purpose of the presentation was to examine the current status of the applicable law in jurisdiction and forum disputes, noting the trend in countries such as Australia to give the factor substantial weight and significance.

Speaker:

- Prof. Richard Garnett is Professor of Private International Law, University of Melbourne.

*CCTL Obligations Lab Asia seminar– ‘Tackling COVID-19 through Private Law’ by Dr. Soterios Loizou (Online) 25 May 2022*

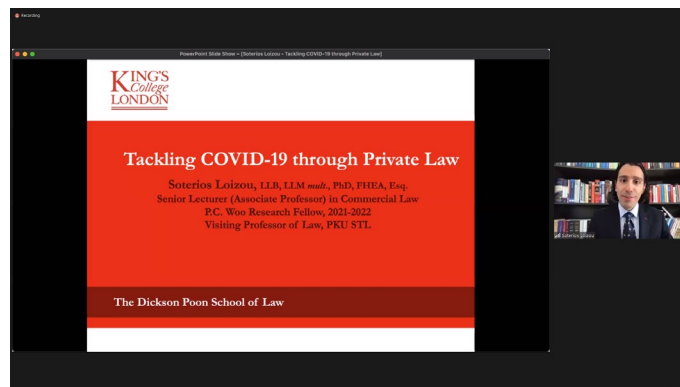
The outbreak of the COVID-19 pandemic has exposed mankind to a global health crisis unprecedented in scope and impact. Governments have deployed elaborate plans to alleviate the severe problems created by the reduced or complete shut-down of economic activity and the sealing of borders. Granted, virtually no measures have been taken to restore the

equilibrium in affected business relationships. This lack of rigorous regulatory intervention raises the question of whether Private Law can fairly address the effects of the pandemic. To answer this question, Dr Loizou focused on a three-dimensional review of the legal response to the problems created by this public health and economic crisis—past, present, and future:

- How can Private Law facilitate the resolution of disputes and the salvage of existing business relationships?
- How can Private Law reinstate trust in distressed markets?
- How can Private Law foresee such crises and fairly allocate the burden of coping with their impact and effects between parties?

Speaker:

- Dr Soterios Loizou is a Senior Lecturer in Commercial Law and Deputy Director of Law Online Programmes at The Dickson Poon School of Law.



*CCTL Cross-Border Legal Issues Dialogue Seminar Series – ‘From Certainty to Uncertainty – CISG in Hong Kong’ by Prof. Poomintr Sooksripaisarnkit (Online) 27 May 2022*

The seminar examined the Sale of Goods (United Nations Convention) Ordinance (Cap. 641) passed on 29<sup>th</sup> September 2021, the Legislative Council of the Hong Kong Special Administrative Region in order to give effect to the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) (CISG). The Ordinance is expected to come into force at some point in 2022. While the CISG seems like a successful international treaty with (currently) 94 State Parties, it is not uncommon for international commercial parties to, in



fact, “opt out” or exclude its application as per the mechanism provided for in Article 6. Not all provisions in the CISG are written in a clear manner. Certain concepts contained therein are unfamiliar to lawyers trained in the common law legal tradition. The seminar argued that the decision to introduce the CISG into Hong Kong was the decision to introduce uncertainty into an area of law which was once certain with well-supported statutes, case law authorities grounded upon the solid common law foundation, and advanced private international law and dispute resolution mechanisms.

Speaker:

- Dr Poomintr Sooksripaisarnkit is a Lecturer in Maritime Law within the Australian Maritime College, University of Tasmania.



## Conferences/Symposiums

### *CCTL Comparative Constitutional Law Research Forum Workshop on 'Reproductive Rights as Social Rights: Fostering Access and Implementation' 10-11 May 2021*

CCTL Comparative Constitutional Law Research Forum organised a workshop on 'Reproductive Rights as Social Rights. The workshop was organised by invitation only. The interdisciplinary workshop co-organised by iProbono, the CCTL of CUHK LAW, and the City Law School, City, University of London brings together academics, practitioners, and activists to advance sexual and reproductive rights through legal design and comparative law methods. Day 1 included panels on 'The Global Movement Towards Decriminalisation of Abortion; Challenges and Strategies' with experts from the United Kingdom, Canada, New Zealand, USA, Northern Ireland, and Australia, a focus group discussion on strategies for decriminalisation, and training on legal design. Day 2 of the conference focussed on 'Progressing Sexual and Reproductive Rights in Nepal'. The presentations explored the visual power of legal design methods to advance reproductive rights in Nepal using a toolkit illustrated by artist Kripa Joshi.





*Conference on “Pacta Sunt Servanda in Changing Times” (Online) 25 June 2021*

The CCTL Obligations Lab Asia held this online conference on 25 June 2021 to explore issues related to *pacta sunt servanda* (agreements are to be kept) with a focus on private law. The conference featured a keynote by Professor the Honourable Geoffrey MA Tao-li, and a distinguished lecture by Professor Andrew ANDREWS from the University of Cambridge. The concept of *pacta sunt servanda* (PSS) is regarded as the basis of all modern contract law regimes. And yet, the well-known differences between the civil law and the common law approach, as well as demands in recent years for relief of contract parties in times of crisis, call the fundamentals of PSS into question. In addition, as a concept developed in the West, it is time to assess how PSS is understood in other parts of the world.



*Conference on Asian Legal History 24-25 July 2021*

The Transnational Legal History Group of the CUHK LAW’s Centre for Comparative and Transnational Law and the University of Law – Hue University jointly organised a conference on the theme of Asian Legal History on 24-25 July 2021. Convened by Bui Ngoc Son, Associate Professor of Asian Law at the University of Oxford Faculty of Law, and Christopher Roberts, Assistant Professor at CUHK LAW, the conference brought together a diverse and interdisciplinary group of scholars, researchers, and graduate students to share their research findings on topics relating to legal history in Asia.



*CCTL Obligations Lab Asia Conference – ‘Torts Law Reform in Asia and Beyond’ (Online)*  
 13 May 2022



The CCTL Obligations Lab Asia organised a conference that served as a platform for exchange on the issues affecting the world in a period of rapid change and serious upheaval. The law of torts (or civil wrongs) provides mechanisms to maintain social standards and redress wrongdoing. While torts law must go with the times to maintain its vitality and relevance, adaptation is notoriously difficult and sometimes lagging behind social, economic or cultural developments. The online conference “Torts Law Reform in Asia and Beyond” conference explored how legislators and courts respond to the constant need to keep civil liability rules up-to-date. Amongst other topics, there were sessions on developments in professional negligence, strict liability torts, tort law and AI, and other emerging issues.

*‘Issues in Public Law in South Asia’ 1-3 July 2022*

The CCTL Comparative Constitutional Law Research Forum organized a workshop on “Issues in Public Law in South Asia” with the Bonavero Institute of Human Rights/Faculty of Law at the University of Oxford, and the Asian Law Centre at Melbourne Law School. The workshop was hosted by the University of Oxford and conducted in dual mode, with most participants traveling to Oxford and a few participating online via Zoom. The papers for the workshop were chosen on a competitive basis, where applicants were asked to submit an abstract and a short



draft before being selected. All papers were read prior to the workshop and authors were not permitted to present their work. Rather, each paper was assigned a discussant to introduce and critique the work, followed by a group discussion. The workshop aimed to provide a forum for scholars based in South Asia, especially young scholars and those with limited exposure to international conferences/workshops, to have their work introduced to a global audience and to receive high-quality feedback.

### Research Projects/Publications

Professor Rehan Abeyratne's co-edited book, *The Law and Politics of Unconstitutional Constitutional Amendments in Asia*. The book emerged out of a conference on this topic organized by the Comparative Constitutional Law Research Forum in November 2020. Comprising ten case studies from across the continent, and four broader, theoretical chapters, the book provides an interdisciplinary, comparative perspective on the rising phenomenon of unconstitutional constitutional amendments (UCA) across a range of political, legal, and institutional contexts. The volume breaks new ground by venturing beyond the courts to consider UCA not only as a judicial doctrine, but also as a significant feature of political and intellectual discourse.

Professor Normann Witzleb, who chairs the Obligations Lab Asia, received a grant from the Germany/Hong Kong Joint Research Scheme for 2021/22. The funded project has the title 'Strengthening Data Accountability in the Platform Economy – towards Greater International Convergence of Privacy Protections for Children?' The award will support Prof. Witzleb and Prof. von Lewinski from the University of Passau/Germany, as well as two early career researchers, to investigate how data protection laws and regulation in Germany, Hong Kong and mainland China balance the accountability obligations of data processors and digital platforms with the privacy rights of children and explore whether law reforms towards greater convergence are desirable.

Professor Normann Witzleb's edited book, *Contract Law in Changing Times: Asian Perspectives on Pacta Sunt Servanda*, will be published Routledge in late 2022. The book collates revised versions of selected papers from the CCTL conference on 'Pacta Sunt Servanda in Changing Times' as well as chapters specifically commissioned for this collection.

Professor Normann Witzleb is the guest editor of a forthcoming special issue of the *Tort Law Review*. The special issue will feature selected articles based on papers presented at the CCTL conference 'Tort Law Reform in Asia'.



Professor Chao Xi and the Corporate Law and Governance Cluster have a research project on ‘Shareholder Engagement and Voting around the World’. The project will result in an edited volume covering 19 jurisdictions, which is under contract with Cambridge University Press.

Prof. Alan Gibb and Prof. Dicky Tsang developed a research project on “Conflicting Limitation Periods – A Comparison between Hong Kong and Mainland China” by and published the article Conflicting Limitation Periods – A Comparison between Hong Kong and Mainland China, *5 Cardozo International & Comparative Law Review* 1 (2021) (lead article),

Prof. Dicky Tsang and Prof. Jyh-An Lee have developed a research project on “The Ping-Pong Olympics in Antisuit Injunction in FRAND” resulting in an article entitled, The Ping-Pong Olympics of Antisuit Injunction in the FRAND Litigation published with *Michigan Technology Law Review* 2022.

Prof. Alan Gibb and Prof. Dicky Tsang are conducting a research project on “Comparison on the Proof of Foreign Law between Hong Kong and Mainland China” which is now a work-in-progress article Alan Gibb & King Fung Tsang, Comparison on the Proof of Foreign Law between Hong Kong and Mainland China (work-in-progress).

For full list of publications by CCTL members, see here: <https://www.law.cuhk.edu.hk/app/research-excellence/>