

ANNUAL REPORT

July 2020 - June 2021

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About CCPL

The Centre for Comparative and Public Law (CCPL) was established in 1995 as a non-profit virtual research centre in the Faculty of Law, The University of Hong Kong. Its goals are to (1) advance knowledge on public law and human rights issues primarily from the perspectives of international and comparative law and practice; (2) encourage and facilitate collaborative work within the Faculty of Law, The University of Hong Kong, and the broader community in the fields of comparative and public law; and (3) make the law more accessible to the community and more effective as an agent of social change.

The Centre's projects and events generally come within one of the following areas of focus: Comparative Human Rights; Empirical Legal Studies; Equality and Non-discrimination; International Law in the Domestic Order; Judicial Studies; and Public Law and Governance.

The variety and depth of the expertise of CCPL members and CCPL's links with international institutions and law faculties enable CCPL to contribute significantly to academic scholarship and public debate across a diverse range of areas. These include the practice and future of "One Country, Two Systems" in Hong Kong, constitutional and administrative law of Hong Kong, discourse on global and regional governance, the content and implementation of human rights obligations in contemporary times, global constitutionalism, to name a few.

The Centre's research focus regularly attracts proposals to collaborate on cutting edge research projects, develop training materials and advance skills and knowledge through its activities and events. CCPL has also been engaged in channelling students' interest to provide mentorship, develop their skills and further their understanding through interactive work experiences that expand their legal education beyond the classroom. In addition, CCPL has been using technology to reach a broader audience. By using social media platforms such as *Facebook*, *Twitter*, *Instagram*, *LinkedIn* and *YouTube*, the Centre has widened its demographic reach, achieved greater visibility, and engaged larger audiences in its activities.

These initiatives have helped strengthen and encourage collaborative and interdisciplinary research and capacity-building work within the Faculty, across the University, the community of legal professionals and civil society organisations in Hong Kong and beyond. Additionally, they have helped CCPL's branding, defining its expertise in producing high quality academic research and outputs as well as cementing its reputation as an organiser of events and activities with wide-ranging reach and impact.

Board of Management**Po Jen Yap**

Director of CCPL
Professor
Faculty of Law
The University of Hong Kong

Xia Ying

Deputy Director of CCPL
Assistant Professor
Faculty of Law
The University of Hong Kong

Rehan Abeyratne

Associate Professor
Faculty of Law
Chinese University of Hong Kong

Albert Chen

Cheng Chan Lan Yue Professor in
Constitutional Law
Faculty of Law
The University of Hong Kong

Fu Hualing

Warren Chan Professor in Human Rights
Dean of the Faculty of Law
The University of Hong Kong

Anna Wu

Honorary Professor
Faculty of Law
The University of Hong Kong

Alex Schwartz

Deputy Director of CCPL
Associate Professor
Faculty of Law
The University of Hong Kong

Anna Dziedzic

Associate Director of CCPL
Global Academic Fellow
Faculty of Law
The University of Hong Kong

Cora Chan

Associate Professor
Faculty of Law
The University of Hong Kong

Benjamin Chen

Assistant Professor
Faculty of Law
The University of Hong Kong

David Law

Sir YK Pao Chair in Public Law
Faculty of Law
The University of Hong Kong

Simon NM Young

Professor and Associate Dean (Research)
Faculty of Law
The University of Hong Kong

International Advisory Board

Professor Rosalind Dixon is a Professor of Law, at the University of New South Wales, Faculty of Law. She earned her BA and LLB from the University of New South Wales, and was an associate to the Chief Justice of Australia, the Hon. Murray Gleeson AC, before attending Harvard Law School, where she obtained an LLM and SJD. Her work focuses on comparative constitutional law and constitutional design, constitutional democracy, theories of constitutional dialogue and amendment, socio-economic rights and constitutional law and gender, and has been published in leading journals in the United States, Canada, the United Kingdom and Australia, including the *Chicago Law Review*, *Cornell Law Review*, *George Washington Law Review*, *University of Pennsylvania Journal of Constitutional Law*, *International Journal of Constitutional Law*, *American Journal of Comparative Law*, *Osgoode Hall Law Journal*, *Oxford Journal of Legal Studies*, *Federal Law Review* and *Sydney Law Review*. She is co-editor, with Tom Ginsburg, of a leading handbook on comparative constitutional law, *Comparative Constitutional Law* (Edward Elgar, 2011), and related volumes on *Comparative Constitutional Law in Asia* (Edward Elgar, 2014) and *Comparative Constitutional Law in Latin America* (Edward Elgar, 2017), co-editor with Mark Tushnet and Susan Rose-Ackermann of the Edward Elgar series on *Constitutional and Administrative Law*, on the editorial board of the *International Journal of Constitutional Law*, *Revista Estudos Institucionais* and *Public Law Review*, and editor of the *Constitutions of the World* series for Hart Publishing.

Professor Dixon is a Manos Research Fellow, Director of the Gilbert + Tobin Centre of Public Law, Deputy Director of the Herbert Smith Freehills Initiative on Law and Economics, Co-Director of the UNSW New Economic Equality Initiative (NEEI), and academic co-lead of the Grand Challenge on Inequality at UNSW. She previously served as an assistant professor at the University of Chicago Law School, and has been a visiting professor at the University of Chicago, Columbia Law School, Harvard Law School and the National University of Singapore. She was recently elected as co-president of the International Society of Public Law: <https://www.icon-society.org/>.



Professor Victor V. Ramraj joined the University of Victoria as Professor of Law and CAPI Chair in Asia-Pacific Legal Relations in 2014, after sixteen years at the National University of Singapore (NUS). As an Associate Professor in the NUS Faculty of Law, he twice served as the Faculty's Vice-Dean for Academic Affairs (2006-2010, 2011-2012). He was also twice seconded to the Center for Transnational Legal Studies (CTLs), a consortium of global law schools in London, and served for one year (2010-2011) as its co-director. Professor Ramraj holds five degrees from McGill University, the University of Toronto, and Queen's University Belfast, served as a judicial law clerk at the Federal Court of Appeal in Ottawa and as a litigation lawyer in Toronto, and remains a non-practicing membership in the Law Society of Upper Canada. He has held visiting teaching appointments at Kyushu University and the University of Toronto.

Professor Ramraj has edited/co-edited several books published by Cambridge University Press, including *Emergencies and the Limits of Legality* (2009) and *Emergency Powers in Asia: Exploring the Limits of Legality* (2010). His work has been published in leading journals around the world, including *Chicago-Kent Law Review*, *Hong Kong Law Journal*, *ICON*:

International Journal of Constitutional Law, Singapore Journal of Legal Studies, South African Journal on Human Rights, Tilburg Law Review, and Transnational Legal Theory.



Professor Adrienne Stone holds a Chair at Melbourne Law School where she is also a Kathleen Fitzpatrick Australian Laureate Fellow, a Redmond Barry Distinguished Professor and Director of the Centre for Comparative Constitutional Studies. She researches in the areas of constitutional law and constitutional theory and holds an Australia Laureate Fellowship (2017-2021). She has published widely in international journals including in the Vienna Journal on International Constitutional Law; International Journal of Constitutional Law, Constitutional Commentary, the Toronto Law Journal and the Oxford Journal of Legal Studies. With Cheryl Saunders AO, she is editor of the Oxford Handbook on the Australian Constitution; and with Frederick Schauer, she is editor of the forthcoming Oxford Handbook on Freedom of Speech.

Professor Stone is the President of the International Association of Constitutional Law and is an elected Fellow of the Academy of Social Sciences in Australia and Australian Academy of Law. Through the Centre for Comparative Constitutional Studies she is extensively engaged with government and non-governmental organisations on constitutional questions including freedom of speech, constitutional recognition of Indigenous Peoples, and bills of rights. She has held visiting positions in the United States, Canada and France. She has delivered papers and lectures by invitation at many universities in Australia, North America, Europe and Asia.



Professor Stephen Tierney is Professor of Constitutional Theory and Director of the Edinburgh Centre for Constitutional Law. He is also Deputy Head of the Law School. He has held a British Academy Senior Research Fellowship and an ESRC Senior Research Fellowship. He is currently a Senior Fellow of the Centre of Constitutional Change which has attracted approximately £5,000,000 in grant funding over the past four years. He is co-editor of the United Kingdom Constitutional Law blog and a member of the Executive Committee of the UK Constitutional Law Association. He also serves as Legal Adviser to the House of Lords Constitution Committee and is a member of the Judicial Appointments Board for Scotland. He previously served as Constitutional Adviser to the Scottish Parliament Independence Referendum Bill Committee in 2013-14.

Professor Tierney teaches and researches on United Kingdom and comparative constitutional law and constitutional theory. He is committed to research impact and engages widely with government, parliamentary committees and the media on issues such as devolution, referendum law and Brexit. Professor Tierney has recently won an ESRC Brexit Priority grant with two colleagues to study 'The repatriation of competences: implications for devolution'. This project will address how powers returning from Brussels will be located within the United Kingdom's devolved constitution. The project will involve a number of outreach events for government and parliamentary officials and other interested stakeholders. He has published nine books including two monographs with Oxford University Press: Constitutional Law and National Pluralism and Constitutional Referendums: The Theory and Practice of Republican Deliberation. He is currently writing a third book for Oxford University Press on Federalism and editing a book on Federalism and the United Kingdom with Robert Schutze.

Staff

Prof Po Jen Yap is a Professor at The University of Hong Kong, Faculty of Law, where he specializes in Constitutional and Administrative law. He has been the Director of CCPL since October 2019. He graduated from the National University of Singapore with an LLB degree and he obtained LLM qualifications from both Harvard Law School and University College London. He also has a PhD degree from the University of Cambridge. He is an Advocate and Solicitor of the Supreme Court of Singapore and an Attorney at Law in the State of New York (USA). He is the author and editor of over 50 books, book chapters, journal articles, and/ or case commentaries. His first sole-authored monograph *Constitutional Dialogue in Common Law Asia* was published by Oxford University Press in 2015 and was awarded HKU's University Research Output Prize in 2016. He is also the recipient of HKU's 2016 Outstanding Young Researcher Prize. His second sole-authored monograph *Courts and Democracies in Asia* was published by Cambridge University Press in October 2017. He is the Principal Investigator of two General Research Fund (GRF) competitive external research grants, which were awarded in 2014 and 2017 respectively.



Associate Professor **Dr Alex Schwartz** is the Deputy Director of the Centre for Comparative and Public Law. Dr. Schwartz joined the Faculty of Law in July of 2017. His research is focused on courts and judicial behaviour, particularly in the context of deeply divided, transitional, and crisis-prone polities. He was previously Lecturer in Law at Queen's University Belfast, where he was also an Associate Fellow of the Senator George J. Mitchell Institute for Global Peace, Security and Justice. Before that, Dr. Schwartz was a Banting Fellow with the Department of Political Studies at Queen's University (Canada), a visiting scholar at the Centre for the Study of Social Justice at Oxford, and a postdoctoral fellow with the Canada Research Chair in Quebec and Canadian Studies at L'Université du Québec à Montréal.



Dr Ying Xia is the Deputy Director of CCPL. She received her S.J.D. from Harvard Law School. Her doctoral thesis examines the socio-legal implications of Chinese investment in African countries. During her study at Harvard, Ying was also awarded the Yong K. Kim '95 Memorial Prize for her work on the connections between China's environmental campaign and the international trade in waste. She also received an LL.M. in international law and an LL.B. from Peking University. Ying's research interest includes environmental law, international law, and law and public policy, with a focus on experience from developing countries.



Dr Anna Dziejic joined the Faculty as a Global Academic Fellow in 2019 and is the Associate Director of CCPL. She researches in the field of comparative constitutional law, with a particular focus on constitutional change and the role of judges and judiciaries. She will use the Global Academic Fellowship to undertake broader comparative research into foreign judges and the significance of nationality to judicial office. Her publications include analyses of constitutional law and constitution making in Pacific island states and Australia, as well as

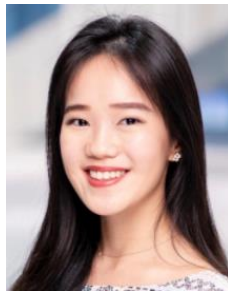
comparative work on aspects of federalism, courts and parliaments. She has undertaken consultancies on various issues including constitutional implementation, gender and constitutions, and citizenship. Anna is a co-convenor of the Constitution Transformation Network and previously worked as a Research Fellow at Melbourne Law School and in legal policy roles for the Australian government, as an Associate to a Justice of the Federal Court of Australia, and as a volunteer legal analyst at the Samoa Law Reform Commission.



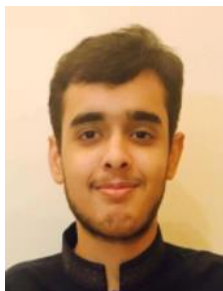
Winnie Law is the Executive Secretary for CCPL. She manages the administration of CCPL in respect of all its activities, events and projects. She oversees a small team of part time staff as well as student research assistants and volunteers who assist with CCPL event organisation and research related activities from time to time. Her duties include event management and support for CCPL's conferences and seminars, administration related to grant management, and logistical support pertaining to the reception of Centre-related visitors, among others.



Raphael Leung is a Student Research Officer for CCPL. He graduated from The University of Hong Kong with First Class Honours in Bachelor of Social Sciences and Juris Doctor. He represented The University of Hong Kong in the Philip C Jessup International Law Moot Court Competition 2021 during his PCLL, and captured not only the regional Championship with his team, but was ranked as one of the top 100 oralists internationally. Raphael is partially funded by the Michael and Judith Beloff Scholarship to pursue the BCL at The University of Oxford in 2021-2022. He will then commence pupillage in Hong Kong in September 2022.



Diana Siu is a Student Research Officer for CCPL. She earned her Bachelor's degree in Literature, and Social Research and Public Policy from New York University Abu Dhabi on full NYU scholarship. Diana is now finishing up her Juris Doctor degree at the University of Hong Kong and has been awarded multiple JD subject prizes. She is set to study the PCLL this upcoming fall and has secured a training contract with a Magic Circle firm.



Abdullah Bin Azhar is a Student Research Officer for CCPL. He is currently studying for a Bachelor of Laws at the University of Hong Kong funded fully by the HKU Foundation Entrance Scholarship. He hopes to commence his PCLL in 2022 and will start as a trainee solicitor at the firm, Linklaters, in 2023.

Fellows

Fellows are full-time academic members of HKU, with demonstrated expertise in the fields of comparative and/or public law who take an active interest in the work and activities of CCPL and whose work is aligned with the broader goals of the Centre. Fellows undertake research and partake in the activities of CCPL, typically incubating their research projects at the Centre before publishing their works or launching related knowledge exchange outputs.

The list of CCPL fellows is as follows:

Shahla Ali

Professor
Faculty of Law, HKU

Cora Chan

Associate Professor
Faculty of Law, HKU

Joseph Chan

Professor
Department of Politics & Public
Administration, HKU

Albert Chen

Cheng Chan Lan Yue Professor in
Constitutional Law
Faculty of Law, HKU

Benjamin Chen

Assistant Professor
Faculty of Law, HKU

James Fry

Associate Professor,
Faculty of Law, HKU

Fu Hualing

Dean & Warren Chan Professor in Human
Rights, Faculty of Law, HKU

Karen Kong

Senior Lecturer
Faculty of Law, HKU

David Law

Sir Y.K. Pao Chair in Public Law
Faculty of Law, HKU

Kelley Loper

Associate Professor
Faculty of Law, HKU

Vandana Rajwani

Senior Teaching Consultant
Faculty of Law, HKU

Haochen Sun

Associate Professor
Faculty of Law, HKU

Marcelo Thompson

Assistant Professor
Faculty of Law, HKU

Amanda Whitfort

Associate Professor
Faculty of Law, HKU

Young Researchers, Senior Research Assistants and Research Assistants

Bradley Aaron	Eriko Lau	Shun Ming Yau
Bin Azhar Abdullah	Raphael Leung	Tsui Sum Sum
Chen Bixin	Leung Pui Ching	Crystal Yeung
Chan Jing Jing Lin	Carolynne Liu	Christy Ling Yeung
Urania Chiu	Vanessa Lo	Elaine Yim
Sakshi Chandrasekhar	Lui Dennis Harold	Vanessa Tsang
Clement Cheung	Isabella Seif	Yip Shu Kwan
Dou Dou	Cem Tecimer	Zhu Zichen
Anbella Basterrechea-Jones	Trevor Wan	Michael Ziollowski
John Koo	Shan Weijing	
Michelle Lam	Diana Siu	

For more information on the projects which they assisted with, see **Appendix I**.

Report Overview

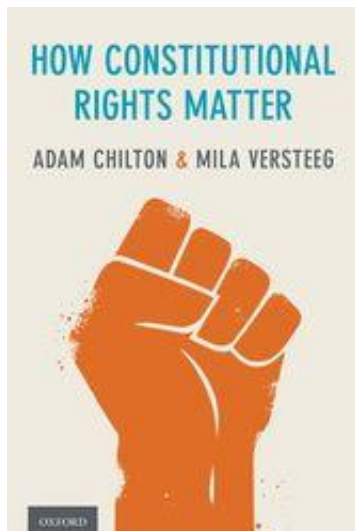
This report covers the period from **1 July 2020 to 30 June 2021**. Throughout the year, CCPL has aimed to align its activities with the University of Hong Kong's wider goal of the "3 I's + 1" – Internationalisation; Innovation; Interdisciplinarity; and Impact. In addition to holding academic events and activities, CCPL has engaged in wide-ranging knowledge exchange activities.

During the reporting period, CCPL hosted **a total of 22 academic events**. These events have touched on the following topical issues: the 2020 United States elections; Hong Kong's new National Security Law; the public law legacy of former Chief Justice Geoffrey Ma; the Belt and Road initiative in Africa; latest developments in international, administrative, and constitutional law. These online events also provided a platform for leading scholars on public law to introduce and discuss their newest publications with a wide audience. All of these events are available for public viewing on CCPL's YouTube channel: <https://www.youtube.com/channel/UC26kPkyprcR5r8JGrNlt2sQ>.

CCPL's rich diversity of activities has supported a network of stakeholders, including legal practitioners, government officials, legislative council members, members of the judiciary, international visitors, Centre Fellows, and students, particularly in the Master of Laws in Human Rights Programme. The Centre's research has generated discussions across stakeholder groups (governmental and non-governmental) and led to law reform proposals and debates in a variety of areas within the Centre's remit. CCPL has disseminated this knowledge in the form of scholarship, public lectures, and increasingly through other creative platforms such as case and treaty databases, interactive websites, a *YouTube* channel, and submissions to policy-making bodies. These resources have increased accessibility of information and the visibility of emerging issues, facilitated knowledge exchange, and empowered civil society organisations and other stakeholders to engage in productive dialogue with local, regional and international bodies.

The Centre has produced and supported rigorous, high quality research outputs published in academic and professional journals and books. CCPL's infrastructural support measures such as housing research grants, supporting Fellows and Visiting Fellows, and thematic lecture series for students, judges, legal practitioners and young scholars have all served as pivotal enablers to achieve CCPL's objectives. CCPL continues to attract local and international research funding, both for Centre-led projects as well as projects of Centre Fellows, which are housed in and administered through the Centre.

During the reporting period, CCPL has housed **17 research projects** funded by internal and external competitive grant schemes, including the General Research Fund, HKU's Global Partnership Seed Fund, the HKU Knowledge Exchange Office, the National Democratic Institute for International Affairs, the Association of Commonwealth Universities and Plan International Hong Kong. CCPL was also commissioned to conduct contract research and develop training materials and workshops. The research projects have led to significant knowledge exchange activities and material as well as several new publications. These are detailed in Appendix I of this Report.

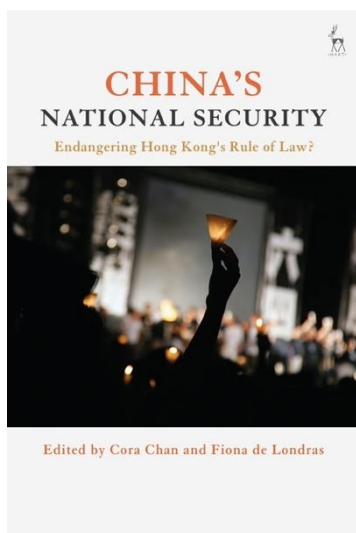
Academic Conferences and Seminars**23 September 2020****Zoom Webinar Book Talk - How
Constitutional Rights Matter (OUP 2020)**

Prof Adam Chilton
*Professor of Law; Walter Mader Research
Scholar*
University of Chicago Law School

Prof Mila Versteeg
*Martha Lubin Karsh and Bruce A. Karsh
Bicentennial Professor of Law*
University of Virginia School of Law

Does constitutionalizing rights improve respect for those rights in practice? Drawing on statistical analyses, survey experiments, and case studies from around the world, this book argues that enforcing constitutional rights is not easy, but that some rights are harder to repress than others.



28 September 2020**Zoom Webinar Book Talk - China's National Security: Endangering Hong Kong's Rule of Law? (Hart Publishing 2020)****Chairs & Editors:**

Ms Cora Chan, The University of Hong Kong

*Prof Fiona de Londras, University of Birmingham;
Hon Prof, Australian National University*

Keynote Speaker:

Prof Victor Ramraj, University of Victoria

Speakers/ Authors:

Dr Paulo Cardinal, University of Macau

Prof Lin Feng, City University of Hong Kong

Dr Pui Yin Lo, Barrister-at-law

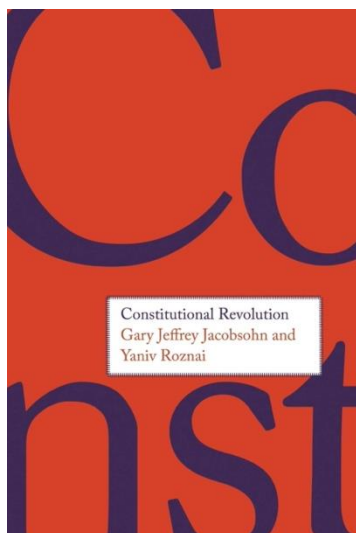
Prof Carole Petersen, University of Hawaii at Manoa

Prof Simon Young, The University of Hong Kong



This event marked the publication of Cora Chan and Fiona de Londras (eds), *China's National Security: Endangering Hong Kong's Rule of Law?* and places the book—written in 2019—into the context of events since its publication, including the passage of the Hong Kong National Security Law. In this collection, contributing authors explored the potential and limits of Hong Kong's laws, institutions and civil society in maintaining the rule of law in light of China's national security imperatives. The collection was published shortly before the Chinese government introduced a security law for Hong Kong. In this event, some of the authors in the collection reflected on to what extent are the safeguards identified in the book displaced or rendered ineffectual by recent events, and whether China's national security law endangers Hong Kong's rule of law.



7 October 2020**Zoom Webinar Book Talk -
Constitutional Revolution (Yale
University Press, 2020)**

Prof Gary Jeffrey Jacobsohn
H. Malcolm Macdonald Professor of
Constitutional and Comparative Law
Department of Government at the
University of Texas at Austin

Prof Yaniv Roznai
Associate Professor
Harry Radzyner Law School,
Interdisciplinary Center (IDC) Herzliya

Few terms in political theory are as overused, and yet as under-theorized, as constitutional revolution. In this book, Gary Jacobsohn and Yaniv Roznai argue that the most widely accepted accounts of constitutional transformation, such as those found in the work of Hans Kelsen, Hannah Arendt, and Bruce Ackerman, fail adequately to explain radical change. For example, a “constitutional moment” may or may not accompany the onset of a constitutional revolution. The consolidation of revolutionary aspirations may take place over an extended period. The “moment” may have been under way for decades—or there may be no such moment at all. On the other



hand, seemingly radical breaks in a constitutional regime actually may bring very little change in constitutional practice and identity. Constructing a clarifying lens for comprehending the many ways in which constitutional revolutions occur, the authors seek to capture the essence of what happens when constitutional paradigms change.

27 October 2020

Zoom Webinar - The 2020 United States Elections: What's Happening?

(jointly held with the Department of Politics and Public Administration, The University of Hong Kong)

Panellists:

Dr Wilfred Chow

Assistant Professor

Department of Politics and Public Administration

The University of Hong Kong

Prof David S. Law

Sir Y.K. Pao Chair in Public Law

Faculty of Law

The University of Hong Kong

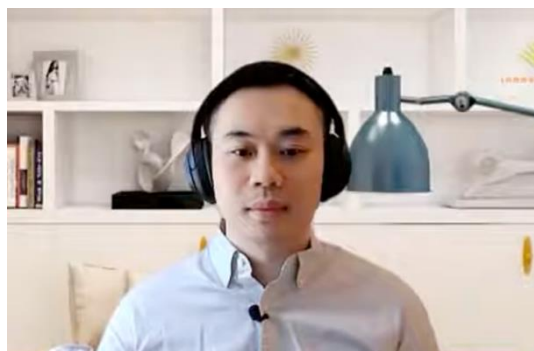
Dr Dov H. Levin

Assistant Professor of International Relations

Department of Politics and Public Administration

The University of Hong Kong

On Tuesday, November 3, American voters went to the polls in what has been described as the most consequential US election in a generation. At stake was not only the contest between Donald Trump and Joe Biden for the Presidency, but also control of the US Congress and several hotly contested races for the narrowly divided US Senate that would determine whether the President can expect cooperation or obstruction on matters such as legislation, Cabinet appointments, and judicial appointments. This event was a live roundtable discussion and question-and-answer session conducted by faculty



members from the Department of Politics and Public Administration and the Department of Law with expertise in US politics and US law.

29 October 2020

**Zoom Webinar - Thailand Update:
Protests and Emergency Powers**
(jointly held with Centre for Asia Pacific Initiatives in Victoria, Canada)

Speaker:

Phil Robertson

Deputy Director

Human Rights Watch's Asia Division

Commentators:

Dr Anna Dzeidzic

Associate Director

Centre for Comparative and Public Law

Faculty of Law

The University of Hong Kong

Dr Eugénie Mériau

Post-Doctoral Fellow

Centre for Asian Legal Studies

Faculty of Law

National University of Singapore

Moderators:

Dr Phil Calvert

*Former Canadian Ambassador to Thailand,
Cambodia, and Laos;*

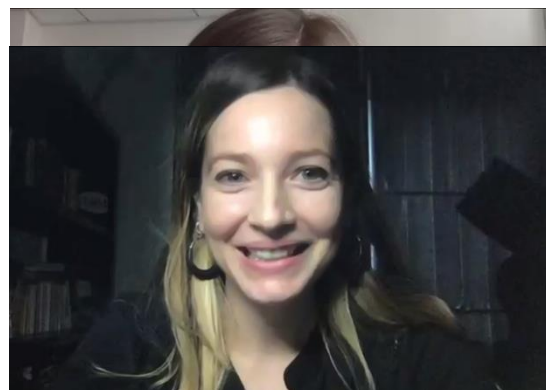
CAPI Senior Research Fellow

Prof Victor V. Ramraj

*CAPI Director and Chair in Asia-Pacific
Legal Relations;*

*Professor, Faculty of Law, University of
Victoria*

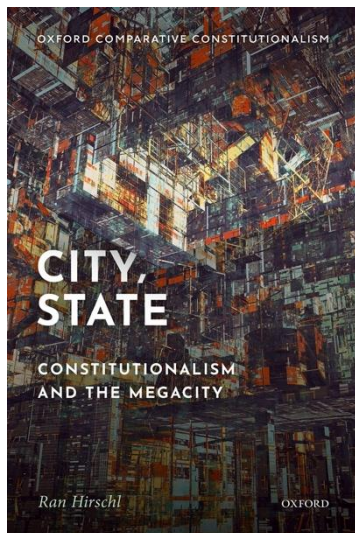
Thailand's ongoing pro-democracy student protesters had been calling for fundamental reforms in Thailand's political system, including the monarchy. The government had responded by, among other measures, imposing and then rescinding a state of emergency. The situation was evolving quickly as students demanded the Prime



Minister's resignation even as the government sought to de-escalate tensions. This webinar, co-hosted by the Centre for Asia Pacific Initiatives in Victoria, Canada, and the Centre for Comparative Public Law in Hong Kong, provided an update of recent developments by Phil Robertson of Human Rights Watch (Asia) with commentary and discussion by experts on the region.

4 November 2020

Zoom Webinar Book Talk - City, State: Comparative Constitutionalism and the Megacity (OUP 2020)



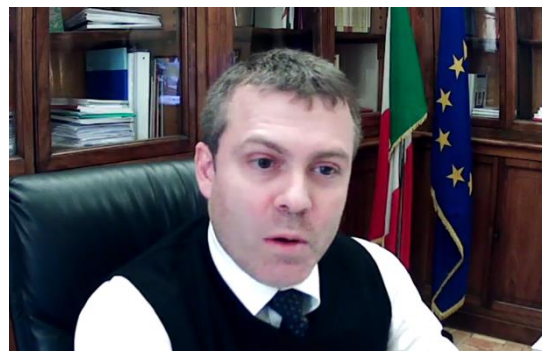
Author:

Prof Ran Hirschl
Professor of Political Science & Law,
University of Toronto;
Alexander von Humboldt Professor in
Comparative Constitutionalism

Discussants:

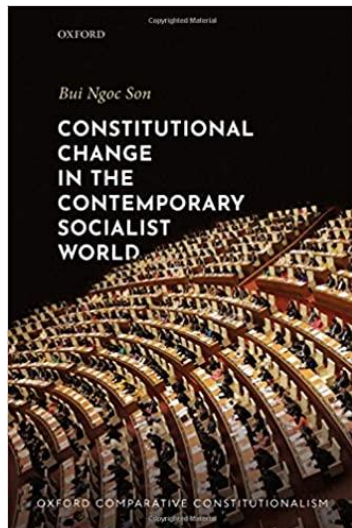
Professor Lorenzo Casini
Scuola IMT Alti Studi di Lucca
IMT School for Advanced Studies Lucca,
Italy

Dr Shitong Qiao
Associate Professor
The University of Hong Kong



More than half of the world's population lives in cities; by 2050, it will be more than three quarters. Projections suggest that megacities of 50 million or even 100 million inhabitants will emerge by the end of the century, mostly in the Global South. This shift marks a major and unprecedented transformation of the organization of society, both spatially and geopolitically. Our constitutional institutions and imagination, however, have failed to keep pace with this new reality. Cities have remained virtually absent from constitutional law and constitutional thought, not to mention from comparative constitutional studies more generally. As the world is urbanizing at an extraordinary rate, this book argues, new thinking about constitutionalism and urbanization is desperately needed. In six chapters, the book considers the reasons for the "constitutional blind spot" concerning the metropolis, probes the constitutional relationship between states and (mega)cities worldwide, examines patterns of constitutional change and stalemate in city status, and aims to carve a new place for the city in constitutional thought, constitutional law and constitutional practice.



24 November 2020**Zoom Webinar Book Talk
- Constitutional Change in the
Contemporary Socialist World (OUP
2020)****Author:**

Prof Ngoc Son Bui
Assistant Professor
The Chinese University of Hong Kong

Discussant:

Prof Albert Chen
Chair Professor in Constitutional Law
The University of Hong Kong

After the collapse of the Soviet bloc, there are only five socialist or communist countries left in the world - China, Cuba, Laos, North Korea, and Vietnam - which constitute about one-quarter of the world's population. Yet, there is little scholarship on their constitutions. These countries have seen varying socioeconomic changes in the decades since 1991, which have led in turn to constitutional changes. This book will investigate, from a comparative and interdisciplinary perspective, how and why the constitutional systems in these five countries have changed in the last three decades

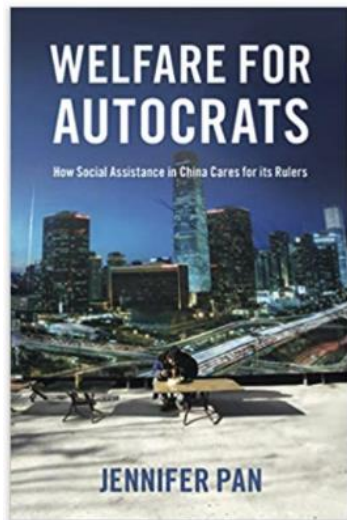


2 Dec 2020**Peter Allan Memorial Lecture: LGB Human Rights in Europe, Taiwan, and Hong Kong (via Zoom)**

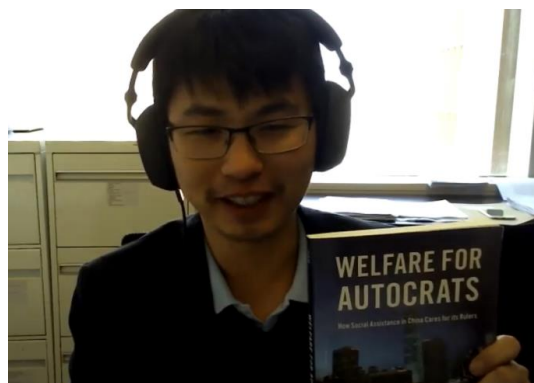
Prof Robert Wintemute
Professor of Human Rights Law
School of Law, King's College London

Since the 1981 judgment of the European Court of Human Rights in *Dudgeon v. United Kingdom*, the Court has developed a body of case law requiring equal treatment of lesbian, gay and bisexual (LGB) individuals and same-sex couples in the criminal law, in access to employment, education, housing and services, and in family law. At the national level, 16 of 47 Council of Europe member states (one third) provide equal access to marriage to same-sex couples, even though the Court does not yet require this. Over 60% (29 of 47 member states) now offer same-sex couples “a specific legal framework” for their relationships (which the Court does require), either marriage or an alternative with a different name. This trend, which began in Denmark in 1989, reached Taiwan in May 2019, when the law implementing the Constitutional Court’s May 2017 decision entered into force, and same-sex couples began to marry for the first time in Asia. What legal reforms are required to achieve equality for LGB individuals and same-sex couples in Hong Kong? Which could be granted by the Hong Kong legislature, and which are more likely to be granted by the Hong Kong courts, in light of the recent decisions in *Q.T.* (same-sex partner immigration), *Leung Chun Kwong* (recognition of a New Zealand same-sex marriage), and *M.K.* (absence of marriage or an alternative for same-sex couples in Hong Kong)?



6 January 2021**Zoom Webinar Book Talk - Welfare for Autocrats: How Social Assistance in China Cares for its Rulers (OUP, 2020)**Author*Dr Jennifer Pan**Assistant Professor of Communication
Stanford University*Chair*Dr Benjamin Chen**Assistant Professor
Faculty of Law, HKU*

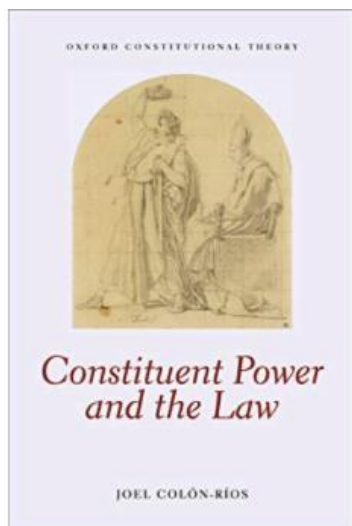
What are the costs of the Chinese regime's fixation on quelling dissent in the name of political order, or "stability?" In *Welfare for Autocrats*, Jennifer Pan shows that China has reshaped its major social assistance program, Dibao, around this preoccupation, turning an effort to alleviate poverty into a tool of surveillance and repression. This distortion of Dibao damages perceptions of government competence and legitimacy and can trigger unrest among those denied benefits. Pan traces how China's approach to enforcing order transformed at the turn of the 21st century and identifies a phenomenon she calls seepage whereby one policy--in this case, quelling dissent--alters the allocation of resources and goals of unrelated areas of government. Using novel



datasets and a variety of methodologies, *Welfare for Autocrats* challenges the view that concessions and repression are distinct strategies and departs from the assumption that all tools of repression were originally designed as such. Pan reaches the startling conclusion that China's preoccupation with order not only comes at great human cost but in the case of Dabao may well backfire.

27 January 2021

Zoom Webinar Book Talk – Constituent Power and the Law (OUP, 2020)



Author

Prof Joel Colón-Ríos

Professor of Law

*Victoria University of Wellington and
Director of the NZ Centre for Public Law*

Chair

Dr Alex Schwartz

Associate Professor

and CCPL Deputy Director

Faculty of Law, HKU

Constituent power is the power to create new constitutions. Frequently exercised during political revolutions, it has been historically associated with extra-legality and violations of the established legal order. This book examines the relationship between constituent power and the law. It considers

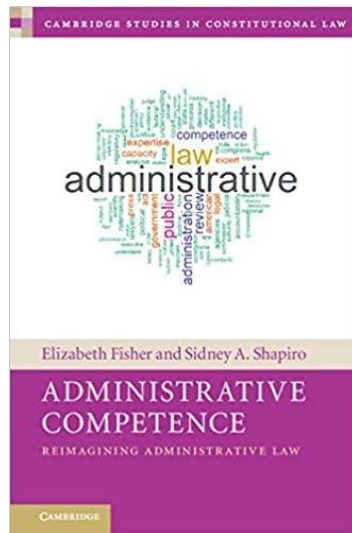


the place of constituent power in constitutional history, focusing on the legal and institutional implications that theorists, politicians, and judges have derived from it. Constitutional courts have also at times employed constituent power to justify their jurisdiction to invalidate constitutional amendments that alter the fundamental structure of the constitution and thus amount to a constitution-making exercise. Some governments have used it to defend the legality of attempts to transform the constitutional order through procedures not contemplated in the constitution's amendment rule, but considered participatory enough to be equivalent to 'the people in action', sometimes sanctioned by courts. Building on these findings, *Constituent Power and the Law* argues that constituent power, unlike sovereignty, should be understood as ultimately based on a legal mandate to produce a particular type of juridical content. In practice, this makes it possible for a constitution making body to be understood as legally subject to popularly ratified substantive limits.



3 February 2021

Zoom Webinar Book Talk – Administrative Competence: Reimagining Administrative Law (CUP, 2020)



Authors

Prof Elizabeth Fisher

Professor of Environmental Law

Corpus Christi College, University of Oxford

Prof Sidney A. Shapiro

Frank U. Fletcher Chair in Administrative Law

Wake Forest University

Chair

Dr Alex Schwartz

Associate Professor

and CCPL Deputy Director

Faculty of Law, HKU

This book, by two of the world's leading administrative law scholars, reimagines administrative law as the law of public administration by making competence the focus of administrative law. Grounded in extensive interdisciplinary, historical, and doctrinal analysis, Fisher and Shapiro show why understanding both the capacity and authority of expert public administration is crucial to ensure the legitimacy and accountability of the administrative state.



24 February 2021**Zoom Webinar – Belt and Road Initiative in Africa Conference**

In 2013, President Xi Jinping launched the Belt and Road Initiative (BRI), which aimed to integrate China's global strategies of promoting infrastructure-led development, trade, finance, policy, and people-to-people connectivity. Boosted by China's global initiatives such as the BRI, the country has become the fastest-growing investor in Africa. From 2003 to 2018, the annual flow of China's foreign direct investment (FDI) in Africa surged from \$75 million to \$5.4 billion, and the stock value of Chinese FDI increased from \$491 million to \$46 billion.

To what extent has the BRI promoted sustainable development in Africa by dealing with the tremendous differences in financial and legal systems in China and African countries? The COVID-19 pandemic has posed a variety of new challenges, such as the decline of commodity prices and economic downturns. How have the BRI and the pandemic impacted the debt profile of resource-producing countries in Africa?

This conference brings together leading scholars, policymakers, and practitioners from the fields of law, political economy, and sociology to explore these issues. Speakers addressed them from the perspectives of debt sustainability, transparent governance, and dispute resolution.

Welcome Remarks

- *Prof Victor Ramraj* (University of Victoria, Canada)
- *Prof Po Jen Yap* (HKU)

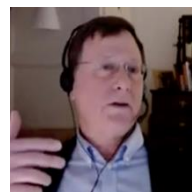
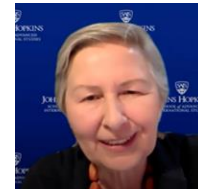
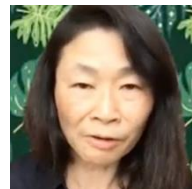
Panel 1: Debt Sustainability

Keynote Address

- *Prof Deborah Brautigam* (Johns Hopkins)

Speakers

- *Dr Ching Kwan Lee* (HKUST)

Welcome RemarksPanel 1: Debt Sustainability

- *Prof Deborah Brautigam* (Johns Hopkins)
- *Prof Stephen Harder* (NYU Shanghai)
- *Prof Gu Bin* (BFSU)

Panel 2: Transparency and Good Governance

- *Prof Muna Ndulo* (Cornell)
- *Prof Larry C. Backer* (Pennsylvania State)
- *Mr Bady Baldé* (Extractive Industries Transparency Initiative, Norway)
- *Prof Yves Tiberghien* (UBC)
- *Mr Ngozi S. Nwoko* (University of Victoria, Canada)

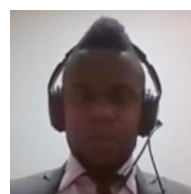
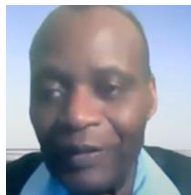
Panel 3: Dispute Resolution

- *Prof William P. Alford* (Harvard)
- *Ms Mariel Dimsey* (CMS Hasche Sigle, Hong Kong LLP)
- *Prof Heng Wang* (UNSW)
- *Prof Won Kidane* (Seattle)
- *Dr Weixia Gu* (HKU)

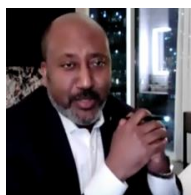
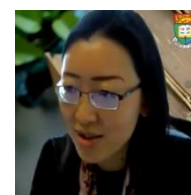
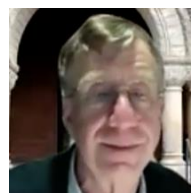
Closing Remarks

- *Dr Ying Xia* (Co-convener of BRI Conference, HKU)

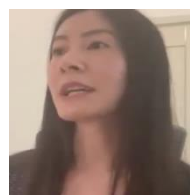
Panel 2: Transparency and Good Governance



Panel 3: Dispute Resolution



Closing Remarks



1 March 2021**Zoom Webinar Book Talk – Open Democracy: Reinventing Popular Rule for the Twenty-First Century (Princeton University Press, 2020)**

"Open Democracy... is based on the simple idea that, if government by the people is a goal, the people ought to do the governing."
—Nathan Heller, *The New Yorker*

Open Democracy

Reinventing Popular Rule
for the Twenty-First Century



Hélène Landemore

Author

Dr Hélène Landemore

*Associate Professor of Political Science
Yale University*

Chair

Dr Benjamin Chen

*Assistant Professor
Faculty of Law, HKU*

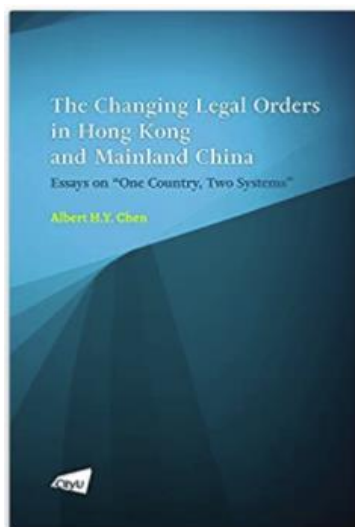
To the ancient Greeks, democracy meant gathering in public and debating laws set by a randomly selected assembly of several hundred citizens. To the Icelandic Vikings, democracy meant meeting every summer in a field to discuss issues until consensus was reached. Our contemporary representative democracies are very different. Modern parliaments are gated and guarded, and it seems as if only certain people—with the right suit, accent, wealth, and connections—are welcome. Diagnosing what is wrong with representative government and aiming to recover some of the lost openness of ancient democracies, *Open Democracy* presents a new paradigm of democracy in which power is genuinely accessible to ordinary citizens. Hélène Landemore favors the ideal of



“representing and being represented in turn” over direct-democracy approaches. Supporting a fresh nonelectoral understanding of democratic representation, Landmore recommends centering political institutions around the “open mini-public”—a large, jury-like body of randomly selected citizens gathered to define laws and policies for the polity, in connection with the larger public. She also defends five institutional principles as the foundations of an open democracy: participatory rights, deliberation, the majoritarian principle, democratic representation, and transparency.

2 March 2021

Dual Mode (In-person with Simultaneous Zoom Broadcast) Panel Discussion and Book Launch: The Changing Legal Orders in Hong Kong and Mainland China: Essays on ‘One Country, Two Systems’ (City University of Hong Kong Press, 2021)



Author

Prof Albert H.Y. Chen
Cheng Chan Lan Yue Professor in
Constitutional Law
Faculty of Law, HKU

Chair

Prof Fu Hualing
Warren Chan Professor in Human Rights and
Responsibilities



Dean, Faculty of Law, HKU

Discussants

Ms Cora Chan

Associate Professor

Faculty of Law, HKU

Prof Zhu Guobin

School of Law

City University of Hong Kong

Director, City University of Hong Kong Press

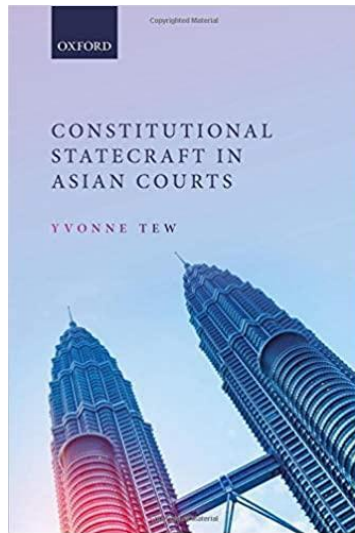
Prof Po Jen Yap

Professor and CCPL Director

Faculty of Law, HKU

This collection of selected works by the author shows the contours of the author's scholarship as it developed over his academic career, from 1984 to the present. Part I covers the legal developments and controversies of "One Country, Two Systems" since the HKSAR was established. Part II shifts to focus on how the socialist legal system in China evolved and modernised in the era of "reform and opening". Part III examines the transplantation of Western constitutionalism to East Asia in modern times. The Preface sets out the basic orientation and paradigm of these studies, and the Epilogue reflects on the main themes of the book.



4 March 2021**Zoom Webinar Book Talk – Constitutional Statecraft in Asian Courts (OUP, 2020)****Author***Dr Yvonne Tew**Associate Professor**Georgetown University Law Center***Chair***Prof Rehan Abeyratne**Associate Professor**Chinese University of Hong Kong***Discussants***Prof Po Jen Yap**Professor and CCPL Director**Faculty of Law, HKU**Dr Dian A.H. Shah**Assistant Professor**National University of Singapore*

Constitutional Statecraft in Asian Courts explores how courts engage in constitutional state-building in aspiring, yet deeply fragile, democracies in Asia. Yvonne Tew offers an in-depth look at contemporary Malaysia and Singapore, explaining how courts protect and construct constitutionalism even as they confront dominant political parties and negotiate democratic transitions. The book explores the judicial strategies used for

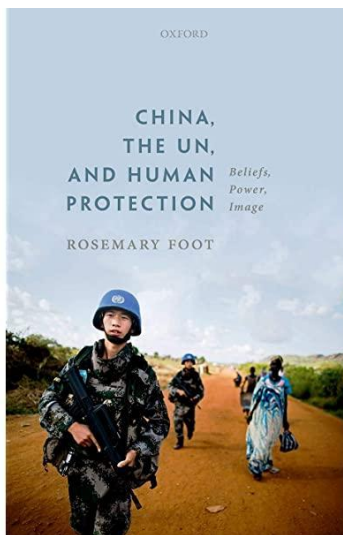


statecraft in Asian courts, including an analysis of the specific mechanisms that courts can use to entrench constitutional basic structures and to protect rights in a manner that is purposive and proportionate. Tew's account shows how courts in Asia's emerging democracies can chart a path forward to help safeguard a nation's constitutional core and to build an enduring constitutional framework.



15 March 2021

Zoom Webinar Book Talk – China, The UN, and Human Rights – Beliefs, Power, Image (OUP, 2020)



Author

*Prof Rosemary Foot
Senior Research Fellow, Department of
Politics and International Relations
Emeritus Fellow, St Antony's College
University of Oxford*

Chair

*Dr Ying Xia
Assistant Professor
Faculty of Law, HKU*

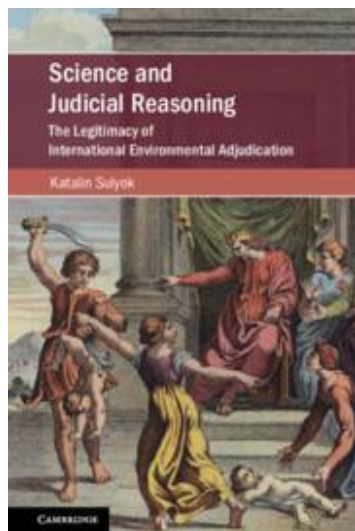


Over a relatively short period of time, Beijing moved from passive involvement with the UN to active engagement. How are we to make sense of the People's Republic of China's (PRC) embrace of the UN, and what does its engagement mean in larger terms? Is it a 'supporter' that takes its fair share of responsibilities, or a 'spoiler' that seeks to transform the UN's contribution to world order? Certainly, it is difficult to label it a 'shirker' in the last decade or more, given Beijing's apparent appreciation of the UN, its provision of public goods to the organization, and its stated desire to offer 'Chinese wisdom and a Chinese approach to solving the problems facing mankind'. This study traces questions such as these, interrogating the value of such categorization through direct focus on Beijing's involvement in one of the most contentious areas of UN activity—human protection—contentious because the norm of human protection tips the balance away from the UN's Westphalian state-based profile, towards the provision of greater protection for the security of individuals and their individual liberties. The argument that follows shows that, as an ever-more crucial actor within the United Nations, Beijing's rhetoric and some of its practices are playing an increasingly important role in determining how this norm is articulated and interpreted. In some cases, the PRC is also influencing how these ideas of human protection are implemented. At stake in the questions this book tackles is both how we understand the PRC as a participant in shaping global order, and the future of some of the core norms that constitute global order.

29 March 2021**Zoom Webinar – Public Law Legacy of Chief Justice Geoffrey Ma**Panellists**1. Central-HKSAR Constitutional Relations:***Prof Albert H.Y. Chen**Cheng Chan Lan Yue Professor in Constitutional Law**Faculty of Law, HKU***2. Judicial Independence and Judicial Value Choices:***Prof Johannes Chan SC (Hon)**Professor and Chair of Public Law**Faculty of Law, HKU***3. Constitutional Rights:***Prof Po Jen Yap**Professor and CCPL Director**Faculty of Law, HKU***4. Criminal Law:***Prof Simon Young**Professor and Associate Dean of Research (Law)**Faculty of Law, HKU*Chair*Ms Cora Chan**Associate Professor**Faculty of Law, HKU*

Chief Justice Geoffrey Ma served with distinction as the HKSAR's second Chief Justice of the Court of Final Appeal from September 2010 till January 2021. In this CCPL Panel Discussion, Professors from the Faculty of Law, HKU, will examine four topics relating to his public law legacy, and explore how he has shaped our legal landscape.



19 April 2021**Zoom Webinar Book Talk – Science and Judicial Reasoning: The Legitimacy of International Environmental Adjudication (CUP, 2020)**Author*Dr Katalin Sulyok**Lecturer at Department of International Law
ELTE Law School, Budapest*Chair*Dr Xia Ying**Assistant Professor
Faculty of Law, HKU*

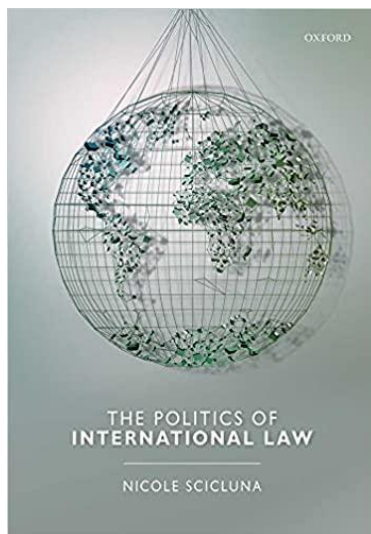
Science, which inevitably underlies environmental disputes, poses significant challenges for the scientifically untrained judges who decide such cases. In addition to disrupting ordinary fact-finding and causal inquiry, science can impact the framing of disputes and the standard of review. Judges must therefore adopt various tools to adjust the level of science allowed to enter their deliberations, which may fundamentally impact the legitimacy of their reasoning. While neglecting or replacing scientific authority can erode the convincing nature of judicial reasoning, the same authority, when treated properly, may lend persuasive force to adjudicatory findings, and buttress the legitimacy of judgments. In this work, Katalin



Sulyok surveys the environmental case law of seven major jurisdictions and analyzes framing techniques, evidentiary procedures, causal inquiries and standards of review, offering valuable insight into how judges justify their choices between rival scientific claims in a convincing and legitimate manner.

20 May 2021

Zoom Webinar Book Talk – The Politics of International Law (OUP, 2021)



Author

Dr Nicole Scicluna
Visiting Lecturer
Department of Politics and Public Administration

Chair

Dr Courtney Fung
Associate Professor
Department of Politics and Public Administration

Discussant

Prof Karen J. Alter
Board of Lady Managers of the Colombian Exposition Chair of Political Science and Law, Northwestern University
Permanent Visiting Professor, iCourts Center for Excellence, University of Copenhagen

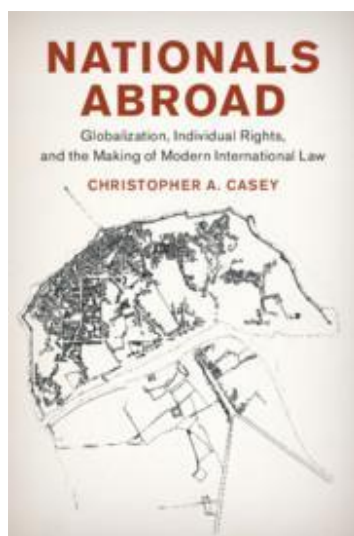


What is international law? What are its possibilities and limits in a world in which rules are pervasive and deeply institutionalised and, yet, might often seems to make right?

The Politics of International Law provides an advanced introduction to the role of law in contemporary international affairs. Through a case study-driven analysis of topics such as human rights, self-determination, the use of force, global environmental governance, global trade governance, and international criminal justice, the book elucidates the interaction between international law and international politics, demonstrating that one cannot be understood without the other.

8 June 2021

Zoom Webinar Book Talk – Nationals Abroad: Globalization, Individual Rights, and the making of Modern International Law (CUP, 2020)



Author

Dr Christopher Casey

Instructor

*Syracuse University Maxwell School of
Citizenship and Public Affairs*



Chair

Dr Christopher Szabla
Global Academic Fellow
Faculty of Law, HKU

It is a fundamental term of the social contract that people trade allegiance for protection. In the nineteenth century, as millions of people made their way around the world, they entangled the world in a web of allegiance that had enormous political consequences. Nationality was increasingly difficult to define. Just who was national in a world where millions lived well beyond the borders of their sovereign state? As the nineteenth century gave way to the twentieth, jurists and policymakers began to think of ways to cut the web of obligation that had enabled world politics. They proposed to modernize international law to include subjects other than the state. Many of these experiments failed. But, by the mid-twentieth century, an international legal system predicated upon absolute universality and operated by intergovernmental organizations came to the fore. Under this system, individuals gradually became subjects of international law outside of their personal citizenship, culminating with the establishment of international courts of human rights after the Second World War.



29 and 30 June 2021**Dual Mode (In-person with Simultaneous Zoom Broadcast) Hong Kong Under China's National Security Law Conference**

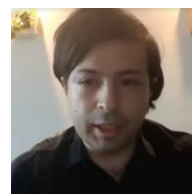
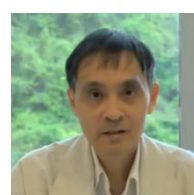
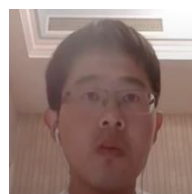
Promulgated on 30 June 2020, the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong SAR (the National Security Law, NSL) promises to be the most important legal development in Hong Kong since the advent of the Basic Law. Supporters of the law say it is essential to public order in Hong Kong and security in China. Critics fear that it will have a significant and adverse impact on the spirit of the "One Country Two Systems" arrangement which has been in place since the return of Hong Kong to China. One year on, this Symposium brings together some of the leading experts on the Hong Kong and Chinese law who will discuss how the different aspects of Hong Kong's legal system has been or will be affected by the NSL. It anticipates the release of a collection of essays edited by Fu Hualing and Michael Hor, which will be published by Hong Kong University Press later in the year.

Panel 1: Comparative Perspectives

- *Prof Kent Roach* (Toronto), "Echoes that Build to a Cacophony: Hong Kong's Security Law Compared to Illiberal Elements of the Security Laws of Liberal Democracies"
- *Prof Cherian George* (HKBU), "Media Freedom and Censorship under Post-Orwellian Authoritarianism"
- *Prof Michael Hor* (HKU), "National Security in Hong Kong and Singapore"

Panel 2: International Elements

- *Prof Survy Deva* (CityU), "The Business of National Security in Hong Kong: Do Human Rights Matter"
- *Prof Ryan Mitchell* (CUHK), "Theories of Sovereignty in the Origins and Implementation of Hong Kong's NSL"
- *Prof Bing Ling* (Sydney), "The Extraterritorial Application of Hong Kong's NSL"

Panel 1: Comparative PerspectivesPanel 2: International ElementsPanel 3: Mainland Significance

Panel 3: Mainland Significance

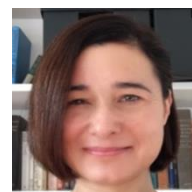
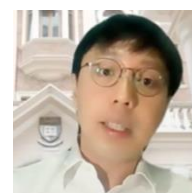
- *Prof Albert Chen* (HKU), “The National Security Law of the HKSAR: A Contextual and Legal Study”
- *Dr Zhu Han* (HKU), “The Hong Kong National Security Law: The Shifted Grundnorm of Hong Kong’s Legal Order and Its Implications”
- *Dr Zheng Tang* (Wuhan) & *Dr Xu Huang* (Wuhan), “State Secrets in Hong Kong’s NSL”

Panel 4: Specific Ramifications for Hong Kong

- *Prof Fu Hualing* (HKU) & *Prof Zhai Xiaobo* (Macau), *The New Political Policing in Hong Kong*
- *Prof Simon Young* (HKU), “Police Powers under the NSL: Legitimacy and Safeguards”
- *Ms Kelley Loper* (HKU) & *Prof Carole Petersen* (Hawaii), “Academic Freedom in the Shadow of Hong Kong’s NSL”

Panel 5: Constitutional and Systemic Consequences

- *Dr Jie Cheng* (UBC), “Hong Kong’s Constitutional Order After the National Security Law”
- *Prof Po Jen Yap* (HKU), “Judging Hong Kong’s National Security Law”
- *Prof Johannes Chan* (HKU), “National Security Law and Judicial Independence: A Clash of Fundamental Values”

Panel 4: Special Ramifications for Hong KongPanel 5: Constitutional and Systemic Consequences

Publications

CCPL-affiliated scholars have consistently produced high-quality publications in the fields of comparative and public law. In this reporting period, these outputs include:

7 August 2020	<p>Prof Fu Hualing, member of CCPL Board of Management and CCPL Fellow, co-edited a book “<i>Authoritarian Legality in Asia Formation, Development and Transition</i>” (CUP, 2020).</p> <p>A cluster of Asian states are well-known for their authoritarian legality while having been able to achieve remarkable economic growth. Why would an authoritarian regime seek or tolerate a significant degree of legality and how has such type of legality been made possible in Asia? Would a transition towards a liberal, democratic system eventually take place and, if so, what kind of post-transition struggles are likely to be experienced? This book compares the past and current experiences of China, Hong Kong, South Korea, Japan, Taiwan, Singapore, and Vietnam and offers a comparative framework for readers to conduct a theoretical dialogue with the orthodox conception of liberal democracy and the rule of law.</p>
2 October 2020	<p>Prof Simon Young, member of CCPL Board of Management and CCPL Fellow, published book chapter “Teaching Evidence Law in Hong Kong after 1997” in <i>Teaching Evidence Law: Contemporary Trends and Innovations</i> (Routledge, 2021). In this chapter, the author discusses his experience of using comparative law materials and incorporating experiences from legal practice to enrich Evidence Law teaching. The chapter reflects on whether the civil unrest of 2019, sparked by a proposed bill enabling ad hoc extradition of Hong Kong residents to Mainland China and other places, has implications for the teaching of Evidence in Hong Kong.</p>
18 October 2020	<p>Prof Po Jen Yap, Director of CCPL, edited a new book titled <i>Proportionality in Asia</i> (CUP, 2020). This is the first book that focusses on how proportionality analysis – a legal transplant from the West – is applied by courts around Asia, and it explores how a country’s commitment to democracy and the rule of law is fundamental to the success of the doctrine’s judicial enforcement. This book will appeal to lawyers, political scientists, and students of law and political science who seek to understand how proportionality analysis is blossoming and, in some cases, flourishing in Asia.</p>
20 October 2020	<p>Dr Benjamin Chen, member of CCPL Board of Management and CCPL Fellow, published an article “Partisan Voting on the California Supreme Court” in <i>Southern California Law Review</i>.</p>

	<p>When did ideology become the major fault line of the California Supreme Court? To answer this question, the author uses a two-parameter item response theory (IRT) model to identify voting patterns in non-unanimous decisions by California Supreme Court justices from 1910 to 2011. The model shows that voting on the court became polarized on recognizably partisan lines beginning in the mid-1900s. Justices usually did not vote in a pattern that matched their political reputations and party affiliation during the first half of the century. This began to change in the 1950s. After 1959 the dominant voting pattern is partisan and closely aligns with each justice's political reputation. This article finds that after 1959 largely confirm the conventional wisdom that voting on the modern court is on political lines. But such findings call into question the usual characterization of the Lucas court (1987–1996) as a moderately conservative court. The authors' model shows that the conservatives dominated the Lucas court to the same degree the liberals dominated the Traynor court (1964–1970).</p> <p>More broadly, this article confirms that an important development occurred in American law at the turn of the half-century. A previous study used the same model to identify voting patterns on the New York Court of Appeals from 1900 to 1941 and to investigate whether those voting patterns were best explained by the justices' political reputations. That study found consistently patterned voting for most of the 40 years. But the dominant dimension of disagreement on the court for much of the period was not political in the usual sense of that term. The author's finding that the dominant voting pattern on the California Supreme Court was non-political in the first half of the 1900s parallels the New York study's findings for the period before 1941. Carrying the voting pattern analysis forward in time, this article finds that in the mid-1900s the dominant voting pattern became aligned with the justices' political reputations due to a change in the voting pattern in criminal law and tort cases that dominated the court's docket. Together, these two studies provide empirical evidence that judicial decision-making changed in the United States in the mid-1900s as judges divided into ideological camps on a broad swath of issues.</p>
25 October 2020	<p>Dr Haochen Sun, Fellow of CCPL, published an article "Reinvigorating the Human Right to Technology" in <i>Michigan Journal of International Law</i>.</p> <p>The right to technology is a forgotten human right. Dating back to 1948, the right was established by the Universal Declaration of Human Rights ("UDHR") in response to the massive destruction wrought by technologically advanced weapons in the Second World War. This human right embodies one of the most profound lessons the framers of the UDHR learned from this war: Technology must benefit humanity rather than harm it.</p>

	<p>It has been more than seventy years since the adoption of the UDHR, and technology has advanced at a rapid pace and become more important than ever in our daily lives. Yet in this age of technology, the right to technology remains obscure, dormant, and ineffective. No other human right has received such scant attention, and the right to technology has indeed become an “orphan” in the international human rights regime. This article traces the origins of society’s disregard for the right and attributes it to the confluence of three main contributing factors: (1) the right’s inherent obscurity, (2) the ineffective human rights enforcement system, and (3) the international community’s overemphasis on intellectual property protection. The current human rights regime is unable to sufficiently address these complex factors, as it remains deeply rooted in the individual rights system and lacks a fully-fledged distributive justice vision.</p> <p>Against this backdrop, this article reinvigorates the right to technology by recommending its protection as a collective right. It considers how and why the right to technology should be redefined as a collective right that entitles people to enjoy the benefits of technological progress and minimizes the harms that such progress may cause. A collective right to technology can protect both larger societal interests in maintaining public freedom and dignity, as well as specific group interests in guarding against the use of technologies to prejudice group freedom and dignity. This new understanding of the right to technology, therefore, sets distributive justice agendas for promoting the development of intellectual property law into the public interest.</p>
25 October 2020	<p>Dr Haochen Sun, Fellow of CCPL, published an article “The Fundamental Right to Technology” in <i>Hofstra Law Review</i>.</p> <p>Waves of technological progress in recent decades have tremendously improved quality of life. Meanwhile, concerns about technology-driven injustices, such as unfair distribution of wealth and racial discrimination, have deepened. Experts have cautioned that new technologies could have potentially devastating effects, claiming for instance that artificial intelligence may lead to World War III. We are at a crossroads, and how we harness technology now will determine the future of humanity.</p> <p>This article presents a thought experiment, proposing that a new fundamental right to technology be recognized under the U.S. Constitution. Given that technology is of fundamental importance to human dignity and equality, this new constitutional right is designed to promote equitable distribution of technological benefits and to prevent harmful applications of technologies. This proposal is made with the hope that other countries may also recognize this fundamental right in constitutional law, ensuring global protection of the right to technology.</p>

	<p>Based on an overview of fundamental rights protection under the U.S. Constitution, the article first discusses how the U.S. Supreme Court has developed a liberal approach to identifying fundamental rights not enumerated by the Constitution. It then applies this liberal approach to a consideration of why the right to technology should be deemed an un-enumerated fundamental right. This article further canvasses how this new fundamental right would protect collective interests in technological benefits. It also explores how to resolve the potential tension between the Intellectual Property Clause and protection of the right to technology.</p>
29 October 2020	<p>CCPL Fellow Dr Shahla F. Ali published a chapter “Expanding Asia-Pacific Frontiers for International Dispute Resolution: Conclusions and Recommendations” in <i>New Frontiers in Asia-Pacific International Arbitration and Dispute Resolution</i> (Wolters Kluwer, 2020).</p> <p>Asia’s emergence as a global economic powerhouse has corresponded with a prolonged upward trend in international commercial arbitration (ICA) cases involving Asian parties, as well as a belated expansion of investor-state dispute settlement (ISDS) arbitrations involving Asian states or investors. Further accelerating the eastward shift in international dispute resolution, various initiatives to improve support for ICA and ISDS have been taken and alternatives (such as international commercial courts and international commercial mediation) have been promoted. This book aimed to examine significant ‘new frontiers’ for Asia-Pacific cross-border business dispute resolution, focusing on major economies in East and South Asia and countries (such as Australia) that are closely linked economically and geographically. The principal questions posed were: (1) whether existing and new venues for ICA could improve their attractiveness through law reform, case law development, and other measures, despite worries about cost and delay; (2) whether emerging concerns about ISDS-backed investment treaty commitments would prompt Asian states to become rule-makers in international investment law, rather than be mere rule-takers; and (3) whether innovations in existing or new fields might assist the Asia-Pacific region to develop international dispute settlement further. The foregoing chapters have discussed these broad themes, focusing on developments in Australia, Japan, Hong Kong, China, India and Malaysia, while paying attention to broader regional initiatives (such as China’s Belt and Road Initiative (BRI)) and recent international instruments (such as the Singapore Convention on Mediation (entering in force from 12 September 2020)). This concluding chapter highlights key findings in the individual chapters and identifies some challenges for the post COVID-19 era.</p>

29 October 2020	<p>Prof Albert Chen and Prof Simon Young, both members of CCPL Board of Management and CCPL Fellows, published an article “Liability for Imposing Sanctions under Hong Kong’s National Security Law” in <i>Hong Kong Law Journal</i>.</p> <p>Under art 29(4) of Hong Kong’s National Security Law, a person or company who “receives instructions” from a foreign country to commit the act of “imposing sanctions” against the Hong Kong Special Administrative Region (HKSAR) or the People’s Republic of China (PRC) commits a criminal offence. If, as required by the law of a foreign country X, a financial institution in Hong Kong, performs an act in the course of its business for the purpose of implementing a sanction imposed by country X against the HKSAR or PRC, does that financial institution violate art 29(4)? In this article, the authors argue the financial institution does not. The scope of art 29(4) must be interpreted contextually. It covers the performance of an act of imposing a sanction or blockade or of engaging in other hostile activities. Such an act is only capable of being performed by a state, an individual acting on behalf of a state or an international organisation. A financial institution, giving effect to sanctions against the HKSAR or the PRC, cannot be regarded as ‘receiving instructions’ to ‘impose sanctions’, which have already been imposed by a foreign state. It cannot be guilty of a criminal offence under art 29(4) merely by participating in the implementation of the sanctions concerned to comply with a foreign law applicable to it.</p>
29 October 2020	<p>Prof Po Jen Yap, Director of CCPL, published an article “Reckoning of Our Times” in <i>Hong Kong Law Journal</i>.</p> <p>For most of 2019, Hong Kong was rocked by civil unrest. The protests originally arose in opposition to the Hong Kong Government’s attempt to pass an extradition law that would allow for Hong Kong residents to be extradited to other regions and countries, including Mainland China, to face trial for alleged offences committed here. Even though the bill was eventually withdrawn, the unrest continued as protestors pressed on for other demands, including universal suffrage. In response to escalating street violence, the Hong Kong Government invoked the Emergency Regulations Ordinance (Cap 241) (ERO) to enact a regulation that bans facial covering in public. And the roiling constitutional crisis culminated with Beijing’s imposition of a bespoke National Security Law on Hong Kong in June 2020.</p>

29 October 2020	<p>Prof Fu Hualing, member of CCPL Board of Management and CCPL Fellow, co-authored an article “Two Paradigms of Emergency Power: Hong Kong’s Liberal Order Meeting the Authoritarian State” in <i>Hong Kong Law Journal</i>.</p> <p>Article 18(4) of the Basic Law creates a dual emergency power: the internal emergency power of the Hong Kong Special Administrative Region (HKSAR) and the external emergency power of the Standing Committee of the National People’s Congress. The external and internal emergencies represent two paradigms of emergency regime: the former is based on the state of exception, in which a state manages a crisis, largely independent of legal rules and without constitutional and legal accountability, and the latter is based on the concept of the rule of law, according to which the emergency power is subject to significant legal constraints. The internal and external emergencies in Hong Kong represent the opposite ends of the spectrum of emergency law between the liberal Hong Kong and the statist, authoritarian Chinese state. However, the minimum requirements of the International Covenant on Civil and Political Rights, as provided in the Basic Law, should be and can be observed in both internal and external emergencies. To maximise the protection of rights and freedoms while addressing security concerns, it is necessary for the HKSAR to internalise emergency measures.</p>
29 October 2020	<p>Prof Po Jen Yap, Director of CCPL, co-authored an article “Remedial Discretion and the Prohibition on Face Covering Regulation” in <i>Hong Kong Law Journal</i>.</p> <p>In this article, the authors make the following arguments in relation to the Court of First Instance (CFI) and Court of Appeal (CA) decisions on the constitutionality of the Emergency Regulations Ordinance (Cap 241) (ERO) and the Prohibition on Face Covering Regulation (Cap 241K) (PFCR). First, the CFI should have granted a Suspension Order vis-à-vis the ERO so as to allow the police to enforce s 3(1)(a) of the PFCR — a provision the CFI deemed proportionate — until the final resolution of the appeal. Second, the CA’s reasons for upholding the constitutionality of the ERO are flawed as the CA has conflated public dangers with public emergencies, and the putative judicial safeguards identified are illusory in nature. Third, the CA in effect applied Remedial Interpretations (RI) to impugned legislation in four instances without expressly declaring the law unconstitutional: (1) RI was applied to the ERO such that the Chief Executive in Council is disempowered from amending or suspending its statutory duty to place all subsidiary legislation before the Legislative Council for vetting and repeal by resolution; (2) RI was applied to the ERO such that regulations made under the ERO cannot derogate from the Hong Kong Bill of Rights Ordinance (Cap 383) unless a public emergency is officially proclaimed, the derogation is strictly required by the exigencies of the situation and non-derogable rights are unaffected;</p>

	<p>(3) RI was applied to the Public Order Ordinance (Cap 245) such that minor non-compliance with conditions issued by the police would not per se turn a procession into an unauthorised assembly; and (4) RI was applied to s 3(1)(b) of the PFCR such that the facial covering prohibition would not apply to mere passers-by present at the scene of an unauthorised assembly.</p>
29 October 2020	<p>Dr Anna Dziedzic, Associate Director of CCPL, co-authored an article “Amnesty for Street Protesters” in <i>Hong Kong Law Journal</i>.</p> <p>In the summer of 2019, protesters took to the streets of Hong Kong. After thousands of arrests for protest-related offences, amnesty for street protesters was proposed but not adopted, primarily on the ground that amnesty would undermine the rule of law. Drawing on comparative experiences and theoretical analysis, this article sets out four value-based rationales for protest amnesty — rule of law, democratic responsiveness, virtue and political trust — and considers the relevance of each in the current context of Hong Kong. In doing so, this article focuses on the distinctive and overlooked context of street protest in the literature on amnesties.</p>
29 October 2020	<p>Prof Albert Chen, member of CCPL Board of Management and CCPL Fellow, published an article “Constitutional Controversies in the Aftermath of the Anti-Extradition Movement of 2019” in <i>Hong Kong Law Journal</i>.</p> <p>The aftermath of the anti-extradition movement of 2019 saw three great constitutional controversies fuelled by conflicting interpretations of the Basic Law. Collectively, they may be regarded as constituting the greatest shock experienced by the constitutional framework of “One Country, Two Systems” since this political and legal experiment began in 1997. It is the purpose of this article to document and analyse these three constitutional controversies.</p>
10 November 2020	<p>Dr Anna Dziedzic, Associate Director of CCPL, published a chapter “Micronesia (Federated States of Micronesia): Uniting a Federal Archipelago” in <i>The Forum of Federations Handbook of Federal Countries 2020</i> (Palgrave Macmillan, 2020).</p> <p>The Federated States of Micronesia (FSM) comprises 607 islands spread across a large ocean area in the western Pacific Ocean. The federation was established in 1978 when four districts of the Trust Territory of the Pacific Islands, administered by the United States,</p>

	<p>came together. In 1986, the independent state of FSM entered into a Compact of Free Association with the United States, an arrangement that, in its current form, will continue till 2023. FSM's federal system contains several innovative features tailored to its history, the culture and traditions of its Indigenous peoples; its island archipelago geography; and its position as a small island developing state. This chapter describes the history and development of the FSM, the legal and institutional features of federalism, and recent political dynamics, including calls for greater decentralization and secession.</p>
13 November 2020	<p>Ms Amanda Whitfort, CCPL Fellow, published a new report "A Comparative Evaluation of Hong Kong's Legislative Powers to Regulate Trade in Endangered Wild Animals".</p> <p>This review sets out the findings of a two-year study into the effectiveness of Hong Kong's controls on trade in endangered and threatened species of animals led by Associate Professor Amanda Whitfort of the Faculty of Law, The University of Hong Kong and Dr Fiona Woodhouse, Deputy Director (Welfare) of the Society for the Prevention of Cruelty to Animals (HK). The review was supported by GRF Grant No 17655316 provided by the University Grants Committee of Hong Kong.</p>
31 December 2020	<p>Prof Simon Young, member of CCPL Board of Management and CCPL Fellow, and Ms Amanda Whitfort, CCPL Fellow, served as the General Editor and Contributing Editor respectively for a new book, <i>Archbold Hong Kong 2021</i>.</p>
7 January 2021	<p>Dr Anna Dziedzic, Associate Director of CCPL, published an article "Foreign Judges and Hong Kong's New National Security Law" in <i>Commonwealth Judicial Journal</i>.</p> <p>Foreign judges have had a longstanding role on Hong Kong's Court of Final Appeal. In 2020, this tradition faced significant challenges as the People's Republic of China enacted a new National Security Law for Hong Kong. This article examines the implications of the new law for the foreign judges on Hong Kong's Court of Final Appeal. It tracks the debates about the potential exclusion of foreign judges from hearing national security cases and the difficult question of judicial resignations. The article explains how these issues take on greater significance because of the distinctive rationale for the use of foreign judges in Hong Kong, where foreign judges are understood to signify the distinctiveness of Hong Kong's legal system as well as its quality.</p>

22 January 2021

Dr Benjamin Chen, member of CCPL Board of Management and CCPL Fellow, published an article “How Will Technology Change The Face of Chinese Justice?” in *Columbia Journal of Asian Law*.

The People’s Republic of China is embarking on an ambitious program to revolutionize its judicial institutions through information technology. Millions of cases have been published online as part of a move towards greater transparency. Courts are piloting artificial intelligence systems that promise to streamline adjudicatory processes and expand access to justice. Although other jurisdictions have employed statistical and computational methods to improve judicial decision-making, few have sought to exploit technology to the same degree. A way of understanding this exceptionalism is to view the integration of technology into law as a microcosm of China’s ambitions to emerge as a global artificial intelligence powerhouse and thereby establish itself in the first rank of nations.

Seen from a different perspective, however, the technologization of the legal system responds to certain oppositions in Chinese justice. First, courts today are straining under the burden of their caseloads. The contemporary turn towards legality has swelled the number of lawsuits while the professionalization of the judicial corps also culled its ranks. Artificial intelligence enhances the speed and consistency of adjudication while online disclosure cultivates public trust in the courts. Second, adherence to legal rules and forms restored normality to a society upended by revolutionary struggle but its inflexibility also fomented dissatisfaction and disrupts relationships. The ensuing governmental imperative for judges to mediate disputes has resulted in coerced settlements and delayed verdicts. Machine predictions of case outcomes, supplied by courts, guide parties to bargain in the shadow of the law, thereby preserving the voluntariness of peace and the sanctity of justice. Third, while the party-state encourages citizens to know the law and use it as their weapon, civil society and activist lawyers may rally behind a legal cause to challenge the ideological hegemony of the party-state. By helping citizens learn the law and claim their rights, databases and applications foster legal consciousness while disintermediating lawyers.

Technological initiatives for administering justice simply, swiftly, and singly have thus blossomed in China because they relieve some of the tensions in its legal system. An original survey of roughly a thousand netizens and interviews of over a hundred legal aid seekers suggest that internet and artificial intelligence technologies have the potential to realize and refine a Chinese brand of authoritarian legality. But there is also a larger insight here that transcends jurisdictional boundaries and legal cultures. Obverse to the democratization of law is the marginalization of the legal profession. The advent of technology thus surfaces a tension between two dimensions of legality. The first dimension sees law as the disciplining of human conduct through rules. The second dimension, on the other hand,

	conceives of law as a dynamic force that, by responding to reason, has the potential to reshape the normative status quo. To the extent that lawyers are integral to the vitality of the legal order, innovations that displace them may also undermine one conception of the rule of law.
27 February 2021	<p>Dr Shahla F. Ali, CCPL Fellow, published a chapter “Cultural Issues in International Arbitration” in <i>International Arbitration Practice: 21st Century Perspectives</i> (LexisNexis, 2020).</p> <p>This paper addresses the theme of cultural convergence and divergence in international arbitration practice. Applying theoretical insights to unique arbitral practices in Hong Kong and Mainland China, the chapter draws on the authors survey and field work in the region. Examining both the convergence and divergence of approaches to arbitration in diverse settings provides an avenue to understanding the impact of globalization on the international practice of law.</p>
15 March 2021	<p>Dr Shahla F. Ali, CCPL Fellow, co-edited a book titled <i>New Frontiers in Asia-Pacific International Arbitration and Dispute Resolution</i> (Wolters Kluwer, 2020).</p> <p>An invaluable book that challenges the existing procedures and frameworks for cross-border dispute resolution in commercial and treaty arbitration. The eastward shift in international dispute resolution has already involved initiatives not only to improve support for international commercial arbitration (ICA) and investor-state dispute settlement (ISDS) but also to develop alternatives, such as international commercial courts and mediation. This remarkable book focuses on these initiatives and their accompanying case law and trends in the Asia-Pacific region.</p>
17 March 2021	<p>Dr James Fry, CCPL Fellow, and Saroj Nair published “Deconstructing Dud Disarmament Disputes” in <i>Journal of Conflict and Security Law</i>. This article explores the limits of judicial settlement of nuclear-weapon disputes through a case study of the Marshall Islands’ cases against India, Pakistan and the UK before the International Court of Justice in 2016. It posits that judicial settlement is limited mainly by the quality of the arguments and evidence submitted by the disputants, not by any limitations inherent in judicial settlement with such politically sensitive disputes. The lawyers in the Marshall Islands’ cases should have taken greater care in crafting their arguments and in tying them explicitly to Article VI of the Nuclear Non-Proliferation Treaty and its customary equivalent.</p>

18 March 2021	<p>Prof Albert Chen, member of CCPL Board of Management and CCPL Fellow, published a new book titled <i>The Changing Legal Orders In Hong Kong and Mainland China: Essays on “One Country, Two Systems”</i> (CityU Press, 2021).</p> <p>This collection of selected works by Professor Albert H.Y. Chen shows the contours of the author’s scholarship as it developed over 35 years of his academic career, from 1984 to the present. The essays are divided into three sections which cover the three major domains of Professor Chen’s research. Part I covers the legal developments and controversies of “One Country, Two Systems” since the Hong Kong interpretation on “the right of abode” in 1999 to the anti-extradition movement of 2019. Part II shifts to focus on tradition and modernity in Chinese Law, including China’s Confucian and Legalist traditions and how the socialist legal system in China evolved and modernized in the era of “reform and opening”. Part III examines the transplantation of Western thinking and constitutionalism to East Asia in modern times and discusses the achievements and failures of these efforts. In conjunction with an introductory chapter that sets out the basic orientation and paradigm of these legal and constitutional studies and an epilogue that reflects on the main themes, this collection exemplifies the author’s important contributions to the field and provides insight into how the legal orders in Hong Kong and mainland China have changed over the course of Professor Chen’s academic career.</p>
25 March 2021	<p>Dr Haochen Sun, Fellow of CCPL, co-edited a book titled <i>The Cambridge Handbook of Copyright Limitations and Exceptions</i> (CUP, 2021).</p> <p>While copyright law is ordinarily thought to consist primarily of exclusive rights, the regime’s various exemptions and immunities from liability for copyright infringement form an integral part of its functioning, and serve to balance copyright’s grant of a private benefit to authors/creators with the broader public interest. With contributors from all over the world, this handbook offers a systematic, thorough study of copyright limitations and exceptions adopted in major jurisdictions, including the United States, the European Union, and China. In addition to providing justifications for these limitations, the chapters compare differences and similarities that exist in major jurisdictions and offer suggestions about how to improve the enforcement of copyright limitations domestically and globally. This work should appeal to scholars, policymakers, attorneys, teachers, judges, and students with an interest in the theories, policies, and doctrines of copyright law.</p> <p>HKU Law colleagues contribute to Chapters 14 (“Creating a Public Interest Principle for the Adjudication of Fair Use and Fair Dealing Cases” by Haochen Sun) and 19 (“From Fair Dealing to User-</p>

	Generated Content: Legal La La Land in Hong Kong” by Alice Lee and Brendan Clift).
15 April 2021	<p>Ms Cora Chan, member of CCPL Board of Management and CCPL Fellow, published an article “Can Hong Kong Remain a Liberal Enclave within China? Analysis of the Hong Kong National Security Law” in <i>Public Law</i>.</p> <p>In 2020, the Chinese government enacted a national security law (NSL) for Hong Kong that has raised doubts over the extent to which Hong Kong can retain its liberal status. The guarantee of that status is a core part of the “one country, two systems” policy stipulated in the Sino-British Joint Declaration and elaborated upon in Hong Kong’s post-handover constitutional document, the Basic Law. This article examines the key provisions of the NSL, assesses its likely impact on the institutional and legal frameworks protecting Hong Kong’s autonomy and freedoms, and explores what principles the Hong Kong courts—which are common law courts that follow the liberal rule of law tradition—should adopt in adjudicating the NSL, which is a product of China’s socialist legal system. It argues that although the NSL undoubtedly weakens the ability of the Basic Law to function as a legal framework for protecting rights and the ability of Hong Kong institutions to check rights encroachments, if the courts properly construe the law, a natural consequence will be that its constricting effects on Hong Kong’s autonomy and freedoms can be moderated. Whether Hong Kong’s liberal constitutionalist character can be maintained in the NSL era therefore depends, inter alia, on how ready its courts are to apply the legal principles mandated by their constitutional role and how Beijing responds.</p>
3 May 2021	<p>Dr Benjamin Chen, member of CCPL Board of Management and CCPL Fellow, published an article “Judicial Legitimation in China” in <i>Cornell International Law Journal</i>.</p> <p>China’s judiciary is becoming increasingly professionalized, and its courts are enjoying a degree of autonomy they have not enjoyed since the Revolution. By promulgating abstract interpretations of the code and through the selective publication of cases, Chinese judicial institutions today function as policymaking bodies on both national and local scales. But are they able to legitimize social policy? This question has received little attention from legal scholars, but its answer is important for our understanding of the judicial role in the governance of modern China.</p> <p>The author fields a survey experiment that seeks to measure the persuasiveness of courts vis-à-vis administrative and non-regulatory actors. He finds that courts are sometimes able to induce support for</p>

	<p>the policies they endorse. He also finds, however, that this ability is not unique to courts and is at least equaled by administrative bodies. Our results have profound implications for the future of judicialization in China. They illuminate the potential of litigation as a tool for fostering social change. But they also explain why the regime does not rely on judicial institutions to convince the public of the rightness of government policy: other governmental entities are as persuasive as courts, if not more so. More broadly, the empirical findings presented here suggest that while the Chinese party-state might find it advantageous to operate through law, it does not necessarily have to govern through courts.</p>
8 May 2021	<p>Dr Benjamin Chen, member of CCPL Board of Management and CCPL Fellow, published an article “The Expressiveness of Regulatory Trade-Offs” in <i>Georgia Law Review</i>.</p> <p>Trade-offs between a sacred value—like human life—against a secular one—like money—are considered taboo. People are supposed to be offended by such trade-offs and to punish those who contemplate them. Yet the last decades in the United States have witnessed the rise of the cost-benefit state. Most major rules promulgated today undergo a regulatory impact analysis, and agencies monetize risks as grave as those to human life and values as abstract as human dignity. Prominent academics and lawmakers advocate the weighing of costs and benefits as an element of rational regulation. The cost-benefit revolution is a technocratic coup, however, if citizens view regulatory trade-offs as a symbolic denial of the values they hold dear.</p> <p>This article details three experiments that evaluate responses to a cost-benefit justification for regulatory policy. Across a range of conditions, the experiments revealed no evidence of diffuse hostility toward a consequentialist approach to saving lives. The final experiment found, however, that informing participants that they were expected to vindicate the sanctity of life resulted in them doing so. This result demonstrates the malleability of norms and expectations surrounding regulatory trade-offs.</p> <p>Taken together, the experiments suggest that people normally do not perceive regulatory trade-offs as symbolic affronts that call for an expressive defense of the value of life. While these results do not conclusively establish the normative desirability of the cost-benefit paradigm, they do suggest the absence of any broad opposition to consequentialism in public life. These findings have implications for the democratic legitimacy of the administrative state and its institutional design. They also bear on the relationship between tort and regulation as mechanisms for risk control. Insofar as tort judgments are expressive and regulatory decisions are not, regulation that preempts the common law of torts might help temper the tangible costs of symbolism.</p>

11 May 2021

Dr Benjamin Chen, member of CCPL Board of Management and CCPL Fellow, published an article “Having Your Day in Robot Court” – *Public Law Research Paper No. 21-20 of UCLA School of Law*.

Should machines be judges? Some balk at this possibility, holding that ordinary citizens would see a robot-led legal proceeding as procedurally unfair: To have your “day in court” is to have a human hear and adjudicate your claims. Two original experiments assess whether laypeople share this intuition. We discover that laypeople do, in fact, see human judges as fairer than artificially intelligent (“AI”) robot judges: All else equal, there is a perceived human-AI “fairness gap.” However, it is also possible to eliminate the fairness gap. The perceived advantage of human judges over AI judges is related to perceptions of accuracy and comprehensiveness of the decision, rather than “softer” and more distinctively human factors. Moreover, the study reveals that laypeople are amenable to “algorithm offsetting.” Adding an AI hearing and increasing the AI interpretability reduces the perceived human-AI fairness gap. Ultimately, the results support a common challenge to robot judges: there is a concerning human-AI fairness gap. Yet, the results also indicate that the strongest version of this challenge — human judges have inimitable procedural fairness advantages — is not reflected in the views of laypeople. In some circumstances, people see a day in robot court as no less fair than day in human court.

Media Presence

Scholars associated with the Centre were widely cited in local and regional media outlets during the reporting period. Examples of these interviews and coverage include:

Albert Chen

- “Liability for Imposing Sanctions under Hong Kong’s National Security Law”, HKU Legal Scholarship Blog, 31 July 2020, at <http://researchblog.law.hku.hk/2020/07/liability-for-imposing-sanctions-under.html>

Amanda Whitfort

- “Hong Kong’s leading role in the global extinction crisis, as hub of illegal wildlife trade, and the legal amendment that could change that”, South China Morning Post, 23 April 2021, at <https://www.scmp.com/lifestyle/article/3130438/hong-kongs-leading-role-global-extinction-crisis-hub-illegal-wildlife>
- “How the Illegal Trade in Endangered Wild Animals could be Curbed by a Law Change in Hong Kong”, South China Morning Post, 13 November 2020, at <https://www.scmp.com/lifestyle/article/3109378/how-illegal-trade-endangered-wild-animals-could-be-curbed-law-change-hong>
- “Quat mulls bill to aid fight against wildlife crime”, RTHK, 2 November 2020, at <https://news.rthk.hk/rthk/en/component/k2/1557951-20201102.htm>
- “Giving wildlife a voice in Hong Kong’s courts: Law professor Amanda Whitfort has introduced ‘victim impact statements’ for trafficked species to push for tougher prosecution of wildlife crimes”, China Dialogue, 17 July 2020, at <https://chinadialogue.net/en/nature/giving-wildlife-a-voice-in-hong-kongs-courts/>

David Law

- “US Election Special III: Election Results Update, Chinese Americans’ Voters and Discussion”, The Pulse, RTHK, 2 July 2021, at <https://podcast.rthk.hk/podcast/item.php?pid=205>
- “What really is separation of powers?”, CitizenNews, 7 September 2020, at <https://www.hkcnews.com/article/33645/david-law-separation-of-powers-%E5%8A%89%E5%B2%B1%E5%81%89-33645/what-really-is-separation-of-powers>

Fu Hualing

- “A Note on the Basic Law and the National Security Law”, HKU Legal Scholarship Blog, 12 August 2020, at <http://researchblog.law.hku.hk/2020/08/hualing-fu-on-relationship-between-hong.html>

Haochen Sun

- “Facebook, Twitter, Google Face Free-Speech Test in Hong Kong: New national-security law means authorities can ask companies to delete users or their content”, Wall Street Journal, 3 July 2020, at https://www.wsj.com/articles/facebook-twitter-google-face-free-speech-test-in-hong-kong-11593790205?mod=business_lead_pos3

Po Jen Yap

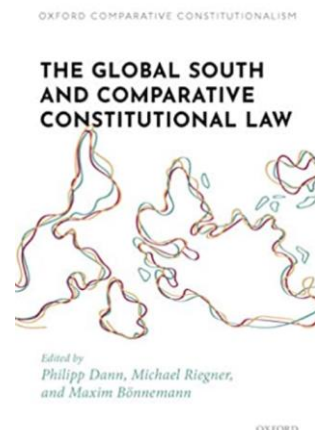
- “Proportionality in Asia (Cambridge University Press 2020), Edited by Po Jen Yap”, British Association of Comparative Law, 11 December 2020, at <https://british-association-comparative-law.org/2020/12/11/proportionality-in-asia-cambridge-university-press-2020-edited-by-po-jen-yap/>

Simon Young

- “Political System Transformation in Hong Kong”, Verfassungsblog, 13 April 2021, at <https://verfassungsblog.de/political-system-transformation-in-hong-kong/>
- “Hong Kong’s Highest Court Reviews the National Security Law—Carefully”, Lawfare, 4 March 2021, at <https://www.lawfareblog.com/hong-kongs-highest-court-reviews-national-security-law-carefully>
- “Hong Kong protests: show arrested youth some mercy, to begin the healing process in society”, South China Morning Post, 2 December 2020, at <https://www.scmp.com/comment/opinion/article/3112050/hong-kong-protests-show-arrested-youth-some-mercy-begin-healing>
- “Liability for Imposing Sanctions under Hong Kong’s National Security Law”, HKU Legal Scholarship Blog, 31 July 2020, at <http://researchblog.law.hku.hk/2020/07/liability-for-imposing-sanctions-under.html>
- “Why Beijing must respect Hong Kong courts’ interpretation of national security law”, South China Morning Post, 8 July 2020, at <https://www.scmp.com/comment/opinion/article/3092022/why-beijing-must-respect-hong-kong-courts-interpretation-national>

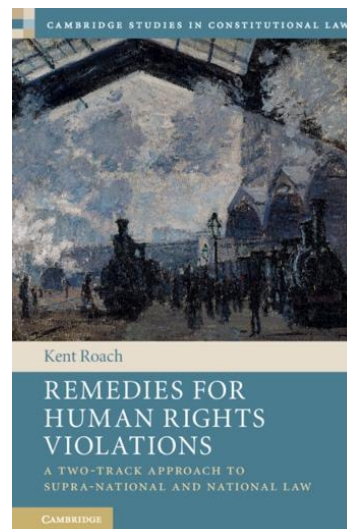
Upcoming Events**2 September 2021****Zoom Webinar Book Talk – The Global South and Comparative Constitutional Law (OUP, 2021)**Editors*Prof Philipp Dann**Professor of Public and Comparative Law
Humboldt-Universität zu Berlin**Dr Michael Riegner**Postdoctoral Researcher**Humboldt-Universität zu Berlin**Mr Maxim Bönnemann**Researcher**Humboldt-Universität zu Berlin*

This volume makes a timely intervention into a field which is marked by a shift from unipolar to multipolar order and a pluralization of constitutional law. It addresses the theoretical and epistemic foundations of Southern constitutionalism and discusses its distinctive themes, such as transformative constitutionalism, inequality, access to justice, and authoritarian legality. This title has three goals. First, to pluralize the conversation around constitutional law. While most scholarship focuses on liberal forms of Western constitutions, this book attempts to take comparative law's promise to cover all major legal systems of the world seriously; second, to reflect critically on the epistemic framework and the distribution of epistemic powers in the scholarly community of comparative constitutional law; third, to reflect on - and where necessary, test - the notion of the Global South in comparative constitutional law. This book breaks down the theories, themes, and global picture of comparative constitutionalism in the Global South. What emerges is a rich tapestry of constitutional experiences that pluralizes comparative constitutional law as both a discipline and a field of knowledge.



16 September 2021**Zoom Webinar Book Talk – Remedies for Human Rights Violations (CUP, 2021)**Author*Prof Kent Roach**Professor of Law**University of Toronto*

An innovative book that provides fresh insights into the neglected field of remedies in both international and domestic human rights law. Providing an overarching two-track theory, it combines remedies to compensate and prevent irreparable harm to litigants with a more dialogic approach to systemic remedies. It breaks new ground by demonstrating how proportionality principles can improve remedial decision-making and avoid reliance on either strong discretion or inflexible rules. It draws on the latest jurisprudence from the European and Inter-American Courts of Human Rights and domestic courts in Australia, Canada, India, New Zealand, Hong Kong, South Africa, the United Kingdom and the United States. Separate chapters are devoted to interim remedies, remedies for laws that violate human rights, damages, remedies in the criminal process, declarations and injunctions in institutional cases, remedies for violations of social and economic rights and remedies for violations of Indigenous rights.



23 September 2021**Zoom Webinar – Empirical and Computational Research in UK Public Law (presented by CCPL in partnership with the Society of Legal Scholars)**Speakers*Dr Mikolaj Barczentewicz**Senior Lecturer in Public Law and Legal Theory**University of Surrey*

- “Answering Legal Questions with AI: State of the Art and Future Research in UK Law”

*Dr Rachel Cahill-O'Callaghan**Reader in Law**Cardiff University*

- “Disappearing Dissents: Concerns about Consensus”

*Dr Alex Schwartz**Associate Professor**and CCPL Deputy Director**Faculty of Law, HKU*

- “The Changing Concepts of the Constitution”

*Mr Lewis Graham**Research Fellow in Constitutional Law, Public Law Project**University of Cambridge*

- “Does the UK Supreme Court care about underdogs?”

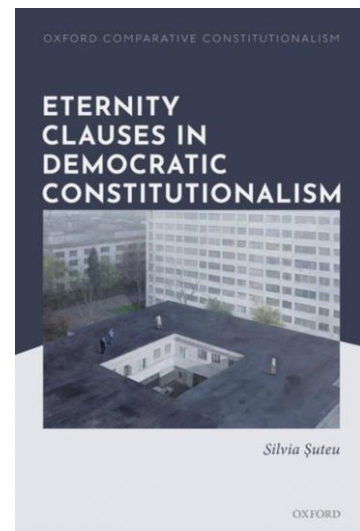
Chairs*Dr Brian Christopher Jones**Lecturer in Law**University of Sheffield**Dr Eloise Ellis**Senior Lecturer in Law**University of East Anglia*

This webinar showcases new empirical and computational approaches to the study of UK public law. The panellists will discuss the use of AI to predict court decisions, the use of psychometrics to study dissenting judicial opinions, machine learning methods for modelling semantic change in constitutional discourse, and statistical analysis for estimating ideological tendencies in judicial decisions.

13 October 2021**Zoom Webinar Book Talk – Eternity Clauses in Democratic Constitutionalism (OUP, 2021)**Author*Dr Silvia Suteu**Lecturer in Public Law**University College London*

This book analyses unamendability in democratic constitutionalism and engages critically and systematically with its perils, offering a much-needed corrective to existing understandings of this phenomenon. Whether formalized in the constitutional text or developed as part of judicial doctrines of implicit unamendability, eternity clauses raise fundamental questions about the core democratic commitments underpinning any given constitution.

The book takes seriously the democratic challenge eternity clauses pose and argues that this goes beyond the old tension between constitutionalism and democracy. Instead, eternity clauses reveal themselves to be a far more ambivalent constitutional mechanism, one with greater and more insidious potential for abuse than has been recognized. The 'dark side' of unamendability includes its propensity to insulate majoritarian, exclusionary, and internally incoherent values, as well as its sometimes purely pragmatic role in elite bargaining. The book adopts a contextual approach and brings to the fore a variety of case studies from non-traditional jurisdictions. These insights from the periphery illuminate the prospects of unamendability fulfilling its intended aims - protecting constitutional democracy foremost among them. With its promise most appealing in transitional, post-conflict, and fragile democracies, unamendability reveals itself, counterintuitively, to be both less potent and potentially more dangerous in precisely these contexts.

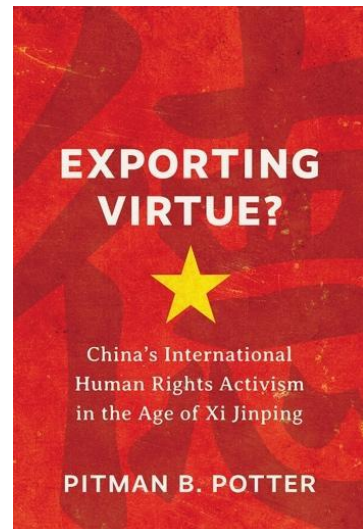


28 October 2021**Zoom Webinar Book Talk – Exporting Virtue? China’s International Human Rights Activism in the Age of Xi Jinping (UBC Press, 2021)**Author*Prof Pitman B. Potter**Professor of Law Emeritus**Peter A. Allard School of Law**University of British Columbia*

Under the leadership of President Xi Jinping, China has attempted to change international human rights values to accommodate its own interests, causing increasing friction with international standards of law and governance.

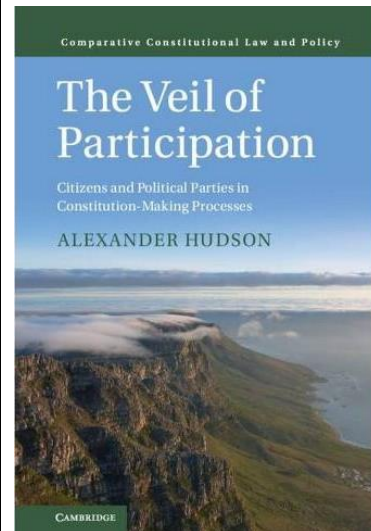
Exporting Virtue? examines human rights as an example of China’s international assertiveness and considers the implications of internationalizing PRC human rights policy and practice. Pitman B. Potter suggests that in the absence of clear and enforceable global human rights standards, China uses its international influence to promote its human rights policies on global governance, freedom of expression, trade and investment policy, and labour and environmental regulation. The PRC’s efforts to export its human rights principles and standards exemplify the rise of authoritarian governance models internationally. Couched in terms of virtue but manifested as authoritarianism, China’s international human rights activism invites scholars and policy makers around the world to engage critically with the issue.

Drawing on both Chinese – and English-language sources, *Exporting Virtue?* investigates the challenges that China’s human rights orthodoxy poses to international norms and institutions, offering normative and institutional analysis and providing suggestions for policy response.



16 November 2021**Zoom Webinar Book Talk – The Veil of Participation (CUP, 2021)**Author*Dr Alexander Hudson**Democracy Assessment Specialist**International IDEA - Institute for Democracy and Electoral Assistance*

Public participation is a vital part of constitution-making processes around the world, but we know very little about the extent to which participation affects constitutional texts. In this book, Alexander Hudson offers a systematic measurement of the impact of public participation in three much-cited cases - Brazil, South Africa, and Iceland - and introduces a theory of party-mediated public participation. He argues that public participation has limited potential to affect the constitutional text but that the effectiveness of participation varies with the political context. Party strength is the key factor, as strong political parties are unlikely to incorporate public input, while weaker parties are comparatively more responsive to public input. This party-mediation thesis fundamentally challenges the contemporary consensus on the design of constitution-making processes and places new emphasis on the role of political parties.



APPENDIX I

Projects housed within CCPL (July 2020 – June 2021)

Title of Project	Investigator(s)
Constitutional governance in "Greater China" and the Unfinished Project of Chinese Constitutionalism	Albert Chen
Global Academic Fellows Research Fund	Anna Dziedzic
Clinical Legal Education: Community Legal Empowerment	Lindsay Ernst
Stronger Together: Establishing Professional Practices that Encourage and Support Sustainable, Strategic, International and Collaborative Interdisciplinary Partnerships	Lindsay Ernst
Internationalization at Home through Experiential Education: Creating Global Citizens by Pursuing Access to Justice for Migrant Workers in Hong Kong	Lindsay Ernst
Street Law - Human Rights Community Education	Lindsay Ernst
Outstanding Teaching Award (Team Award)	Lindsay Ernst
Child Impact Assessment in Hong Kong: Opportunities and Entry Points	Puja Kapai
Gender Initiatives for WSR Works	Puja Kapai
Start-up for HKU Global Strategic Partnership Fund	Puja Kapai
International Human Rights Law and Refugee Protection in Asian States not Party to the 1951 Convention Relating to the Status of Refugees	Kelley Loper
Court Curbing: Elites and Judicial Power in the Age of Populism	Alex Schwartz
Courts and Democracies in Asia	Po Jen Yap
An Empirical Study of Money Laundering Offering in Hong Kong	Simon Young
INTERPOL-HKU eEvidence Study and Training Project	Simon Young
Research Matching Grant - Student Research Assistants	Simon Young
Asia-Pacific Journal on Human Rights and the Law	Simon Young and Kelley Loper

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