



HKU CCPL TALK

Supreme Courts in the Age of Acute Political Polarization

24 October 2022 (Monday) 18:00-19:30 (HK Time)

Academic Conference Room, 11/F, Cheng Yu Tung Tower, HKU

This article describes how the rise of political polarization around the world destabilized the political legitimacy basis of apex courts in three main legal systems: The Westminster countries model (the professional basis), the U.S. (the pluralistic basis), and Continental Europe's constitutional courts (the organic basis). We argue that there are two main strategies for regaining court legitimacy once polarization has unsettled its political legitimacy basis: depoliticization and balancing a political court. The first, depoliticization, includes attempts at dissociating the court from politics as much as possible. The second, balancing, does not attempt to depoliticize the court but only to balance it politically, so that it would not lose legitimacy as politically partisan biased or as politically unrepresentative. We conclude with some initial observations regarding the relative merits of the different strategies, taking into consideration contextual and comparative parameters.

SPEAKERS:



Professor Moshe Cohen-Eliya

College of Law and Business, Israel; Cheng Yu Tung Visiting Professor of Law, HKU

Moshe Cohen-Eliya is a full professor of constitutional law at and the former President (2015-2022) of the College of Law and Business (CLB), Israel. He is a council member of the International Society of Public Law (ICON-S), the founder of the Israeli chapter of ICON-S, and the founding editor-in-chief of the law journal Law and Ethics of Human Rights. He is an expert in comparative constitutional law. His publications include "Proportionality and Constitutional Culture" (CUP, 2013, with Iddo Porat) and articles in the American Journal of Comparative Law, International Journal of Constitutional Law, and University of Toronto Law Journal.



Professor Iddo Porat

College of Law and Business, Israel

Iddo Porat is an associate professor of constitutional law at the College of Law and Business, Israel. He is an expert in constitutional law and legal theory. His publications include "Proportionality and Constitutional Culture" (CUP, 2013, with Moshe Cohen-Eliya), "Towering Judges: A Comparative Study of Constitutional Judges" (CUP, 2021, co-edited with Rehan Abeyratne), and articles in the American Journal of Comparative Law, Cardozo Law Review, International Journal of Constitutional Law and Oxford Journal of Legal Studies.

CHAIR:

Cora Chan

Associate Professor of Law, HKU



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