ANNUAL REPORT

July 2022 - June 2023
<table>
<thead>
<tr>
<th>Table of Contents</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>About CCPL</td>
<td>3</td>
</tr>
<tr>
<td>Board of Management</td>
<td>4</td>
</tr>
<tr>
<td>International Advisory Board</td>
<td>5</td>
</tr>
<tr>
<td>Staff</td>
<td>7</td>
</tr>
<tr>
<td>Fellows</td>
<td>9</td>
</tr>
<tr>
<td>Young Researchers, Senior Research Assistants and Research Assistants</td>
<td>10</td>
</tr>
<tr>
<td>Report Overview</td>
<td>11</td>
</tr>
<tr>
<td>Academic Conferences and Seminars</td>
<td>12</td>
</tr>
<tr>
<td>Publications</td>
<td>30</td>
</tr>
<tr>
<td>APPENDIX I</td>
<td>54</td>
</tr>
</tbody>
</table>
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.
<table>
<thead>
<tr>
<th>Board of Management</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Po Jen Yap</strong></td>
</tr>
<tr>
<td>Director of CCPL</td>
</tr>
<tr>
<td>Professor</td>
</tr>
<tr>
<td>Faculty of Law</td>
</tr>
<tr>
<td>The University of Hong Kong</td>
</tr>
</tbody>
</table>

| **Ying Xia**         |
| 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 |

| **Cora Chan**        |
| Associate Professor  |
| Faculty of Law       |
| The University of Hong Kong |

| **Alber Chen**       |
| Cheng Chan Lan Yue Professor and |
| Chair of Constitutional Law      |
| Faculty of Law                |
| The University of Hong Kong   |

| **Benjamin Chen**    |
| Associate Professor  |
| Faculty of Law       |
| The University of Hong Kong |

| **Hualing Fu**       |
| Warren Chan Professor in Human Rights and Responsibilities |
| Dean of the Faculty of Law       |
| The University of Hong Kong   |

| **Anna Wu**          |
| Honorary Professor   |
| Faculty of Law       |
| The University of Hong Kong |

| **Julius Yam**       |
| Assistant Professor  |
| Faculty of Law       |
| The University of Hong Kong |

| **Simon NM Young**   |
| Professor and Associate Dean (Research) |
| Faculty of Law       |
| The University of Hong Kong |

| **Han Zhu**          |
| Research Assistant Professor |
| Faculty of Law |
| The University of Hong Kong |
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 Estudios 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: 
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**

**Professor 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.

**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.

**Phoenix To** 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.

**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.
Bu Chong is a Student Research Officer for CCPL. She obtained a LLM degree in public law from LSE after she completed her LLB degree at China University of Political Science and Law. She also studied law at the University of Helsinki as a state-sponsored visiting student. Prior to her PhD study at HKU, she practiced law in the field of government and public affairs. Her research interests lie in public law, human rights law, and comparative constitutional law, especially in non-liberal constitutionalism.
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:

<table>
<thead>
<tr>
<th>Fellows</th>
<th>Title</th>
<th>Faculty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shahla Ali</td>
<td>Professor</td>
<td>Faculty of Law, HKU</td>
</tr>
<tr>
<td>Cora Chan</td>
<td>Associate Professor</td>
<td>Faculty of Law, HKU</td>
</tr>
<tr>
<td>Albert Chen</td>
<td>Cheng Chan Lan Yue Professor and</td>
<td>Faculty of Law, HKU</td>
</tr>
<tr>
<td></td>
<td>Chair of Constitutional Law</td>
<td></td>
</tr>
<tr>
<td>Benjamin Chen</td>
<td>Associate Professor</td>
<td>Faculty of Law, HKU</td>
</tr>
<tr>
<td>James Fry</td>
<td>Associate Professor</td>
<td>Faculty of Law, HKU</td>
</tr>
<tr>
<td>Hualing Fu</td>
<td>Dean &amp; Warren Chan Professor in</td>
<td>Faculty of Law, HKU</td>
</tr>
<tr>
<td></td>
<td>Human Rights and Responsibilities</td>
<td></td>
</tr>
<tr>
<td>Karen Kong</td>
<td>Principal Lecturer</td>
<td>Faculty of Law, HKU</td>
</tr>
<tr>
<td>Kelley Loper</td>
<td>Associate Professor</td>
<td>Faculty of Law, HKU</td>
</tr>
<tr>
<td>Vandana Rajwani</td>
<td>Principal Lecturer</td>
<td>Faculty of Law, HKU</td>
</tr>
<tr>
<td>Haochen Sun</td>
<td>Professor</td>
<td>Faculty of Law, HKU</td>
</tr>
<tr>
<td>Marcelo Thompson</td>
<td>Assistant Professor</td>
<td>Faculty of Law, HKU</td>
</tr>
<tr>
<td>Amanda Whitfort</td>
<td>Associate Professor</td>
<td>Faculty of Law, HKU</td>
</tr>
</tbody>
</table>
Young Researchers, Senior Research Assistants and Research Assistants

(in alphabetical order)

Abdullah Bin Azhar
Bu Chong
Chan Jing Lin Stephanie
Chen Xingshi Marieta
Koo Nga Leong John
Leung Lok Hin Raphael
Leung Pui Ching Janis
Liang Ziying
Liu Ju Tony
Siu Yau King Diana
Wan Tsz Wah Trevor

For more information on the projects which they assisted with, see Appendix I.
This report covers the period from **1 July 2022 to 30 June 2023**. 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 14 academic events**. These events provided a platform for leading scholars on public law and practitioners alike to introduce and discuss their latest ideas with a wide audience. All of these events are available for public viewing on CCPL’s YouTube channel: [https://www.youtube.com/channel/UC26kPkyprcR5r8JGrNlt2sQ](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 **8 research projects** funded by internal and external competitive grant schemes. 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

### 28th July 2022

**Zoom Webinar Book Talk: Decoupling: Gender Injustice in China’s Divorce Courts (CUP, 2022) with the author – Ethan Michelson**

<table>
<thead>
<tr>
<th>Author</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prof Ethan Michelson</td>
</tr>
<tr>
<td>Professor of Sociology</td>
</tr>
<tr>
<td>Indiana University Bloomington</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Discussants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dr Sida Liu</td>
</tr>
<tr>
<td>Associate Professor of Sociology</td>
</tr>
<tr>
<td>University of Toronto</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dr Qian Liu</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Professor of Sociology</td>
</tr>
<tr>
<td>University of Calgary</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chair</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dr Ying Xia</td>
</tr>
<tr>
<td>Assistant Professor</td>
</tr>
<tr>
<td>Faculty of Law, HKU</td>
</tr>
</tbody>
</table>

Ethan Michelson's book analyzes almost 150,000 divorce trials in China and reveals routine and egregious violations of China's own laws upholding the freedom of divorce, gender equality, and the protection of women's physical security. Using 'big data' computational techniques to scrutinize...
cases covering 2009–2016 from all 252 basic-level courts in two Chinese provinces, Henan and Zhejiang, Michelson reveals that women have borne the brunt of a dramatic intensification since the mid-2000s of a decades-long practice of denying divorce requests. This book takes the reader upstream to the institutional sources of China’s clampdown on divorce and downstream to its devastating and highly gendered human toll, showing how judges in an overburdened court system clear their oppressive dockets at the expense of women’s lawful rights and interests.

6th September 2022

Zoom Webinar Book Talk: Opposing Power: Building Opposition Alliances in Electoral Autocracies (University of Michigan Press, 2022) with the author – Elvin Ong

Author
Dr Elvin Ong
Assistant Professor of Political Science
National University of Singapore

Commentator
Dr Jean Hong
Associate Professor of Political Science
University of Michigan

Chair
Prof Po Jen Yap
**Professor and Director of CCPL**  
Faculty of Law, HKU

Opposing Power argues that perceptions of regime vulnerability and mutual dependency by opposition elites shape the building of opposition alliances. When electoral autocracies are consistently dominant, opposition parties eschew fully fledged alliances. At best, they allocate only one candidate to contest against the incumbent in each subnational electoral district to avoid splitting the opposition vote. However, when multiple regime-debilitating events strike within a short period of time, thus pushing an incumbent to the precipice of power, opposition elites expect victory, accepting costly compromises to build alliances and seize power. Opposing Power shows how oppositions build these alliances through case study comparisons in East and Southeast Asia—between the Philippines and South Korea in the late 1980s, and between Malaysia and Singapore from 1965 to 2020.

16th September 2022

**Zoom Webinar Book Talk: Governing and Ruling: The Political Logic of Taxation in China (China Understandings Today) (University of Michigan Press, 2021)**
Rapid social economic changes, the transition from a planned economy to a market economy, or even economic liberalization can lead to political instability and the collapse of authoritarian regimes. Despite experiencing all of these unprecedented changes in the past forty years, China under the Chinese Communist Party’s leadership has so far successfully transformed and improved both its governance capacity and its ruling capacity. Governing and Ruling addresses this regime resilience puzzle by examining the political logic of its taxation system, especially the ways in which taxation helps China handle three governance problems: maneuvering social control, improving agent discipline, and eliciting cooperation. Changdong Zhang argues that a taxation system plays an important role in sustaining authoritarian rule, in China and elsewhere, by combining co-optation and repression functions. The book collects valuable firsthand and secondhand data; studies China’s taxation system, intergovernmental fiscal relationships, composition of fiscal revenue sources, and tax administration; and discusses how each dimension influences the three governance problems.
27th September 2022

Zoom Webinar: #RaceMeToo: Institutional Declarations of Anti-Racism, but Are They Listening, Do They Care?

Speaker
Prof Mindy Chen-Wishart
Professor and Dean of Faculty of Law, Oxford University
Cheng Yu Tung Visiting Professor of Law, HKU

Moderators
Prof Marco Wan
Professor and Director of the Law and Literary Studies Programme
Faculty of Law, HKU

Ms Kelley Loper
Associate Professor and Director of LLM in Human Rights Programme
Faculty of Law, HKU

After the murder of George Floyd, institutions around the world have been quick to self-certify as anti-racist. It’s easy to denounce the crassest forms of racism happening elsewhere; but much harder to see and address our own institutional and individual behaviours that perpetuate more subtle forms of racism. Every racialised minority can detail innumerable instances of racist treatment conscious or unconscious, small or large, that cumulatively inflict significant injuries to their persons and their circumstances. We all have unconscious biases; to deny it is an oxymoron. Will we do the uncomfortable work of listening to racialized minorities, transcending our subjectivity, and working towards justice and flourishing for all?
Supreme Courts in the Age of Acute Political Polarization

Speakers
Prof Moshe Cohen-Eliya
Professor of Constitutional Law, College of Law and Business, Israel
Cheng Yu Tung Visiting Professor of Law, HKU

Prof Iddo Porat
Professor of Constitutional Law
College of Law and Business, Israel

Chair
Dr Cora Chan
Associate Professor
Faculty of Law, 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.
27th October 2022

Zoom Webinar Book Talk: Political Censorship in British Hong Kong: Freedom of Expression and the Law (1842–1997) (CUP, 2022) with the author – Michael Ng

Author
Dr Michael Ng
Associate Professor
Faculty of Law, HKU

Discussant
Prof Johannes Chan SC (Hon)
Honorary Professor
Faculty of Law, HKU

Chair
Prof Po Jen Yap
Professor and Director of CCPL
Faculty of Law, HKU

Drawing on archival materials, Michael Ng challenges the widely accepted narrative that freedom of expression in Hong Kong is a legacy of British rule of law. Demonstrating that the media and schools were pervasively censored for much of the colonial period and only liberated at a very late stage of British rule, this book complicates our understanding of how Hong Kong came to be a city that championed free speech by the late 1990s. With extensive use of primary sources, the
free press, freedom of speech and judicial independence are all revealed to be products of Britain's China strategy. Ng shows that, from the nineteenth to the twentieth century, Hong Kong's legal history was deeply affected by China's relations with world powers. Demonstrating that Hong Kong's freedoms drifted along waves of change in global politics, this book offers a new perspective on the British legal regime in Hong Kong.

9th November 2022

Workshop on Hong Kong's Sedition Law

Chairs
Prof Hualing Fu and Dr Cora Chan (HKU Law)

- Elements of the Sedition Law
  - Dr PY Lo (Barrister, Nanyang Chambers)

- Sedition Law and Constitutional Challenges
  - Prof Po Jen Yap (HKU Law)

- Constitutionality of the Sedition Law
  - Prof Albert Chen (HKU Law)

- Sedition Law and the ICCPR
  - Prof Carole Petersen (University of Hawaii at Manoa, William S. Richardson School of Law)

- History of the Sedition Law
  - Dr Michael Ng (HKU Law)

- Sedition Law and the Hong Kong National Security Law
  - Prof Guobin Zhu (CityU School of Law)

- Sedition Law in Comparative Perspectives
  - Prof Michael Hor (HKU Law)
6th February 2023

Zoom Webinar Book Talk: Recentering the World: China and the Transformation of International Law (CUP, 2022) with the author – Ryan Mitchell

| Author | Prof Ryan Mitchell  
Assistant Professor  
Faculty of Law, CUHK |
|---|---|
| Chair | Dr Ying Xia  
Assistant Professor  
Faculty of Law, HKU |

Recentering the World recovers a richly contextual, detailed history of Western-imposed legal structures in China, as well as engagements with international law by Chinese officials, jurists, and citizens. Beginning in the Late Qing era, it shows how international law functioned as a channel for power relations, techniques of economic domination, as well as novel forms of resistance. The book also radically diversifies traditionally Eurocentric accounts of modern international law’s origins, demonstrating how, by the mid-twentieth century, Chinese jurists had made major contributions to international organizations and the UN system, the international judiciary, the laws of armed
conflict, and more. Drawing on extensive archival research, this book is a valuable guide to China’s often conflicted role in international law, its reception and contention of concepts of sovereignty, property, obligation, and autonomy, and its gradual move from the ‘periphery’ to a shared spot at the ‘center’ of global legal order.

### 23rd February 2023

**Zoom Webinar Book Talk: A Pandemic of Populists (CUP, 2022) with the author – Wojciech Sadurski**

<table>
<thead>
<tr>
<th>Author</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prof Wojciech Sadurski</td>
</tr>
<tr>
<td>Challis Chair in Jurisprudence</td>
</tr>
<tr>
<td>University of Sydney</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Discussants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prof Kim L. Scheppele</td>
</tr>
<tr>
<td>Laurance S. Rockefeller Professor of Sociology and International Affairs</td>
</tr>
<tr>
<td>Princeton School of Public and International Affairs</td>
</tr>
</tbody>
</table>

| Prof Po Jen Yap |
| Professor and Director of CCPL |
| Faculty of Law, HKU |
Over the last decade, the world has watched in shock as populists swept to power in free elections. From Manila to Warsaw, Brasilia to Budapest, the populist tide has shattered illusions of an inexorable march to liberal democracy. Eschewing simplistic notions of a unified global populism, this book unpacks the diversity and plurality of populisms. It highlights the variety of constitutional and extraconstitutional strategies that populists have used to undermine the institutional fabric of liberal democracy and investigates how ruling populists responded to the Covid-19 crisis. Outlining the rise of populisms and their governing styles, Wojciech Sadurski focuses on what populists in power do, rather than what they say. Confronting one of the most pressing concerns of international politics, this book offers a vibrant, contemporary account of modern populisms and, significantly, considers what we can do to fight back.

23rd March 2023

Overseas Qualified Lawyers in Hong Kong’s National Security Cases

Speakers
Prof Albert Chen
Cheng Chan Lan Yue Professor and Chair of Constitutional Law
Faculty of Law, HKU

Mr Victor Dawes SC
Chairman
Hong Kong Bar Association

Mr Alan Hoo SC
Chairman
Basic Law Institute
Prof Simon Young  
Professor  
Faculty of Law, HKU

Chair  
Dr Cora Chan  
Associate Professor  
Faculty of Law, HKU

The Hong Kong government is currently considering legislation to limit the participation of overseas qualified lawyers in Hong Kong's national security cases. This Panel has gathered leading lawyers and academics to discuss the context and prospect of pending reforms.
The rule of law is in trouble internationally as states increasingly flout the norms of international law even as they purport to abide by them. It can thus be claimed that the interaction of state legal orders with the international order presents a ‘dual order’. On the one hand, international space is ruled by executive prerogative, by the executives of the most powerful states doing as they will. On the other hand, within the space of the state the executive is subject to the rule of law as instantiated in its legal order. This image is of course due to Ernst Fraenkel’s classic study of the Nazi state as a ‘Dual State’. Applied in this context, the image requires us to assume that within their own legal spaces, states are subject to the rule of law, but that when they act in international space, they emerge like Superman from his change of clothes in the telephone box, unleashed from their domestic constraints to contest each other in international space as purely ‘political sovereigns’, in effect the executive organ of each state, constrained only by power politics. However, entailed in this assumption is that even within the space of the state, the executive is no more constrained by law than it is in international space, since every state is internally a Dual State.
This lecture explored the resources of legal theory that enable us to contest this assumption, which may seem foolhardy, given that philosophers of law struggle to explain the legality of international law. Professor Dyzenhaus argued, first, that there is a moral imperative to adopt what HLA Hart called the ‘internal point of view’ towards international law, to accept its authority in order to constitute its authority as a legal order. Second, he argued that a normatively ‘thin’ theory of legality is needed to make sense of the legality of international law, the theory presented by Lon Fuller. Only such a thin theory is capable of getting us through the ‘thick and thin’ of our current turmoil.

9th May 2023

Zoom Webinar Book Talk: Responsive Judicial Review: Democracy and Dysfunction in the Modern Age (OUP, 2023) with the author – Rosalind Dixon

Author
Prof Rosalind Dixon
Scientia Professor of Law
University of New South Wales
Democratic dysfunction can arise in both ‘at risk’ and well-functioning constitutional systems. It can threaten a system's responsiveness to both minority rights claims and majoritarian constitutional understandings. Responsive Judicial Review aims to counter this dysfunction by using examples from both the global north and global south, including leading constitutional courts in the US, UK, Canada, India, South Africa, and Colombia, as well as select aspects of the constitutional jurisprudence of courts in Australia, Fiji, Hong Kong, and Korea. In this book, Dixon argues that courts should adopt a sufficiently 'dialogic' approach to countering relevant democratic blockages and look for ways to increase the actual and perceived legitimacy of their decisions—through careful choices about their framing, and the timing and selection of cases. Dixon further explores the ways that this translates into the embracing of a 'weakened' approach to judicial finality, compared to the traditional US-model of judicial supremacy, as well as a nuanced approach to the making of judicial implications, a 'calibrated' approach to judicial scrutiny or judgments about proportionality, and an embrace of 'weak – strong' rather than wholly weak or strong judicial remedies.
<table>
<thead>
<tr>
<th>18th May 2023</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>HKU Law Distinguished Public Law Lecture Series 2023: A Dialogue on German Constitutional Jurisprudence</strong></td>
</tr>
</tbody>
</table>

**Speakers**  
Prof Rudolf Mellinghoff  
Former Justice at Federal Constitutional Court of Germany  
President of the Federal Fiscal Court of Germany  

Prof Jurgen Brohmer  
Professor of Law  
Murdoch University  

**Chair**  
Prof Scott Veitch  
Paul K C Chung Professor in Jurisprudence  
Faculty of Law, HKU
19th May 2023

Critically engaging with international human rights discourses and related ascendent approaches to support sexuality-based justice in Africa

**Speaker**

*Dr Andrew Tucker*

*Associate Professor and Deputy Director of the African Centre for Cities*

*University of Cape Town*

**Chairs**

*Prof Marco Wan*

*Professor and Director of the Law and Literary Studies Programme*

*Faculty of Law, HKU*

*Dr Alvin Wong*

*Assistant Professor*

*Department of Comparative Literature, HKU*

Significant interest of late has explored the utility and efficacy of discursively articulating international human rights with gay rights across the African continent with the intent to address sexuality-based discrimination in a range of countries. This presentation will first explore the utility of the deployment of such legal discourses to address sexuality-based discrimination before outlining, across three inter-related spheres, a series of challenges that can also emerge through such an approach. Such challenges, which pivot around concerns related to *legitimacy, spatial inequality, and socio-spatial relationships* potentially allow us to critically interrogate when and how human rights discourse may be effective or not based on the particularities of African development. Drawing on this framework developed in relation to human rights, this presentation then considers how the same three concerns may be effectively deployed to consider other internationally-derived approaches to support the needs of non-heteronormative groups on the continent, considering both their benefits,
challenges, and potential trade-offs. To conclude, this presentation suggests that greater consideration can be given to the ways in which various international discourses and policy processes interface in different African contexts, and especially urban contexts.
CCPL-affiliated scholars have consistently produced high-quality publications in the fields of comparative and public law. In this reporting period, these outputs include:

<table>
<thead>
<tr>
<th>Date</th>
<th>Author(s)</th>
<th>Title of Publication</th>
</tr>
</thead>
<tbody>
<tr>
<td>25th September 2022</td>
<td>Dr Cora Chan, CCPL Fellow</td>
<td>“From Legal Pluralism to Dual State: Evolution of the Relationship between the Chinese and Hong Kong Legal Orders” in <em>The Law and Ethics of Human Rights</em>.</td>
</tr>
</tbody>
</table>

This article provides the first-ever comprehensive analysis of how the relationship between the Chinese and Hong Kong legal orders has morphed in nature since China’s resumption of sovereignty over Hong Kong in 1997. It argues that the relationship has evolved from a form of legal pluralism found in the European Union to a monist but bifurcated system — to a “dual state,” to borrow from Ernst Fraenkel’s theory. Recent events, including Beijing’s imposition of a national security law on Hong Kong and its overhaul of Hong Kong’s election methods, have consolidated that evolution. The analysis herein not only enables us to make sense of the developments in the China-Hong Kong relationship, but has five wider theoretical implications. First, it suggests a way of distinguishing a dual state from a fully liberal legal system. Second, it discerns the similarities and differences between legal pluralism and dual state. Third, it connects the literature on theories of legal order and that on the dual state. Fourth, it clarifies the relationship between theories of legal order and regime types. Finally, Hong Kong’s experience reveals the challenges of and potential mechanisms for maintaining liberal values in an authoritarian regime.

<table>
<thead>
<tr>
<th>Date</th>
<th>Author(s)</th>
<th>Title of Publication</th>
</tr>
</thead>
</table>

Anna High’s masterful and thoughtful book, *Non-Governmental Orphan Relief in China: Law, Policy and Practice*, examines the interplay between non-governmental and governmental orphan relief efforts in Mainland China. Both specialist and non-specialist readers will appreciate the humanitarian value of this work, focusing as it does on issues of child rights in the context of China’s most disadvantaged children — gu’er, otherwise known as “the lonely orphans.”

High’s book is the result of in-depth socio-legal case-based research published by the Routledge Contemporary China Series focusing on the legal grey zone of non-state organized gu’er relief in contemporary China. It draws on a multi-year process participant observation and semi-structured interviews with non-governmental
organizations (NGOs) and private caregivers across rural and urban China to shed light on the ambiguous role of law in child welfare. The author’s nearly decade-long longitudinal ethnographic fieldwork reflects recent developments in Chinese charity law, with particular reference to the silent, and at times invisible, uphill struggle of non-governmental gu’er welfare providers in China.

In the opening chapters of the book, High provides background on the condition of Chinese gu’er. Drawing on extensive fieldwork, High systematically depicts the causes of abandonment, the vulnerability of the orphan, and, importantly, the contribution of private caregivers. She illustrates individual stories through in-depth case-studies to provide context for the rapidly changing laws and policies in the private relief sector. Importantly, she highlights the political and ideological context surrounding the sensitive question of “who looks after our children” in the Chinese context …

28th September 2022

Prof Hualing Fu, member of CCPL Board of Management and CCPL Fellow, published a paper “Pandemic Control in China’s Gated Communities” in SSRN.

In explaining China’s performance to date in containing the pandemic, commentators have attributed this to the Chinese Communist Party’s (the Party) decisive move to lock down cities at a high social and economic cost and to the capacity both to mobilise human and material resources to build hospitals to isolate those infected with the virus, and to send medics and support to the most infected cities to treat patients. Another feature that has characterised the Chinese strategy and is receiving increasing attention is the broad societal participation and the ability of residential communities, shequ, to enforce Stay-at-Home (SaH) orders, enabling residents to respond to the pandemic and to comply with pandemic control measures with resources and confidence. In what was dubbed by the Party as the people’s war against the COVID-19 pandemic, Chinese urban communities have showcased the effectiveness of the unique governance style in activating participation and inducing compliance.

China’s pandemic control measures and the SaH orders take place within neighbourhood structures. Community mobilisation forms the core of the Chinese pandemic containment strategy and has proven to be the most crucial aspect of China’s strategy to date. Even the experiences in Shanghai’s lockdown in 2022, when the shequ system was stretched to a breaking point under the stress, prove, in a negative way, that there is no alternative to the existing urban design, calling for further solidification, reenforcement, and legitimisation of the existing social and political system of the Chinese neighbourhood in the post-crisis era. In coming out of the crisis, shequ governance, with all its innovation and upgrading, will
remain a public–private partnership under the renewed leadership of the Party at the grassroots level.

| 4th October 2022 | Dr Benjamin Chen, member of CCPL Board of Management, published an article “Textualism as Fair Notice?” in *Washington Law Review*. The opportunity to know the law is one of the bedrocks of legality. It is also a powerful and attractive reason for giving statutory language the meaning it has in everyday discourse. To do otherwise would be to hide the law from those it governs. Or so the argument goes. Despite its intuitive force, the fair notice argument for textualism is vulnerable to two challenges. The first challenge is to the notion that fair notice requires congruence between ordinary and legal meaning. There is no normative gauge for determining the time and expense people ought to spend learning their legal obligations or the amount of skill they should be expected to possess. And fair notice is not necessarily impaired by recourse to extratextual sources so long as the rules of interpretation tell officials and citizens which materials to consult and which approach to adopt when reading law. The second challenge arises from the relationship between law, morality, and notice. Social expectations and ethical norms may provide the requisite notice. Alternatively, they may render notice less essential. Fair notice is either superfluous or satisfied where the community regards the proscribed behavior as wrongful and the punishment fitting. Conversely, the demands of fair notice are heightened when the behavior reached by the statute is innocuous or when the sanctions for violation are disproportionate. The vigor of these two challenges is empirically tested through a survey experiment fielded on a probability sample of the United States adult population by the National Opinion Research Center at the University of Chicago. The results indicate that lay judgments of fair notice are influenced by the severity of the legal consequences. They also suggest that conditional on outcome, judicial reliance on legislative purpose and history offends popular notions of fair notice only when the law tells courts to privilege the ordinary meaning of statutes. The findings call into question conventional wisdom about textualism, fair notice, and the rule of law. |

| 31st October 2022 | Prof Po Jen Yap, Director of CCPL and Dr Rehan Abeyratne, member of CCPL Board of Management, published an article “Constitutional dismemberments, basic structure doctrine, and pragmatic justifications in context: A rejoinder” in *International Journal of Constitutional Law*. |
Our article “Judicial Self-Dealing and Unconstitutional Constitutional Amendments in South Asia” focused on the Bangladesh Supreme Court’s Appellate Division (AD) judgment in Bangladesh v. Asaduzzaman Siddiqui, which struck down the Sixteenth Amendment to the Constitution of Bangladesh (1972). The Sixteenth Amendment restored an original constitutional provision but was nonetheless held unconstitutional for violating the Constitution’s basic structure. We argued that Siddiqui, though facially problematic, could be defended on both theoretical and pragmatic grounds. First, we argued that the Fifteenth Amendment to the Constitution could be characterized as a “constitutional dismemberment” that created a new constitutional settlement from which the Sixteenth Amendment had unconstitutionally deviated. Second, we noted that the Sixteenth Amendment raised the specter of undue political interference in judicial removals by transferring the removal power from a judge-led Supreme Judicial Council to Parliament. Given Bangladesh’s checkered history of partisan executive interference with the judiciary, we also contended that the AD was justified in striking down the amendment on pragmatic grounds.

In their reply, M.A. Sayeed and Lima Aktar criticize both the theoretical and pragmatic arguments advanced in our article. We appreciate their engagement with our work, but as this Rejoinder will show, their critique misconstrues the theory of constitutional dismemberment, overstates the degree to which it conflicts with the basic structure doctrine (BSD), and rests on a non sequitur with respect to the pragmatic justification.

5th January 2023

Dr Han Zhu, member of CCPL Board of Management, published a book chapter “Rights Movement, Civil Disobedience and Civil Unrest” in Routledge Handbook of Constitutional Law in Greater China (Routledge, 2023).

This chapter aims to explore how the differences in constitutional systems have shaped social movements in the three regions by applying the mainstream social movement theory—the political opportunity and process theory—to the field of constitutional law. According to the political opportunity theory, the structure of political opportunities embedded in a society may have a significant impact on a social movement’s development by inspiring or discouraging movement mobilization. Social movements in post-1989 China are characterised by Rights movements, which refer to a wide variety of actions by citizens to defend their civil or political rights through legal activism or other mobilisation tactics. The changing structure of legal opportunities inspired the emergence of weiquan movements, along with various resistance movements, in the mid-1990s. Weiquan activism was initiated by common citizens in both urban and rural areas.
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
</table>
The Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China (PRC) was established in 1997 upon the termination of British colonial rule in Hong Kong. The Basic Law of the HKSAR is the constitutional instrument of post-colonial Hong Kong. This chapter discusses the history of the drafting and implementation of the Basic Law. The Chinese government never recognised publicly that the British or the colonial Hong Kong government had any role to play in the drafting of the Basic Law. The Chinese government considered the making of the Basic Law a purely domestic affair of the PRC. The political elite and public opinion in Hong Kong had divided views on certain fundamental issues arising from the drafting of the Basic Law, particularly as regards the degree of Hong Kong’s democratisation that should be codified in the Basic Law. |
After decades of focus on harmonization, which for too many represents no more than Western legal dominance and a largely homogeneous arbitration practitioner community, this groundbreaking book explores the increasing attention being paid to the need for greater diversity in the international arbitration ecosystem. It examines diversity in all its forms, investigating how best to develop an international arbitral order that is not just tolerant of diversity, but that sustains and promotes diversity in concert with harmonized practices.  
Offering a wide range of viewpoints from a diverse and inclusive group of authors, *Diversity in International Arbitration* is a comprehensive and insightful resource on a controversial, fast-moving subject. Chapters present arguments from practitioner, academic, institutional and governmental perspectives that identify the underlying issues and address the various ways in which the goal of diversity, whether demographic, legal, cultural, professional, linguistic, or philosophical, can be reached.  
This book’s analysis of the contemporary state of diversity in international arbitration will be a crucial read for researchers in the field. Practitioners and policy makers will also find its discussion of best practices and innovative initiatives for enhancing diversity to be invaluable. |
| 11<sup>th</sup> January 2023 | **Prof Albert Chen**, member of CCPL Board of Management and CCPL Fellow, co-edited a new book *Law and Social Policy in the Global South: Brazil, China, India, South Africa* (Routledge, 2023).

The book is an in-depth study of the origins and the trajectories of the law governing social policies in Brazil, China, India, and South Africa, four middle-income countries in the global South with a history in social policy making that starts in the 1920s.

The policies of these countries affect almost half of the world’s population. The book takes the legal framework of the policies as a starting point, but the main interest lies behind the letter of the law: What were the objectives and goals of social policy over the course of the last 100 years? What were the ideas, ideologies, and values pursued by relevant actors? The book comprises four country studies and a comparative study. The country studies concentrate on the political and social context of social policy making in Brazil, China, India, and South Africa as well as on the ideas, ideologies, and values underpinning the constitution, statutory laws, and case law that frame and shape social policy at the national level. The country studies are complemented by a comparative study exploring and describing the commonalities and differences in the ideational approaches to social policies across the four countries, nationally and – in the formative decades – internationally. The comparative study also identifies the characteristics that make Brazilian, Chinese, Indian, and South African social policies distinct from European social policies. With its emphasis on law and drawing on legal scholarship, the book adds a new dimension to the existing accounts on welfare state building, which, so far, are dominated by European narratives and by scholars with a background in sociology, political science, and development studies.

This book is relevant to specialists and peers and will be invaluable to those individuals interested in the fields of comparative and international social security law, human rights law, comparative constitutional law, constitutional history, law and development studies, comparative social policies, global social policies, social work, and welfare state theory. |

| 13<sup>th</sup> January 2023 | **Dr Marcelo Thompson**, CCPL Fellow, co-authored the CERRE Report’s recommendations on Data Governance and authored the paper “Digital Sovereignty and the Normativity of Data Governance”.

Knowledge Exchange: Digital Sovereignty and the Normativity of Data Governance (CERRE Report)

The “Global Governance for the Digital Ecosystems” Report was released at the Paris Peace Forum on November 11, 2022, and presented by the project’s co-leads — the Forum’s President, Pascal
Lamy (former Director General of the WTO and Board Member at CERRE), and Bruno Liebhaberg (CERRE’s Director General) — to Emmanuel Macron, the President of France.

Dr Marcelo Thompson co-authored the Report’s recommendations on Data Governance and authored the paper on Digital Sovereignty — titled: “Digital Sovereignty and the Normativity of Data Governance”.

In the paper, Marcelo identifies the various ways in which extra-legal (political, moral, cultural) considerations pervade data governance debates and challenge the prospects of harmonisation initiatives. The report points nevertheless to the inevitable and often legitimate role played by such considerations and makes concrete recommendations for navigating these.

Introduction: Harmonisation approaches to data governance suggested in earlier papers of this workstream resonate with recent proposals in the scholarly literature advocating for a global data privacy agreement – either as an agreement anchored in the WTO system, or as an expression of a new Digital Bretton Woods agreement. These proposals respond to difficulties in reconciling differences between global data privacy regimes, as well as between the more substantive regimes among them, and the principles that inform the international trade system. They speak of ideals of universality that the networks of technology and trade are taken to reflect, given the equalising potential of such networks, as enablers of “development of human capital” and “democratisation of opportunity throughout the world”. As Plato gestured in “The School of Athens”, these proposals point up.

1st February 2023

Prof Albert Chen, member of CCPL Board of Management and CCPL Fellow, co-authored an article “Constitutional Politics in Asia” in Oxford Bibliographies.

The term “constitutional politics” is used far more often than it is defined. Many writers who use the term do not bother defining it, presuming its meaning to be self-evident. Thus, “constitutional politics” is not a term of art and has been used to describe various political or legal phenomena. Broadly speaking, “constitutional politics” may be used to refer to events or developments in which constitutional law interacts with, provides a setting for, or to some extent shapes political processes. In a sense, it deals with that intersection between constitutional law and politics in issues that are neither wholly legal nor political but a mix of both. Plainly, this may manifest when a country drafts its own constitution or undergoes profound changes in its constitutional arrangement. It also arises if political questions are contested in the courts, or where the judiciary takes on a particularly active role in determining constitutional questions of the day, or where a particularly contested constitutional change or amendment takes place. The nature of constitutional law
and constitutional adjudication is such that it is impossible to make a clear distinction between law and politics when discussing constitutional law. Key political actions, decisions, and bargains are often enshrined in constitutions and contestations as to their meanings and ambit, lending a heavy air of politics to judicial decision-making. Whether an issue is one that falls within the realm of “constitutional politics” depends on the context in which it arises. Take for example the appointment of judges. In many jurisdictions, this is an uncontroversial matter. However, in some other jurisdictions where the court is highly politicized and where the elected representatives hold power by a tenuous thread, such appointments invariably involve constitutional politics. Asia is the world’s largest continent both in terms of land mass and population. In this bibliography, we will attempt to examine and recommend the relevant literature pertaining primarily to the regions broadly described as Northeast Asia, Central Asia, South Asia, and Southeast Asia. Jurisdictions surveyed include: China, Japan, Hong Kong SAR, Macau SAR, Mongolia, North Korea, South Korea, Taiwan, India, Pakistan, Bangladesh, Sri Lanka, Maldives, Nepal, Afghanistan, Bhutan, Indonesia, Thailand, Malaysia, the Philippines, Singapore, Myanmar, Vietnam, Cambodia, Laos, Brunei, Timor Leste, Afghanistan, Kazakhstan, Tajikistan, and Uzbekistan. We are fortunate that in recent decades, academia and academic publishers have taken a keen interest in constitutional law and politics in Asian countries, as demonstrated by the publication of several series of books such as Routledge Law in Asia (Routledge), Constitutionalism in Asia (Hart Publishing), Comparative Constitutional Law and Policy (Cambridge University Press), and Constitutional Systems of the World (Hart Publishing). It is possible to discuss constitutional politics in Asia in several ways. One possibility is to take a geographical country-by-country or region-by-region approach. Another is to do so on the basis of constitutional regime types such as democracies, socialist states, monarchies, and hybrid regimes. A further way is by grouping countries according to legal traditions. Having considered these possibilities, we felt it most logical to organize the bibliography along thematic or topical lines. This will make it easier for readers to use the bibliography and head straight for the topics that most interest them. We begin by looking at some general works dealing with the subject in the first two sections. The subsequent sections of the bibliography are organized thematically.

3rd February 2023


A key global strategy to contain the coronavirus disease 2019 known as COVID-19 has been the implementation of social distancing measures (SDMs), in particular Stay-at-Home (SaH)
orders. Given the epidemiological consensus at the time that social distancing significantly reduces transmission and that the ability of a country to contain the spread of infections depends on the degree to which SaH orders and other SDMs are enforced and complied with, few countries, if any, have not imposed lockdowns of sorts to some degree, in particular a range of SaH orders, placing a significant part of their population, if not all, under quarantine for various durations. To a large degree, the success or failure of these measures has depended on citizens’ willingness to change their behaviours to comply with SaH orders.

The existing literature indicates a range of factors, both subjective and objective, to explain compliance. Subjective factors include substantive support for the measures, trust in the government, political values, and obligations to obey regulations, broadly defined to include the impact of deterrence and the sense of fairness. Some studies show that civic and moral education, and the appeal to altruism or a sense of solidarity, have some short-term positive impact on compliance with SDMs; an invocation of a degree of fear is also found to have more explanatory power in motivating behaviour change. Others have pointed out that one’s political views (Democrat or Republican in the American context) have some predictive power on whether or not one will adhere to SDMs.

Compliance with SaH orders can hardly be achieved without coordinated action, effective enforcement, and adequate material and psychological support on the part of the government. In the United States, while people generally felt compelled to obey the law, supported the principle of social distancing, and were concerned with the consequences of non-compliance, ‘only a minority of Americans indicate that they always follow social distancing measures’. In Italy, public authorities struggled to deal with significant non-compliance with SaH rules. Sheth and Wright reported significant violations of the SaH order in California, concluding that relying on risk aversion or altruism would not achieve compliance. Even in Canada, where compliance was high across all provinces, there was still a substantial proportion of norm-breakers.

In order to secure adequate compliance, objective factors also need to be factored in, including people’s capacity to follow SaH orders, opportunities to violate the measures, costs and benefits of adherence, and social norms in terms of adherence, i.e., whether others around are also in compliance. A key factor is the practical capacity to adhere to SDMs—people do not follow rules that are hard, if not impossible, to follow. Effective implementation of SaH orders demands support for residents in isolation and monitoring to enforce the orders.
This chapter examines the unique role that grassroots residential social organisations in China have played in supporting and enforcing pandemic control measures. In explaining China’s performance in containing the pandemic before the sudden reverse of the restrictive policy in November 2022 after a nationwide protest COVID restrictions, commentators have attributed this to the Chinese Communist Party’s decisive move to lock down cities at a high social and economic cost and to the capacity both to mobilise human and material resources to build hospitals to isolate those infected with the virus, and to send medics and support to the most infected cities to treat patients. Another feature that has characterised the Chinese strategy and is receiving increasing attention is the broad societal participation and the ability of residential communities to enforce SDMs and, in particular, SaH orders, enabling residents to respond to the pandemic and to comply with pandemic control measures with resources and confidence. In what was dubbed by the Party as the people’s war against the COVID-19 pandemic, Chinese urban communities showcased the effectiveness of the unique governance style in inducing compliance under certain political conditions. What makes Chinese urbanites more willing to participate in pandemic control enforcement and more compliant with SaH orders? And when will the willingness to comply and participate be withdrawn?

6th February 2023  
Dr Julius Yam, member of CCPL Board of Management, published a CCPL Occasional Paper “Response Paper to the Financial Services and the Treasury Bureau’s Public Consultation on Regulation of Crowdfunding Activities”.

The adoption of new technologies like crowdfunding in commerce and for social and political purposes has created new opportunities as well as risks. Crowdfunding fosters innovation, but can also be used for unlawful or illegitimate purposes.

This paper responds to the Financial Services and the Treasury Bureau’s (“FSTB”) public consultation on regulation of crowdfunding activities, and considers whether it is necessary to introduce a new regulatory regime for crowdfunding. It argues that existing laws are capable of addressing most if not all of the risks that crowdfunding activities pose. Even if the government decides that regulatory intervention is necessary, this paper suggests that its approach should be guided by principles of regulatory certainty, minimizing user inconvenience and administrative feasibility. This enables the benefits crowdfunding offers to be maintained.

The paper identifies issues raised by the FSTB’s proposal for regulating crowdfunding (“the proposal”) that need to be addressed. It makes six broad recommendations which are summarized as follows:
1. Identifying the specific risks posed by non-investment-based crowdfunding in Hong Kong and developing solutions that mitigate those risks [paras 14-16].
2. Narrowing the scope of the proposal, including, for example, by [paras 24-26]:
   – Covering only fundraisers that have Hong Kong bank accounts or are companies or other entities registered in Hong Kong.
   – Targeting campaigns that are expected to raise over a certain amount.
   – Broadly interpreting the exceptions proposed.
3. Clarifying the definition, the scope of responsibility and consequences of online crowdfunding platforms under the proposal [paras 31-33].
4. Streamlining the approval system’s procedures [para 44], for example, by:
   – Simplifying application processes.
   – Making assistance from regulators readily available.
   – Creating reasonable time frames for the application process.
5. Providing sector-specific agencies with regulatory powers instead of setting up a centralized approval system [paras 45-46].
6. Setting aside the issue of crowdfunding for litigation purposes [para 50].

We hope that this paper provides a constructive platform for all stakeholders involved to formulate an approach that best meets the interests of Hong Kong as an international financial center.

**13th February 2023**


This chapter considers the limits and the potential of equality law to address inequalities arising from intersecting crises, that is, when more than one crisis occurs simultaneously or in close succession. It examines the case of Hong Kong, a Special Administrative Region (SAR) of China, which has recently faced multiple crises, with different, but interrelated, root causes and effects. While concurrent crises may have distinct features, their impacts frequently overlap, and mutually reinforce each other. As other contributions to this volume illustrate, a single crisis on its own is often enough to exacerbate existing inequalities (or produce new forms of marginalization) in many societies. Indeed, unresolved inequality itself may be characterized as ‘a crisis’ in its own right, whatever else is happening. Additional traumas are all the more likely to amplify disadvantage.
Dr Benjamin Chen, member of CCPL Board of Management and CCPL Fellow, co-authored an article “Do Administrative Procedures Fix Cognitive Biases?” in *Journal of Public Administration Research and Theory.*

This article uses survey experiments to assess whether administrative procedures fix cognitive bias. We focus on two procedural requirements: qualitative reason-giving and quantitative cost-benefit analysis (“CBA”). Both requirements are now firmly entrenched in U.S. federal regulation-making. Multilateral organizations such as the World Bank, OECD, and EU have encouraged their broad diffusion across many national contexts. Yet CBA, in particular, remains controversial. Supporters of CBA claim it leads to more rational regulation, with Sunstein (2000) explicitly proposing that CBA can reduce cognitive biases. By contrast, we argue that procedures should be conceptualized as imperfect substitutes subject to diminishing marginal benefits. To test and illustrate this argument, we examine how each procedure individually and cumulatively modulates the effects of gain-loss framing, partisan motivated reasoning, and scope insensitivity in a nationally representative sample. We find that one or both procedures decrease each cognitive bias. CBA is most helpful against partisan reasoning, where reason-giving does little. Both procedures are comparably effective for combating the other biases, although in each case only one procedure produces cognitive benefits distinguishable from zero. We only find substantial synergies between the two procedures with respect to gain-loss framing. Layering on the less-useful procedure does not significantly reduce the other two cognitive biases. We hypothesize that procedures will only fix cognitive biases if they disrupt bias-inducing mental processes, and we reconcile this proposition with our findings. We conclude by relating this work to debates about the design of administrative procedures and describe a research agenda based upon rationality-improving procedures.


The Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong SAR (the ‘NSL’) promises to be the most important legal development in Hong Kong since the advent of the Basic Law. Many wondered in the aftermath of the NSL how the foundations of Hong Kong’s system might be changed and in what way the freedoms valued by Hong Kong may be affected. Supporters view the law as essential for the preservation of public order and the national security of China and to support the fundamental well-being of “One Country, Two Systems”, an arrangement that has been in place since the return of Hong Kong.
to China. Critics fear an adverse impact on the spirit of “One Country, Two Systems”.

From a discussion initiated by the University of Hong Kong’s Faculty of Law, this collection of essays brings together leading experts on Hong Kong and Chinese law to offer an exploratory study of the NSL and its impact on the legal system and the principle of the rule of law in Hong Kong.

The book examines the ramifications of the law in relation to constitutional matters, protecting national security and sustaining “One Country, Two Systems”, policing, judicial independence, and extraterritoriality, as well as its wider implications in areas such as academic freedom and the business environment. It explores the interaction between Hong Kong and Chinese law occasioned by the NSL. Finally, the book offers a comparative perspective of the experience of other jurisdictions that have engaged with similar security legislation.

20th February 2023


The chapter is a commentary on the police powers provided for in the National Security Law (NSL). It addresses three broad questions. First, how does the NSL extend the existing scope of duties and functions of police in Hong Kong? Second, how are existing police powers in Hong Kong extended? Third, how does the NSL alter the existing mechanisms of keeping police powers in check? The first two questions are related because the distinct duties and functions of national security police are related to the powers these officers need to discharge their duties and functions. The third question explores the methods and mechanisms of limiting these powers.

In many ways, these questions are novel. Before the promulgation of the NSL on 30 June 2020, police powers in Hong Kong were either found in the common law or created by Hong Kong legislation. This is the first occasion for national law to be directly applied to confer powers on the Hong Kong police. How this affects the equilibrium of police and resident relations in the context of law enforcement is the focus of this chapter.

21st February 2023

The adoption by the National People’s Congress (NPC) in May 2020 of a Decision on Safeguarding National Security in the Hong Kong Special Administrative Region (HKSAR) and the enactment shortly thereafter by the Standing Committee of the National People’s Congress (NPCSC) of the HKSAR National Security Law (NSL) were momentous events in the history of the HKSAR, marking a new era in the implementation of the “One Country, Two Systems” (OCTS) policy. Critics have suggested that these acts by the government of the People’s Republic of China (PRC) portend the end of OCTS. On the other hand, defenders of the Chinese action argue that, given the riots and turmoil Hong Kong had experienced in 2019, the imposition of the NSL was necessary and was designed to and likely to ensure the continued operation of OCTS.

This chapter attempts to understand the nature, significance, and implications of the NSL. Part I situates the Chinese action within the relevant constitutional, legal, political and historical contexts. Part II examines the NSL in the light of Chinese law relating to matters of national security. Part III considers the impact of the NSL on Hong Kong’s existing law. Part IV concludes by reflecting on the significance and implications of the NSL in the context of the evolution of the OCTS policy and changing circumstances in Hong Kong.

**23rd February 2023**


This book offers a dialogic study of the Law of the People’s Republic of China on Safeguarding National Security Law (NSL) in the Hong Kong Special Administrative Region (HKSAR). It examines the text and the context of the NSL, what caused it and what it has caused, and highlights the changes – real, potential or merely imagined – that the NSL has brought and is likely to bring to Hong Kong. Constitutional development is not brought about by isolated events but by a series of connected episodes that have taken place over a long duration with each act done in response to an earlier one and, in turn, generating future dialectical reactions in multiple fields, some contemplated and others unforeseen, or perhaps, still unforeseeable. It is a complicated process and emotions may run high, but there is always a logic to be discovered and explained to make sense of what, at first sight, appear to be chaotic, random occurrences. This book studies the political and constitutional roots of the NSL as well as its practical operation in Hong Kong. The book also attempts to view the NSL in the larger Chinese, and comparative law, perspectives.
This introductory chapter first situates the enactment of the NSL in the context of Hong Kong’s own constitutional context and in particular, the failed attempt to enact Hong Kong national security law in 2003 as required by the Basic Law (BL), and the tortuous path of democratic pursuit that Hong Kong had trodden. The chapter then explores the constitutional and political roots of the NSL in the Chinese constitutional order. Part Three addresses several key issues on the impact of the NSL on the legal system, academic freedom, business, and media among others. Finally, part four assesses the future prospects of Hong Kong’s one country two systems doctrine (OCTS) and Hong Kong’s freedoms under rule of law in the post NSL era, assessed from a comparative perspective by referencing the development in national security law in mainland China, Singapore and liberal democracies.

27th February 2023


An hour before the twenty-third anniversary of the Hong Kong Special Administrative Region’s (HKSAR) establishment, the Standing Committee of the National People’s Congress (NPCSC) bequeathed a new National Security Law (NSL) to Hong Kong. Presented as a “birthday gift”, this offering was prepared behind closed doors – the details were not subject to any public consultation and the law as only unveiled before the awaiting population after it took effect. Surprise!

Secession, which includes independence advocacy, subversion of state power, which includes the use of unlawful means to seriously undermine the operations of “the body of central power of the People’s Republic of China or the body of power of [the HKSAR]”, and collusion with foreign governments, which includes the receipt of any funding or support from a foreign country to provoke by unlawful means hatred among Hong Kong residents towards the Central or Hong Kong Government are all national security penal offences now. Terrorism has also been defined to include the sabotage of vehicular transport and traffic facilities for political ends. For all four crimes, offenders face sentences of up to life imprisonment for grave violations. Even non-Hong Kong residents based outside the jurisdiction are liable for prosecution if they commit any of these penal offences against Hong Kong. A national security agency established by Beijing to gather intelligence can now operate legally in Hong Kong but must abide by local laws, though these mainland officials are not subject to local jurisdiction for acts performed in the course of duty. The enforcement and prosecution decisions made under this NSL are entrusted to local officials and Hong Kong courts are also empowered to adjudicate
the vast majority of cases brought under this law. Most local criminal law procedures and human rights safeguards continue to apply. But jury trial in individual cases can be replaced with a panel of three judges, and where state secrets are involved, all or part of the trial can be closed to the public, though the verdict must still be announced in open court. In those rare serious cases where foreign governments are involved or the Hong Kong government is unable to enforce the law effectively, the Chinese procuratorate and courts are legally empowered to take over from local counterparts. The law opens up the chilling possibility that for these exceptional cases, the offenders, if in Hong Kong, can be extradited to the Mainland to face trial. Finally, the power of interpreting this national security law lies with the NPCSC, which expressly allows mainland officials to overrule the Hong Kong judiciary’s interpretation of this NSL.

As to be expected, responses to this NSL have been sharply divided. Western media has largely portrayed the NSL as the “final nail in Hong Kong’s coffin” and mourned the city’s death. On the other hand, Beijing loyalists fete the law as a “new social contract” that restores stability and recovers Hong Kong’s “original aspiration of ‘One Country, Two Systems.’”

In this chapter, I do not intend to engage with the histrionics or propaganda. Neither do I seek to navel-gaze and portend the long-term impact – salubrious or deleterious – that the NSL would have on Hong Kong’s economic and civic life. My aim is more modest: I shall examine whether the NSL is constitutional and explore the options Hong Kong judges have in assessing its legality and interpreting its operative scope.

In essence, my arguments are as follows. First, it is defensible – as Albert Chen has argued – that the HKSAR’s constitutional duty to enact national security laws “on its own” is subject to an implied requirement that this duty be fulfilled within a reasonable time, or the Central Government may intervene and legislate on the HKSAR’s behalf. But to be consistent, Beijing should also act unilaterally on another mothballed provision – Article 68 of the Basic Law (BL) – which guarantees the election of all members of the Legislative Council by universal suffrage. Second, the insertion of the NSL into Annex III BL is problematic as the BL only authorises the inclusion of 全國性法律 – People’s Republic of China (PRC) laws that have nation wide applications or effects. Notably, the NSL only applies to Hong Kong and not to the Mainland. Nevertheless, it will be a fool’s errand for the Hong Kong courts to reject the NSL wholesale, or invalidate it in part, as Beijing can legally overrule the courts and oust those judges from future national security disputes. Instead, Hong Kong judges should engage in a remedial interpretation of the NSL, such that the law’s operative scope is read down and additional safeguards are judicially inserted into the legislation.
This chapter analyses the impact of the Law of the People’s Republic of China on Safeguarding National Security in Hong Kong (NSL) on educational autonomy and academic freedom, two core values that the “One Country Two, Systems” (OCTS) model of autonomy is supposed to protect. Due to space constraints, this chapter primarily focuses on academic freedom in tertiary education. However, it will also address certain contentious issues which have arisen in primary and secondary schools.

Following this introduction, Part I reviews the concept of academic freedom, its value to society, and the ways in which it can be undermined. Part II then analyses the situation in the Hong Kong Special Administrative Region (SAR) prior to the enactment of the NSL. Although academic freedom and educational autonomy are expressly protected in the Hong Kong Basic Law (BL), changes to university governance in the past two decades have made universities and individual academics more vulnerable to political pressures.

Part III of the chapter analyses provisions in the NSL that could further inhibit academic freedom and educational autonomy. The NSL obligates the local government to “promote national security education in schools and universities” and creates several new criminal offences, which also apply extraterritorially. The NSL also created new security agencies and endowed them with extensive powers. On the other hand, Article 4 provides that human rights shall continue to be protected, including the rights stated in the BL, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These two treaties have a special place in Hong Kong’s legal framework due to Article 39 of the BL and the Bill of Rights Ordinance (Cap 383) (which duplicates most of the provisions of the ICCPR). Thus, any policies adopted by Hong Kong’s educational institutions should comply with both treaties. When cases are litigated the local courts should use the ICCPR as a guide to interpret vague language in the NSL. Thus, the views of the United Nations (UN) Human Rights Committee, the expert body tasked with monitoring states parties’ implementation of the ICCPR, are particularly relevant. The UN Committee on Economic, Social and Cultural Rights, the monitoring body for the ICESCR, can also offer guidance, particularly in the context of the right to education. These international standards and their direct incorporation into Hong Kong law allow room for the courts and others to support academic freedom. At the same time, legal protection alone is unlikely to be sufficient. Other non-legal
strategies, such as the drafting and enforcement of robust academic freedom policies by tertiary institutions themselves, are needed to strengthen academic freedom in Hong Kong going forward. Indeed, we conclude that the academic community has an obligation to adopt such policies and that the Hong Kong government has a constitutional obligation to respect them. Suggested language for a university policy on academic freedom is therefore included at the end of this chapter.


“What a disgrace!” lamented Xia Baolong, Director of the Office for Hong Kong and Macau Affairs, the highest-ranking official in the Central People’s Government (CPG) in charge of Hong Kong affairs in a particularly condescending outburst to condemn the 2019 protests in Hong Kong. That’s how Beijing, Hong Kong’s sovereign, perceived what happened in Hong Kong in 2019. For the CPG, what was presented as democratic protest by the international media was nothing short of systematic disorder and organized violence bordering on insurrection. What was shocking and extremely displeasing for the CPG was not only the level of violence and vandalism that some Hong Kong people proved to be capable of, but also the degree of sympathy and support they received from the larger communities in Hong Kong and internationally, and the incompetence and indifference of the Hong Kong government. In the CPG’s eyes, Hong Kong has turned from an economic asset into a political liability. More importantly, the CPG believed that the unrest in Hong Kong exposed China to hostile international forces and put China’s national security at grave risk.

The mass unrest creates the need – it also offers an opportunity – for the CPG to react forcefully and strongly to put violence to an end and to restore law and order. Its sharp and drastic action has taken the form of legislative suppression – the passing of the Law of the People’s Republic of China for Safeguarding National Security in the Hong Kong Special Administrative Region (NSL). The law aims both at the immediate goals of “preventing, stopping and punishing” activities endangering national security and the long-term goal of changing the constitutional structure of Hong Kong. The law creates a range of new criminal offences, often broadly defined to cast a wide net against offences potentially endangering national security, exceeding China’s own criminal law for some of the offences in its breadth. It establishes a web of national security agencies with interlocking jurisdictions and duties with Beijing sitting at a comfortable, commanding height. The NSL expands police power and correspondingly either ousts or limits judicial authorities at multiple entry points, ranging from restricting
bail, excluding juries and enhancing secrecy in judicial proceedings. Beyond the immediate impact, the NSL attempts to tackle the root cause of the national security risks as China perceives them in Hong Kong – a vibrant and politically charged civil society comprising non-governmental sectors, such as education, the media, the internet, religion or NGOs that were against the government. Through the NSL, high policing has returned to Hong Kong.

This chapter offers a preliminary study of the role and functions of the high policing, also called political or national security policing, which the NSL has introduced in Hong Kong and its initial and long-term impact on the rule of law and rights and freedoms in Hong Kong. The role that the political policing plays in Hong Kong largely depends upon the ultimate political end of the NSL. Beyond the immediate goal of ending violence, nipping the pro-independence movement in the bud, and stopping foreign political meddling in Hong Kong, to what degree does the CPG intend to reorient Hong Kong and to bring it into the Chinese orbit? Clearly, China continues to insist on the One Country Two Systems doctrine (OCTS), although to be enforced in a “correct way” that privileges its one country element. China, however, does not intend to turn it into just another Chinese city. In one of his speeches in 2017, President Xi Jinping highlighted Hong Kong’s “distinctive strengths”, including its pluralist and cosmopolitan society and its status as a major international financial centre. China clearly stopped far short from imposing its own National Security Law (2015) upon Hong Kong, nor did it transplant its own national security practice in its entirety to Hong Kong. In enacting the NSL, China sent a clear signal that, while the excess in 2019 should not happen again, Hong Kong will remain a distinct Special Administrative Region (SAR) in the foreseeable future. There is a long spectrum between the unrest in 2019 and the Chinese regime of national security: where would Hong Kong find itself in the post-NSL era?

This chapter explores three connected issues: 1) the political circumstances for the creation of the national security policing in Hong Kong; 2) the major features of the high policing that the NSL has created in Hong Kong, which are demonstrated by means of an analysis of the NSL, and the immediate impact that the NSL may have on the rule of law and rights and freedoms in Hong Kong; and 3) a possible new equilibrium between the national security policing and Hong Kong’s liberal rule of law under the OCTS doctrine.

7th March 2023

Ms Kelley Loper, CCPL Fellow, published a book chapter “Dignity as a Constitutional Value in Hong Kong: Toward a Contextual Approach?” in Human Dignity in Asia: Dialogue between Law and Culture (CUP, 2022).
This chapter considers the development of “dignity” as a constitutional value in Hong Kong, a special administrative region (SAR) of the People’s Republic of China (PRC). Hong Kong has maintained a separate legal system since its reversion to Chinese sovereignty in 1997 after more than 150 years as a British colony. The 1984 Sino-British Joint Declaration promised Hong Kong a high degree of autonomy in all areas except foreign affairs and defence. The Basic Law, Hong Kong’s constitutional document, sets out the terms of this “One Country, Two Systems” arrangement, including guarantees of fundamental rights. In particular, it provides for the continuing application of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The PRC has not ratified the ICCPR, so its place in Hong Kong’s regional constitutional framework is a key feature of the SAR’s autonomy. The ICCPR has also been directly incorporated in the Bill of Rights Ordinance (BOR), a statute which has achieved constitutional status. While dignity is not mentioned in the Basic Law, these international standards have supported the judiciary’s use of dignity as a core value that underpins constitutional rights and informs a purposive approach to their interpretation.

20th March 2023

Prof Simon Young, member of CCPL Board of Management and CCPL Fellow, published an article “Reflections on the Meaning of the Right to Vote in Hong Kong” in *Hong Kong Law Journal*.

If rights are interpreted purposively, what is the purpose of the right to vote in Hong Kong? It means more than casting a ballot or being a candidate in elections. The right to vote serves to enable permanent residents to participate meaningfully in the electoral process and public affairs more generally. Meaningful participation implies that voters are informed of the relevant issues. Hong Kong underwent major reforms in its electoral systems in 2021. In the eyes of the public, the reforms had the effect of rendering the right to vote less meaningful, if not meaningless. In the future, the central and regional governments need to restore people’s confidence in the elections and bring back vibrancy to the right to vote in Hong Kong.

22nd March 2023

Dr Benjamin Chen, member of CCPL Board of Management and CCPL Fellow, co-authored an article “Would Humans Trust an A.I. Judge? More Easily Than You Think.” on *SLATE*.

Artificial intelligence judging has become a reality. Last month, a Colombian judge used ChatGPT to generate part of his judicial opinion. Colombia is not alone. Estonia has piloted a robot judge, and the United States and Canada increasingly use A.I. tools in law. These recent events have sparked a debate about “unethical” uses of A.I. in the judiciary. As the technological hurdles to A.I.-judging recede, the remaining barriers are ones of law and ethics.
Would it be fair to citizens for an A.I. judge—an algorithmic decision-maker—to resolve disputes?

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>23rd March</td>
<td>Dr Benjamin Chen, member of CCPL Board of Management and CCPL Fellow, co-authored an article “Having Your Day In Robot Court” in Harvard Journal of Law &amp; Technology. Should machines be judges? Some say “no,” arguing that citizens would see robot-led legal proceedings as procedurally unfair because the idea of “having your day in court” is thought to refer to having another human adjudicate one’s claims. Prior research established that people obey the law in part because they see it as procedurally just. The introduction of “robot judges” powered by artificial intelligence (“AI”) could undermine sentiments of justice and legal compliance if citizens intuitively view machine-adjudicated proceedings as less fair than the human-adjudicated status quo. Two original experiments show that ordinary people share this intuition: There is a perceived “human-AI fairness gap.” However, it is also possible to reduce — and perhaps even eliminate — this fairness gap through “algorithmic offsetting.” Affording litigants a hearing before an AI judge and enhancing the interpretability of AI decisions reduce the human-AI fairness gap. Moreover, the perceived procedural justice advantage of human over AI adjudication appears to be driven more by beliefs about the accuracy of the outcome and thoroughness of consideration, rather than doubts about whether a party had adequate opportunity to voice their opinions or whether the judge understood the perspective of the litigant. The results of the experiments can support a common and fundamental objection to robot judges: There is a concerning human-AI fairness gap. Yet, at the same time, the results also indicate that the public may not believe that human judges possess irreducible procedural fairness advantages. In some circumstances, people see a day in a robot court as no less fair than a day in a human court.</td>
</tr>
<tr>
<td>3rd April</td>
<td>Prof Shahla Ali, CCPL Fellow, edited a new book Comparative and Transnational Dispute Resolution (Routledge, 2023). This edited volume presents research and policy insights into the theory and practice of dispute systems reform in diverse jurisdictions. It highlights how important extra-judicial mechanisms are for resolving cross-border disputes, as evidenced both by the breadth of scholarship dedicated to the issue and the proliferation of parties resorting to non-litigious dispute resolution mechanisms in recent years. Drawing on selected case studies, the book examines the impact of comparative research and policy analysis in advancing reform of</td>
</tr>
</tbody>
</table>
dispute resolution institutions at both the regional and global levels. It explores the challenges and opportunities of understanding and assessing developments in systems of dispute resolution in diverse social and political contexts through comparative research.

With a growing number of disputes which have come to involve cross-border issues, anyone interested in transnational and comparative dispute resolution will find this book a useful reference.

### 2nd May 2023

**Prof Po Jen Yap**, Director of CCPL and **Dr Rehan Abeyratne**, member of CCPL Board of Management, co-edited a new book *Routledge Handbook of Asian Parliaments* (Routledge, 2023).

This handbook showcases the rich varieties of legislatures that exist in Asia and explains how political power is constituted in 17 jurisdictions in East, Southeast and South Asia.

Legislatures in Asia come in all stripes. Liberal democracies co-exist cheek by jowl with autocracies; semi-democratic and competitive authoritarian systems abound. While all legislatures exist to make law and confer legitimacy on the political leadership, how representative they are of the people they govern differs dramatically across the continent, such that it is impossible to identify a common Asian prototype. Divided into thematic and country-by-country sections, this handbook is a one-stop reference that surveys the range of political systems operating in Asia. Each jurisdiction chapter examines the structure and composition of its legislature, the powers of the legislature, the legislative process, thereby providing a clear picture of how each legislature operates both in theory and in practice. The book also thematically analyses the following political systems operating in Asia: communist regimes, liberal democracies, dominant party democracies, turbulent democracies, presidential democracies, military regimes and protean authoritarian rule.

This handbook is a vital and comprehensive resource for scholars of constitutional law and politics in Asia.

### 1st June 2023

**Dr Benjamin Chen**, member of CCPL Board of Management and CCPL Fellow, co-authored an article “Courts Without Separation of Powers: The Case of Judicial Suggestions in China” in *Harvard International Law Journal*.

Like courts everywhere else, socialist courts are tasked to settle disputes. Their decisions are backed by the force of law. But unlike courts everywhere else, socialist courts are also required to support official ideology and policies. They are subject to legislative supervision and party leadership in the performance of their duties. The repudiation of the notion of separation of powers and the
instrumental conception of law are conventionally taken to be defining—and defective—aspects of socialist legality. But the political accountability of socialist courts could also be empowering. Because socialist courts answer, in theory, to the people, they have the warrant and duty to contribute to the orderly administration of society. Constitutional theory and doctrine do not prohibit socialist courts from venturing beyond the confines of adjudication to address issues not presented for resolution. We study how courts in the world’s largest socialist regime identify and tackle social problems ranging from public health to education to crime through the device of judicial suggestions. These suggestions transcend the legal questions raised by litigants and may be directed to private actors like companies and public entities including governmental agencies. Though not binding on their recipients, judicial suggestions are frequently acknowledged and sometimes adopted. Occasionally, they have even precipitated systematic reform. Our exploration of judicial suggestions in China illuminates a function that is available to socialist courts because of their political subordination to the party-state. More broadly, the approach exemplified here steps outside the rule of law and judicial independence paradigms to examine how dogma and doctrine shape the boundaries of institutions, thereby contributing to a more holistic evaluation of socialist courts and their place in the political legal order.

15th June 2023  
**Prof Simon Young**, member of CCPL Board of Management and CCPL Fellow, served again as the General Editor for a new book *Archbold Hong Kong 2023* (Sweet and Maxwell, 2022).

15th June 2023  
**Prof Simon Young**, member of CCPL Board of Management and CCPL Fellow, co-authored a new book chapter “Regional Judicial Cooperation in Criminal Matters: Mainland China, Hong Kong and Macao” in *Elgar Encyclopedia of Crime and Criminal Justice*.

This entry outlines the law and practice of regional judicial cooperation in criminal matters within the larger People’s Republic of China (PRC). The current account is one of cooperation between three territorial parts of the PRC, namely Mainland China (Mainland) and the two special administrative regions of the PRC, the Hong Kong Special Administrative Region (HKSAR or Hong Kong) and the Macau Special Administrative Region (MSAR or Macau). But prior to 1997 and 1999, the years in which the PRC respectively resumed the exercise of sovereignty over Hong Kong and Macau, the account was one of cooperation between three sovereigns, namely the PRC, the United Kingdom (England & Wales) and Portugal. Ironically, in the more than two decades after the resumption of Chinese sovereignty, there has been less formal cooperation between the three territories within one country than there was when cooperation was between three sovereign states. This is because the ‘one country, two systems’ model, which
underpins the constitutional relationship between the Central People’s Government (CPG) and the Governments of Hong Kong and Macau, has been unable to bridge the differences in the laws and values of the criminal justice system in each of the three jurisdictions. The tensions that have arisen are described in this entry …

| 24th June 2023 | **Dr Benjamin Chen**, member of CCPL Board of Management and CCPL Fellow, co-authored an article “Detecting the influence of the Chinese guiding cases: a text reuse approach” in *Artificial Intelligence and Law*. |

Socialist courts are supposed to apply the law, not make it, and socialist legality denies judicial decisions any precedential status. In 2011, the Chinese Supreme People’s Court designated selected decisions as Guiding Cases to be referred to by all judges when adjudicating similar disputes. One decade on, the paucity of citations to Guiding Cases has been taken as demonstrating the incongruity of case-based adjudication and the socialist legal tradition. Citations are, however, an imperfect measure of influence. Reproduction of language uniquely traceable to Guiding Cases can also be evidence of their impact on judicial decision-making. We employ a local alignment tool to detect unattributed text reuse of Guiding Cases in local court decisions. Our findings suggest that Guiding Cases are more consequential than commonly assumed, thereby complicating prevailing narratives about the antagonism of socialist legality to case law.
## APPENDIX I

Projects housed within CCPL
(July 2022 – June 2023)

<table>
<thead>
<tr>
<th>Title of Project</th>
<th>Investigator(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clinical Legal Education: Community Legal Empowerment</td>
<td>Lindsay Ernst</td>
</tr>
<tr>
<td>Outstanding Teaching Award (Team Award)</td>
<td>Lindsay Ernst</td>
</tr>
<tr>
<td>Child Impact Assessment in Hong Kong: Opportunities and Entry Points</td>
<td>Puja Kapai</td>
</tr>
<tr>
<td>Gender Initiatives for WSR Works</td>
<td>Puja Kapai</td>
</tr>
<tr>
<td>INTERPOL-HKU Project LEADER 2023</td>
<td>Simon Young</td>
</tr>
<tr>
<td>Research Matching Grant - Student Research Assistants</td>
<td>Simon Young</td>
</tr>
<tr>
<td>Training on International Laws, Conventions and Treaties for the Independent Commission Against Corruption (ICAC)</td>
<td>Simon Young</td>
</tr>
<tr>
<td>Asia-Pacific Journal on Human Rights and the Law</td>
<td>Simon Young and Kelley Loper</td>
</tr>
</tbody>
</table>

Visit our [website](#) to know more about our work.
Follow us on [Facebook](#), [Twitter](#), [LinkedIn](#) and [Instagram](#)