



The Rule of Law in China and Hong Kong

Discussion and Reception

**Wednesday, 29 May
11th Floor Moot Court Room
Cheng Yu Tung Tower
HKU Centennial Campus**

**Panel: 3:30 p.m. -5:30 p.m.
Reception: 5:30 p.m. – 7:00 p.m.**

Please join the HKU Centre for Comparative and Public Law and the Mansfield Foundation for a discussion on the rule of law in China and Hong Kong. This discussion will feature leading international legal experts from Hong Kong and United States. Following the presentations the panelists will take questions from the audience.

The panel discussion will be immediately followed by a reception on the outdoor terrace of Cheng Yu Tung Tower generously sponsored by the Better Hong Kong Foundation.

**Panel: Rule of Law in China and Hong Kong
3:30 p.m. – 5:30 p.m.**

Speakers

Jerome Cohen, New York University School of Law
Benny Tai, University of Hong Kong Faculty of Law
Rick Tang, Fu Tak Iam Foundation
Simon Young, University of Hong Kong Faculty of Law

Moderator

Daniel Fung, Chairman, Des Voeux Chambers, Better Hong Kong Foundation member and Solicitor General of Hong Kong (1994-8)

**Reception:
5:30 p.m. – 7:00 p.m.**

Featuring comments from:

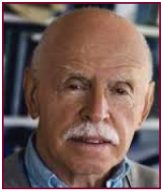
Opening: Dean Johannes Chan, University of Hong Kong Faculty of Law

Welcome: Daniel Fung for Better Hong Kong Foundation

Keynote: Jerome Cohen

Please RSVP to Flora Leung at fkleung@hku.hk by 28 May.





Jerome A. Cohen

Prof. Jerome A. Cohen, a professor at NYU School of Law since 1990 and co-director of its U.S.-Asia Law Institute, is a leading American expert on Chinese law and government. A pioneer in the field, Prof. Cohen began studying China's legal system in the early 1960s and from 1964 to 1979 introduced the teaching of Asian law into the curriculum of Harvard Law School, where he served as Jeremiah Smith Professor, Associate Dean and Director of East Asian Legal Studies. In addition to his responsibilities at NYU, Prof. Cohen served for several years as C.V. Starr Senior Fellow and Director of Asia Studies at the Council on Foreign Relations, where he currently is an Adjunct Senior Fellow. He retired from the partnership of Paul, Weiss, Rifkind, Wharton & Garrison LLP at the end of 2000 after twenty years of law practice focused on China. In his law practice, Prof. Cohen represented many companies and individuals in contract negotiations as well as in dispute resolution in China. He continues to serve as an arbitrator and expert witness in disputes relating to China and to Chinese in the United States.

Prof. Cohen has published several books on Chinese law, including *The Criminal Process in the People's Republic of China, 1949-63* (Harvard University Press, 1968), *People's China and International Law* (Princeton University Press, 1974) and *Contract Laws of the People's Republic of China*. In addition, he has published hundreds of scholarly articles on various topics as well as a book, *China Today*, co-authored with his wife, Joan Lebold Cohen, and a regular series of journalistic opinion pieces for various newspapers. In 1990, he published *Investment Law and Practice in Vietnam*. Today, Prof. Cohen continues his research and writing on Asian law, specifically focusing on legal institutions, criminal justice reform, dispute resolution, human rights and the role of international law.

Outside academia, Prof. Cohen has served in government, first as an Assistant U.S. Attorney in Washington, D.C. from 1958 to 1959 and then as a fulltime consultant to the U.S. Senate Committee on Foreign Relations in 1959. He has also testified at many congressional hearings on China.

Prof. Cohen is a Phi Beta Kappa graduate of Yale College (B.A. 1951). He spent the academic year 1951-1952 as a Fulbright Scholar in France and graduated, in 1955, from Yale Law School, where he was Editor-in-Chief of the Yale Law Journal. He was Law Secretary to Chief Justice Earl Warren of the United States Supreme Court in the 1955 Term and Law Secretary to Justice Felix Frankfurter of the Supreme Court in the 1956 Term.



Benny Tai Yiu Ting

Benny Tai specializes in constitutional law, administrative law, law & governance, law & politics and law & religion. He has been an Associate Dean of the Faculty of Law between 2000 and 2008. His major publications include: "The advent of substantive legitimate expectations in Hong Kong: two competing visions" (2002) *Public Law* 688-702; "Chapter One of Hong Kong's New Constitution: Constitutional Positioning and Re-positioning," in Ming Chan and Alvin Y. So (ed.) *Crisis and Transformation of China's Hong Kong* (M.E. Sharpe, 2002); "One Principle...Two Principles...3,4,5,6,7,8,9 Factors for Constitutional Reform," in Johannes Chan and Lison Harris (eds.), *Hong Kong's Constitutional Debate, 2005*, (Hong Kong: Hong Kong Law Journal Limited, 2005), pp15-28; "Developing an Index of the Rule of Law: Sharing the Experience of Hong Kong"

(2007) 2 *Asian Journal of Comparative Law* 89-109; "Basic Law, Basic Politics: The Constitutional Game of Hong Kong" (2007) 37 *HKLJ* 503-578; "An Unexpected Chapter Two of Hong Kong's Constitution: New Players and New Strategies" in Ming Sing (ed.) *Politics and Government in Hong Kong: Crisis under Chinese Sovereignty* (Routledge, 2008); "Religious Faith, Language Games and Public Discourse" in Kang, Yeung and Leung (eds.), *Religious Values and the Public Forum: Public Religion, an East-West Dialogue*, (Beijing: China Social Sciences Press, 2008).

His current research projects include "The Rule of Law and Legal Culture," "Political Legitimacy and the Development of Constitutionalism," "Law in Governance Processes," "Law and Deliberation," and "Law and Religion: A Comparative Study".

In 1997, he was awarded University Teaching Fellow by the University of Hong Kong. In 2002, he was awarded a Certificate of Merit in the IT in Education Awards Contest conducted by the Academic Council for IT in Education, University of Hong Kong. Benny is very active in promoting civic education in the community. He has been the member of the Committee on the Promotion of Civil Education, Hong Kong Government for eight years (1995-2003). He has also served on many government/public bodies including the Consultative Committee for the Basic Law of the Hong Kong Special Administrative Region (1988-90), the Bilingual Laws Advisory Committee (1995-2003) and part-time member of the Central Policy Unit, Hong Kong Special Administrative Region Government (2007).



Rick Tang

Rick is a Hong Kong barrister and U.S. lawyer by training, having received his Bachelor of Laws and Post Graduate Certificate of Laws in Hong Kong and J.D. in the U.S. respectively. He has lived and worked in 6 countries for top-tier multinationals in senior management positions.

His corporate experience includes being a member of the Management Board of Hongkong Telecom, then the second largest company in Hong Kong, the Chief International Counsel of British Telecom where he managed their lawyers in all the countries except the U.K., and Senior Vice-President of GE Capital, Asia Region.

He left the corporate world in 2006 to manage his family assets and invests his time in philanthropic activities.

He serves as trustee of Fu Tak Iam Foundation and chairs their Grants Allocation Committee. He advises third generation family members on issues of philanthropy and also coaches frontline non-profit organizations to adopt efficient management practices. All his services are pro-bono.

Rick is married to his wife for over 35 years and has two adult daughters. Sue is a family counsellor and provides all her services pro-bono.



Simon N. M. Young

Professor Simon Young is the Director of the Faculty's Centre for Comparative and Public Law, Deputy Director/Director of Research in the Department of Law, and a practising Hong Kong barrister. He teaches criminal law and evidence in the Faculty's J.D. programme and a LL.M. course on human rights in the criminal process. He is known internationally for his scholarship on the Hong Kong political and legal systems,

and the forfeiture of proceeds of crime. His book, *Civil Forfeiture of Criminal Property* (Edward Elgar 2009), is one of the leading works on the topic of forfeiture.

His public policy research projects have focused on a wide range of topics including anti-corruption law, money laundering, proceeds of crime, security and anti-terrorism laws, public sector disciplinary processes, screening processes for asylum seekers, laws for electing Hong Kong's legislators and Chief Executive, and Hong Kong's Court of Final Appeal.

As counsel, he has advised on a number of important constitutional and public law cases. He has advised the Hong Kong Government on its Convention Against Torture screening mechanism and has led the Continuing Legal Education programme in the Prosecutions Division of the Hong Kong Department of Justice since 2011. He is a member of the Review Body on Bid Challenges under the WTO Agreement on Government Procurement, Post-Release Supervision Board, and Disciplinary Panel A of the Hong Kong Institute of Certified Public Accountants. He served on the Hong Kong Law Reform Commission subcommittees on double jeopardy and hearsay in criminal proceedings and was a member of the Independent Police Complaints Commission's Observers Scheme.

Prior to joining the Faculty, Professor Young worked in Toronto as appellate counsel in the Crown Law Office-Criminal, Ministry of the Attorney General for Ontario, and before that as Assistant Crown Attorney in Hamilton, Ontario, where he prosecuted persons for sexual assaults, domestic assault, fraud, manslaughter and other offences.



Daniel Fung

Daniel R. Fung, the first person of Chinese extraction to serve as Solicitor General of Hong Kong, served under Governor Chris Patten and Chief Executive Tung Chee Hwa, straddling the territory's reversion to Chinese sovereignty (1994-8). He is Senior Counsel of the Hong Kong Bar, specializing in constitutional and commercial litigation, and the Chairman of Des Voeux Chambers, voted by Asia Law & Practice as Chambers of the Year for 1999, 2000, 2002, 2003, 2004, 2005 & 2008. He also is an accredited China International Economic and Trade Arbitration Commission (CIETAC) arbitrator. Mr. Fung serves concurrently as Chairman of the Broadcasting Authority, an industry regulator of television and radio broadcasting in and out of Hong Kong serving as Asia's media and communications hub.

Mr. Fung is Co-Chairman of the United Nations Peace & Development Foundation (UNPDF), President of the International Law Association (ILA) Hong Kong Chapter, Honorary President of the International Association of Industry & Commerce (IAIC), Vice Chairman of the Salzburg Global Seminar (SGS), Vice-President of the Academy of Experts (TAE), Member of the Board of Governors of the East West Center (EWC), Council Member of International Institute for Strategic Studies (IISS), national delegate to the Chinese People's Political Consultative Conference (CPPCC), Chairman of the China Law Council (CLC), Council Member of China Law Society (CLS), Founding Governor of the China-US Exchange Foundation, Chairman of the International Advisory Board to the Government of Shanghai Xuhui District and member of the Strategic Development Commission of the Hong Kong Government.

In 2005 Mr. Fung was a Fellow of his *alma mater* University College London, where he graduated with an LLB (1974) and LLM (1978). He has been a member of Middle Temple since 1974, the English Bar since 1975 and the Hong Kong Bar since 1977. Mr.

Fung was appointed Queen's Counsel in 1990 and Senior Counsel in 1997. Mr. Fung served on the Basic Law Consultative Committee (1985-90) from its inception to promulgation as Hong Kong's mini-constitution, as Deputy Judge of the High Court (1992-4) and on the Central Policy Unit of the Hong Kong Government (1993-4). Mr. Fung was Visiting Scholar at Harvard Law School (1998-9), Senior Visiting Fellow to Yale Law School (1999), Distinguished Fulbright Scholar for Hong Kong to the United States (2000), Visiting Professor to Peking University Law School (2007-) and to Sun Yat Sen University Law School in China (2004-7), member of the World Bank International Advisory Council on Law & Justice (1999-2005), special advisor to the United Nations Development Programme (UNDP) on corporate governance in China (2001) and on rule of law capacity building in Cambodia and Laos (2000-2), non-executive director of the Hong Kong Securities & Futures Commission (1999-2004) and the Hong Kong Airport Authority (1999-2005). Among various publications, Mr. Fung is the Joint General Editor of *Arbitration in China* (2004) and a contributing author to *Democracy & the Rule of Law* (2001) and *The Confluence of Affluence: The Pearl River Delta Story* (2005).



Johannes Chan

Professor Johannes Chan was born and educated in Hong Kong. A graduate of the University of Hong Kong and a Commonwealth Scholar, he obtained his LLM in the United Kingdom (LSE) and specialized in human rights, constitutional and administrative law. He joined the University of Hong Kong in 1985, was a Senior Lecturer in 1991, an Associate Professor in 1996, Professor in 1998, Head of Department of Law (1999-2002), and Dean of the Faculty of Law (2002 - 2013), The University of Hong Kong. He was called to the Hong Kong Bar in September 1982 and has maintained a practice at the Bar, his practice in recent years being exclusively in the areas of public law and human rights. He has appeared as counsel in many leading human rights/constitutional law cases. He was elected one of the Ten Outstanding Young Persons in Hong Kong in 1995 and received the Human Rights Press Award in 1999. In 2003, he was appointed as the first Honorary Senior Counsel in Hong Kong. He has published widely in both local and international journals and is a regular speaker in international or regional conferences. Prof Chan worked at the secretariat of the European Commission of Human Rights in Strasbourg, France, in 1989, and was an assistant editor to the European Human Rights Reports (1990-1991). He has acted as a trial observer for international organizations in various countries to observe and report on whether such trials have complied with international standards of fair trial. He has appeared before various United Nations Treaty Bodies to brief on local human rights concern. In 1993, he was appointed to the Committee of Experts by the International Committee of Red Cross, Geneva, to draft and settle an authentic version of the ICRC Guides to the Geneva Convention and Protocol on the Law of War that was acceptable to both the PRC and Taiwan. He has also assisted various international human rights organizations in preparing their reports on Hong Kong to various United Nations' bodies. He was the President of the Board of Governors, Asian Law Institute (2007-08), an institution comprising 40 leading law schools in Asia Pacific, holds honorary academic positions in various institutions in Mainland China, and has been a visiting professor to many universities in Europe and Asia.



The Better Hong Kong Foundation

The Better Hong Kong Foundation is a privately-funded, non-profit making organisation and has no political affiliation. It was formed by influential Hong Kong business and community leaders in 1995 to build greater international understanding between East and West by facilitating communications between Hong Kong, China and the global community.

The Foundation's principal objective is to help build a better Hong Kong. To this end, the Foundation regularly works with local and international academic institutions and research institutes in conducting surveys and studies, and in organising forums and conferences. The results of these allow us to make informed proposals and assist in the long-term development of Hong Kong. Additionally, the Foundation organises frequent high-level delegation visits to overseas countries to update the international community on the latest developments in Hong Kong affairs, and to encourage exchanges between leaders in Hong Kong, China and the West. The Foundation also receives overseas delegations and visiting journalists who are in Hong Kong to learn more about China and Hong Kong first hand.



THE MAUREEN AND MIKE
MANSFIELD FOUNDATION

The Mansfield Foundation

The Mansfield Foundation was established in 1983 to honor Senator and Ambassador Mike Mansfield, a remarkable American public servant, statesman and diplomat who played a pivotal role in U.S.-Asia relations through much of the previous century.

CCPL

CENTRE FOR COMPARATIVE
AND PUBLIC LAW
比較法與公法研究中心

The Centre for Comparative and Public Law

The Centre for Comparative and Public Law at the University of Hong Kong was established in 1995 as a non-profit virtual research centre in the Faculty of Law.

This program is made possible thanks to the generous support of the Hinrich Foundation, the Lingnan Foundation, the Taiwan Foundation for Democracy and the Better Hong Kong Foundation.

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