



CCPL NEWSLETTER SPRING 2022

Dear friends,

Greetings from the Centre for Comparative and Public Law (CCPL) at The University of Hong Kong!

This past fall has been an enriching and productive season for us at CCPL.

We are pleased to share with you highlights from the events we held last semester as well as information on upcoming events for Spring 2022.

We look forward to seeing you soon at our events - in person or on zoom!

With best wishes,

Prof Po Jen Yap

Professor of Law

Director, Centre for Comparative and Public Law

Faculty of Law

The University of Hong Kong

PAST EVENTS

2 September 2021



Zoom Webinar Book Talk: The Veil of Participation: Citizens and Political Parties in Constitution-making Processes (CUP, 2021)

Contributors

Prof Philipp Dann
Professor of Public and Comparative Law
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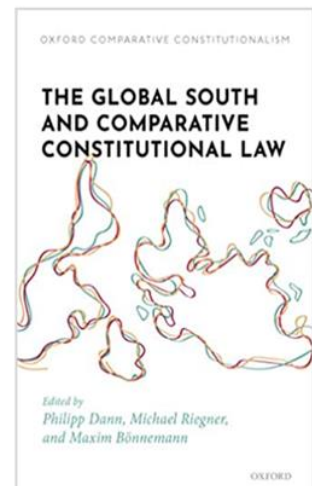
Dr Jedidiah Kroncke
Associate Professor
Faculty of Law, HKU

Prof Dinesha Samararatne
Senior Lecturer
Department of Public & International Law, University of Colombo

Prof Maartje de Visser
Associate Professor
School of Law, Singapore Management University

Prof Ntina Tzouvala
Senior Lecturer
College of Law, Australian National University

Prof Rehan Abeyratne
Associate Professor
Faculty of Law, Chinese University of Hong Kong



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

16 September 2021



Zoom Webinar Book Talk – Remedies for Human Rights Violations: A Two-Track Approach To Supra-National And National Law (CUP, 2021) with the author – Kent Roach

Author

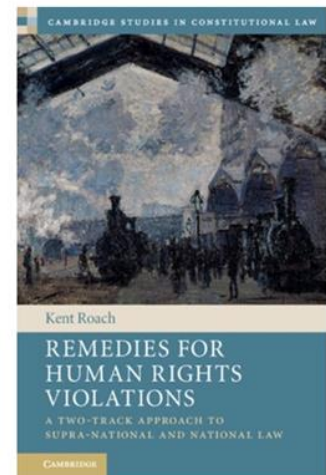
*Prof Kent Roach
Professor of Law
Faculty of Law, University of Toronto*

Chair

*Ms Cora Chan
Associate Professor
Faculty of Law, HKU*

Discussant

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



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

23 September 2021



Zoom Webinar – Empirical and Computational Research in UK Public Law

Speakers

Dr Mikolaj Barczentewicz

Associate Professor

School of Law, University of Surrey

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

Dr Rachel Cahill-O'Callaghan

Reader in Law

School of Law, Cardiff University

- 'Disappearing Dissents: Concerns about Consensus'

Dr Alex Schwartz

Associate Professor and CCPL Deputy Director

Faculty of Law, HKU

- 'The Changing Concepts of the Constitution'

Mr Lewis Graham

Research Fellow in Constitutional Law

Public Law Project, University of Cambridge

- 'Does the UK Supreme Court care about underdogs?'

Chairs

Dr Brian Christopher Jones

Lecturer in Law

School of Law, University of Sheffield

Dr Eloise Ellis

Associate Professor in Law

School of Law, University of East Anglia

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

8 October 2021



Zoom Webinar – New Empirical Study of Typologies of Animal Cruelty in Hong Kong

Speakers

*Ms Amanda Whitfort
Associate Professor
Faculty of Law, HKU*

*Dr Fiona Woodhouse
Deputy Director (Welfare) of the Society for the Prevention of Cruelty to Animals (HK)*

Chair

*Professor Julia Beatty
Chair Professor of Veterinary Medicine and Infectious Diseases
Department of Veterinary Clinical Sciences, City University of Hong Kong*

In September 2021, the findings of a study funded by the Policy Innovation and Co-ordination office of the HKSAR government were released. The study examined 335 animal cruelty cases detailed in the SPCA's investigation database from 2013 to 2019. The study found action is necessary to educate owners to voluntarily surrender animals they can no longer care for appropriately rather than place the animals' welfare at risk by abandoning them. To counter the risk to animals in unregulated shelters, there is an urgent need to introduce shelter licensing legislation in Hong Kong. Government policies prohibiting the keeping of dogs in public housing alongside historical dog population management strategies have also contributed to the problem of abandonment of dogs in Hong Kong. At this event, two of the study's authors will discuss the findings.

13 October 2021



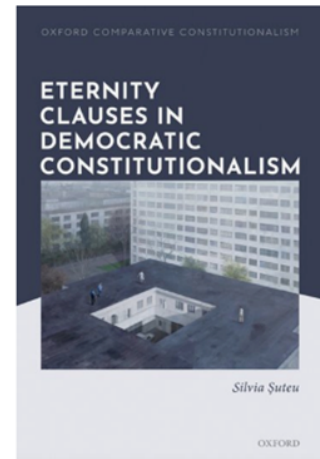
Zoom Webinar Book Talk – Eternity Clauses in Democratic Constitutionalism (OUP, 2021) with the author – Silvia Suteu

Author

Dr Silvia Suteu
Lecturer in Public Law
Faculty of Laws, University College London

Chair

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



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

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

19 October 2021



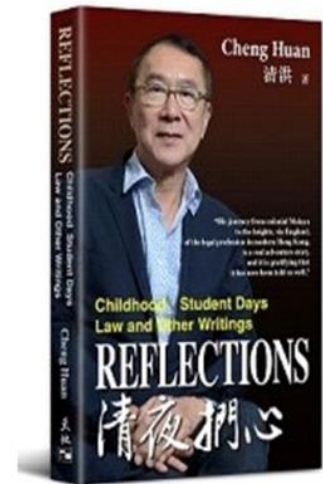
**Book Talk – REFLECTIONS Childhood, Student Days, Law and Other Writings with the author
CHENG HUAN 清洪**

Author

Mr Cheng Huan, QC, SC

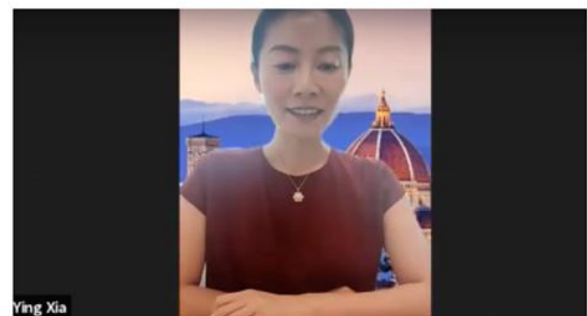
Host

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



In this new book, Cheng Huan reviews his early life: from childhood to student life and from examinations of legal studies in London to university life at Cambridge. He recalls a few cases that he dealt with as a Senior Counsel, such as plea bargains, bind-over orders, etc.

28 October 2021



**Zoom Webinar Book Talk: EXPORTING VIRTUE?:
China's International Human Rights Activism in the
Age of Xi Jinping (UBC PRESS, 2021) with the
author – Pitman B. Potter**

Author

*Prof Pitman B. Potter
Professor of Law Emeritus
Peter A. Allard School of Law
University of British Columbia*

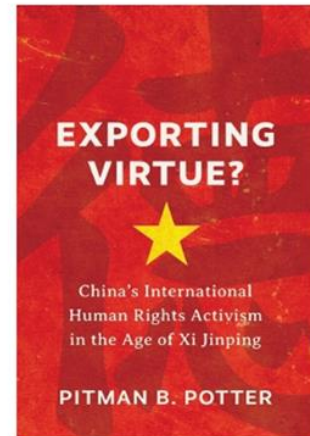
Chair

*Prof Fu Hualing
Warren Chan Professor in Human Rights and Responsibilities
Dean, Faculty of Law, HKU*

Discussants

*Dr Jedidiah Kroncke
Associate Professor
Faculty of Law, HKU*

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

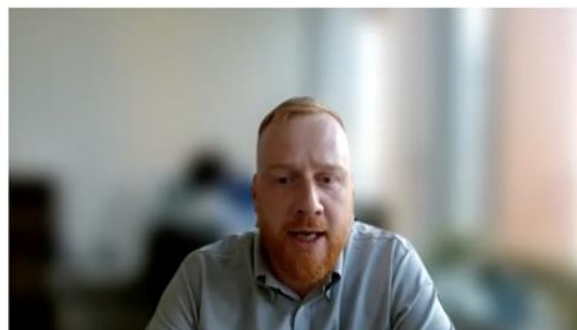


Under the leadership of President Xi Jinping, China has attempted to change international human rights values to accommodate its own interests, causing increasing friction with international standards of law and governance.

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

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

16 November 2021



Zoom Webinar Book Talk: *The Veil of Participation: Citizens and Political Parties in Constitution-making Processes* (CUP, 2021)

Author

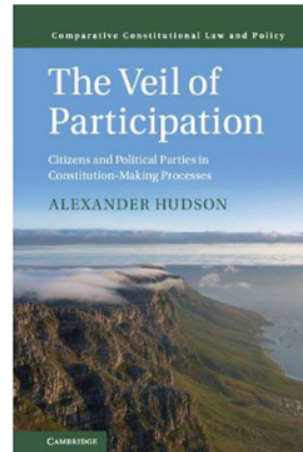
*Dr Alexander Hudson
Democracy Assessment Specialist
International IDEA - Institute for Democracy and Electoral Assistance*

Discussant

*Dr Dinesha Samararatne
Senior Lecturer
Department of Public & International Law
University of Colombo*

Chair

*Dr Evan Rosevear
Post-Doctoral Fellow, HKU*



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

UPCOMING EVENTS

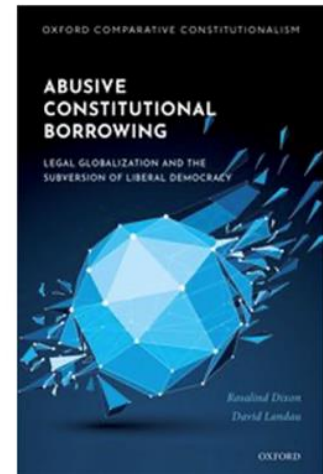
17 January 2022

Zoom Webinar Book Talk – Abusive Constitutional Borrowing: Legal Globalization and the Subversion of Liberal Democracy (OUP, 2021)

Authors

Prof Rosalind Dixon
Professor of Law
Faculty of Law, University of New South Wales, Australia

Prof David Landau
Mason Ladd Professor and Associate Dean for International Programs
College of Law, Florida State University



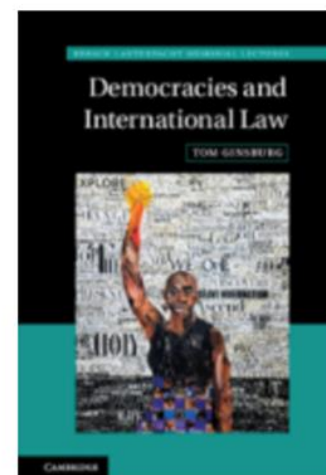
Law is fast globalizing as a field, and many lawyers, judges and political leaders are engaged in a process of comparative "borrowing". But this new form of legal globalization has dark sides: it is not just a source of inspiration for those seeking to strengthen and improve democratic institutions and policies. It is increasingly an inspiration - and legitimation device - for those seeking to erode democracy by stealth, under the guise of a form of faux liberal democratic cover. *Abusive Constitutional Borrowing: Legal globalization and the subversion of liberal democracy* outlines this phenomenon, how it succeeds, and what we can do to prevent it. This book address current patterns of democratic retrenchment and explores its multiple variants and technologies, considering the role of legitimating ideologies that help support different modes of abusive constitutionalism.

25 January 2022

Zoom Webinar Book Talk – Democracies and International Law (CUP, 2021)

Author

Prof Tom Ginsburg
Leo Spitz Professor of International Law
Ludwig and Hilde Wolf Research Scholar
Professor of Political Science
University of Chicago



Democracies and authoritarian regimes have different approaches to international law, grounded in their different forms of government. As the balance of power between democracies and non-democracies shifts, it will have consequences for international legal order. Human rights may face severe challenges in years ahead, but citizens of democratic countries may still benefit from international legal cooperation in other areas. Ranging across several continents, this volume surveys the state of democracy-enhancing international law, and provides ideas for a way forward in the face of rising authoritarianism.

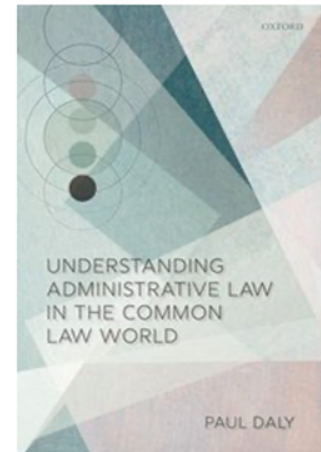
March 2022 (TBC)

Zoom Webinar Book Talk – Understanding Administrative Law in the Common Law World (OUP, 2021)

Author

Prof Paul Daly

*Chair in Administrative Law and Governance
Faculty of Law, University of Ottawa*



Around the common law world, the law of judicial review of administrative action has changed dramatically in recent decades, accelerating a centuries-long process of incremental evolution. This book offers a fresh framework for understanding the core features of contemporary administrative law. Through comparative analysis of case law from Australia, Canada, England, Ireland, and New Zealand, the author develops an interpretive approach by reference to four values: individual self-realisation, good administration, electoral legitimacy, and decisional autonomy. The interaction of this plurality of values explains the structure of the vast field of judicial review of administrative action: institutional structures, procedural fairness, substantive review, remedies, restrictions on remedies, and the scope of judicial review. Addressing this wide array of subjects in detail, the book demonstrates how a pluralist approach, with the values being employed in a complementary and balanced fashion, can enhance our understanding of administrative law. Furthermore, such an approach can guide the future development of the law of judicial review of administrative action, a point illustrated by a careful analysis of the unsettled doctrinal area of legitimate expectation. The book closes by arguing that the author's values-based, pluralist framework supports the legitimacy of contemporary administrative law which, although sometimes called into question, facilitates the flourishing of individuals, of public administration, and of the liberal democratic system.

April 2022 (TBC)

Panel Discussion – Belt & Road Initiative and Geo-political Affairs in South East Asia

May 2022 (TBC)

Zoom Conference – COVID-19, Borders, and the Law

Late June 2022 (TBC)

25th Anniversary of the Basic Law Conference

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