



Young Scholar Forum: Examining the English Necessary Interest Rule in the Charitable Trust Setting (28 Sept 2023)

The Centre for Chinese and Comparative Law (CCCL) at the City University of Hong Kong School of Law held a legal research seminar entitled “Examining the English Necessary Interest Rule in the Charitable Trust Setting” on 28 Sept 2023. The seminar's objectives were to deepen the attendees' comprehension of court interpretations of the necessary interest rule and to explore its theoretical implications for understanding the conceptual nature of English express trusts.

The seminar commenced with a welcoming speech by **Prof. Martin Lai**, who addressed all the participants.

The keynote speaker for the seminar was **Dr. Jing Hui**, an Assistant Professor at the Department of Law, University of Hong Kong. Jing completed his PhD at the University of Melbourne, where his doctoral thesis was awarded the Melbourne Law School Harold Luntz Graduate Research Prize for Best PhD Thesis. Prior to his PhD, Jing obtained his master's degree (by research) in intellectual property law from Peking University and his LLB from China University of Political Science and Law, graduating in the top 5% of his class. Dr. Jing Hui has published in journals including *Legal Studies*, the *American Journal of Comparative Law*, and the *Journal of Equity*, and he has contributed chapters to several edited collections. Before embarking on an academic career, Jing worked at the China National Foreign Trade Financial & Leasing Company and at the Beijing Office of Zhong Lun Law Firm from 2014 to 2017.

Dr. Jing began his speech by outlining the necessary interest rule's origin and function. The rule was instituted by Parliament through section 115 of the Charities Act 2011 (England and Wales), which enabled 'any person interested' in a charitable trust to act against negligent trustees in their administration of charitable assets. He supported his explanation of the rule's evolution with a number of case studies.

Dr. Jing introduced three important observations in his seminar:

English courts typically distinguish between 'interest in the charity' and 'beneficial interest in trust properties' under an express trust, reflecting their conceptualization of charitable trusts' purpose nature.

The courts are given significant discretion to determine if a person is eligible to initiate charity proceedings, based on the specifics of a case. This flexibility indicates the courts' primary concern for the proper administration of charitable trusts.

A person's interest being sufficient to meet the threshold for commencing charity proceedings does not guarantee their entitlement to begin the proceeding. This demonstrates that the 'right' of a qualified person to bring charity proceedings is not absolute and is at the court's discretion.

Following Dr. Jing's thought-provoking speech, the seminar proceeded to a discussion session led by **Prof. Wu ZhiCheng** from Renmin University. He offered his own profound insights based on Dr. Jing's presentation, and other participants actively expressed their viewpoints, often providing valuable and thought-provoking arguments.

The seminar was closed by **Prof. Martin Lai**, who conveyed his sincere gratitude to all the speakers for their invaluable contributions. He also thanked the attendees for their active participation, which was instrumental in achieving the seminar's fruitful outcomes. This gathering of bright minds made the event both illuminating and successful, adding a new dimension to the understanding of the English necessary interest rule in the charitable trust setting.



Dr. Jing Hui



Prof. Martin Lai



Prof. Wu Zhicheng