

# SCHOOL OF LAW

## *Newsletter*

VOLUME 10 NO.1 • SEPT 2015

## Interviewing

### Professor GU Minkang, Professor of SLW

Congratulations General Research Fund (GRF)  
Awarded to Six Faculty Members

CityU LLB graduate heading to Notre Dame Law  
School on a Fulbright Scholarship



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## MESSAGE FROM DEAN

The School of Law organized a successful retreat in December 2014. Participants, including our teaching staff, administrative staff and an invited guest, attended a two-day retreat. The retreat aimed at providing a valuable opportunity and platform for us to discuss ways to improve teaching and learning, and to brainstorm and generate useful new ideas and suggestions for the School's strategic and operational plans as well as programme development. In order to facilitate effective implementation of the strategic plan, a schedule of our operational priorities and resource allocation has been drafted with active involvement from colleagues. I am pleased with the progress so far; more importantly, this should be treated as a dynamic process and we should therefore always be prepared to make any necessary modifications.



In this newsletter, Professor Gu Minkang, our Associate Dean, was invited to share with us the current market trend and progress of internationalization of the School. In terms of recent collaborations, we have reached a Memorandum of Understanding (MOU) and the agreement on the collaboration on a Legal Science Undergraduate Programme with the Law School, South China University of Technology (SCUT). We have also reached an MOU on academic exchange with the University of Law Limited, United Kingdom.

At the same time, various conferences and seminars have been held at our School in order to expand our connections with legal scholars around the globe, namely the 20<sup>th</sup> Goff Arbitration Lecture, the 6<sup>th</sup> Law Forum of Hong Kong, Macau and Guangdong, the International Conference on the Rule of Law in a Globalized Environment, and the Conference on Condominium Laws and Urban Governance in Asia. At the 20<sup>th</sup> Goff Arbitration Lecture, the School of Law was honoured to have Professor Gary Born, a pre-eminent scholar and practitioner in the field of arbitration, to deliver a timely and thought-provoking lecture on the historical and contemporary developments on the right to arbitrate.

Our programme leaders have also continuously done their best to offer quality education to undergraduate and postgraduate students. This time, students from our programmes have been invited to share their study experience at CityU with readers of the newsletter.

In terms of student and alumni achievements, it is notable that our PCLL graduate, Kim McCoy, a New Zealand barrister and his team have won a final appeal quashing a murder conviction, which was the last ever appeal to the Privy Council from New Zealand, a jurisdiction in place from 1851 to 2015. Furthermore, our CityU team survived the group of death (University of Munster, NALSAR, Fordham and Harvard) to make it through to the knockout round in the recent Vis (East) moot in March this year. We obtained the runner up award for the Eric Bergsten Award for memorandum for Claimant. Then the team moved to Budapest, where it won runner-up, and then to the Vis Moot in Vienna and won the Honourable Mentions for Frédéric Eisemann Award Team Orals as well as Pieter Sanders Award Best Memorandum for Claimant. Ms Ho Tiffany Toni Lok also won the Honourable Mentions for Martin Domke Award for Individual Oralists.

I have now been Dean for almost a year. I have been impressed by how much the Law School means to its students, staff and alumni. I hope next year to meet even more of those of you who are interested in our work and to continue the many positive conversations I have commenced.

Thanks to the effort of the editorial team, you will see more updated news about our staff and students in the following pages of this newsletter. As always, I welcome your thoughts at [ghowells@cityu.edu.hk](mailto:ghowells@cityu.edu.hk).

**Professor Geraint Howells**

*Dean and Chair Professor of Commercial Law*

# INTERVIEWING PROFESSOR GU MINKANG, PROFESSOR OF SLW

Professor Gu Minkang, the then Associate Dean of School of Law, has received an interview about the School's internationalization.

Q: Can you comment on the current trend of internationalization in Hong Kong in comparison to other jurisdictions?

G: Generally speaking, Hong Kong is ahead of other jurisdictions in the sense that Hong Kong is a unique and international city. There are different kinds of people coming in and going out and thus there are lots of changes. This is a special feature of Hong Kong.

More specifically, Hong Kong has a special position because it is a bridge between Mainland China and the outside world. With the influence of both Western and Chinese legal systems & traditions, Hong Kong must play its role. Internationalization is treated as a natural thing for Hong Kong.

I have been travelling to other jurisdictions like the US and talked to many law schools, which are just beginning in terms of internationalization. The law schools in the US are world-class and many felt in the past that they didn't need to be internationalization-minded. Now, they realize regardless of the position of their law schools, they do need to expand their network worldwide and thus more and more law schools from the US are approaching us. In this respect, Hong Kong is quite ahead of other jurisdictions.

Q: Internationalization is one of the features emphasized by the Law School. How does it impact on our strategies for education and research?

G: I think that CityU Law School has put much emphasis on internationalization because we try to be a leading law school not only in the region but also worldwide. I think outreach is necessary because we want to have our special identity.

The strategies on internationalization are collectively decided. From my personal view, I think that we need to emphasize two aspects. First, because of the uniqueness of our Law School, we need to place emphasis on international staffing policies. We now have more people from various jurisdictions working in CityU Law School. Second, we definitely need to focus on Common Law, along with Chinese and Comparative Law. We are one of the Chinese law schools in Hong Kong and we are unique. We need

to have international staff and international programmes. We need to attract students from abroad and we also need to send our students out in the world in order to have international perspectives. I think that we still need to place emphasis on Common Law, Chinese Law and Comparative Law as these are our strengths and are very important in terms of teaching.

In terms of research, we never restrict which areas students may wish to address. Students

can conduct research in any area they are interested in. Because of the special position of our law school, we need to place emphasis on both international and local scholarship. Also, publications in Chinese should be emphasized. We cannot simply say because of internationalization, we can ignore publications in Chinese. While we place emphasis on internationalization, we should not neglect the importance of making contributions to Chinese society.

Q: Can you evaluate the effectiveness of different aspects of internationalization occurring in the Law School?

G: The general situation so far is that the numbers of incoming students and teaching staff are higher than that of outgoing students and staff. There is a need for us to think about how to design our curriculum and how we restructure our course arrangements. These ideas aim at finding more feasible ways to provide incentives for students to go abroad. I think that offering scholarships is certainly one way. For the effectiveness of internationalization, the figures on incoming students and staff are good but less satisfactory for students going out. We really need to work on this.

Q: What approach will be adopted by the Law School in enhancing internationalization in the future? Will the Law School be more proactive in launching future collaborations?

G: After the School Retreat, we have been reviewing our internationalization strategies and we believe that we need to do



some adjustments. For example, by focusing on Common Law, we need to think about law schools not just from the UK but also law schools from the US, New Zealand, Australia and some European countries as well. Our Dean has been travelling in order to talk to existing and potential partners. So far, we don't have anything in concrete but I think we are making some progress. We do not only identify important law schools but also identify who we believe should be our first priority or target. Certainly, we still need to keep good relationships with our existing partners. In the future, we may need to enhance our core vision in becoming a more reputable law school.

Q: What is the Law School's future plan for internationalization? What factors will be taken into consideration?

G: In terms of teaching, we try to get more in-depth cooperation, for example with double degrees. We also need to place emphasis on international cooperation in research. I think that should be emphasized because we have not done much on research cooperation in the past. We do have many international conferences but not many research projects. Collaboration in research projects is important since published research helps us envisage our direction.

# CONGRATULATIONS : GENERAL RESEARCH FUND (GRF) AWARDED TO SIX FACULTY MEMBERS

The Research Grants Council (RGC) has announced the 2015-16 results of the General Research Fund (GRF) and Early Career Scheme (ECS). The School of Law continues to achieve a remarkable result of obtaining General Research Fund (GRF) this year. Last year, we were very successful in obtaining 4 out of 9 law grants. This year, in 2015-16 exercise, the School of Law is delighted to announce that we did very well again in getting 6 GRF/ECS grants. CityU's Law School is ranked 1st, together with Faculty of Law, HKU for two consecutive years in the GRF/ECS exercise.

A total of 6 funded projects worth more than HK\$2 million. The six principal investigators of successful grants are (in alphabetical order) Dr Chen Lei, Professor He Xin, Dr Mark Kielsingard, Dr Fozia Lone, Dr Charles Qu and Dr Wang Shucheng. Let's express our warmest congratulations to them.

We would like to thank all the colleagues who have made strong efforts in submitting high quality GRF proposals. The School of Law hopes that colleagues who have missed out in this round could learn from experience, refine their applications and submit in next round. The details of the six funded grants are as follows:



*The project title of Dr Chen Lei is "The Availability of Specific Performance in Chinese Courts: An Empirical Assessment", and the fund granted amounts to \$420,000.*



*Professor He Xin's project titled "Discourses in the Petition Office of Chinese Courts", he was granted the amount \$616,500.*



*Dr Mark Kielsingard obtained \$237,600 as funds to his project titled "Mandatory Chemical Castration: Law, Efficacy and Human Rights".*



*Dr Foza Lone's project is titled "Is the Indus Water Treaty of 1960 Outdated: A Multidisciplinary Study of Power, Principles, and Politics", and she secured the amount \$521,000.*



*Dr Charles Qu obtained a funding of \$346,250 for his project named "Schemes of Arrangement: Towards More Practical Rules for Managing Creditor Schemes".*



*Dr Wang Shucheng's project "The Binding Force of Guiding Cases in China: A Comparative and Empirical Study" is granted \$412,000.*

## PROGRAMME HIGHLIGHTS

### **LLB: 8 Freshmen Awarded Admission Scholarship 2014**



The award presentation ceremony of LLB Admission Scholarship 2014 was held at CityU on 5 March 2015. The Scholarship is awarded to outstanding secondary school students, who are nominated by school principals and admitted to the Bachelor of Laws (LLB) with Honours programme through the Joint University Programmes Admission System (JUPAS) and Direct Application.

The LLB Admission Scholarship was established in 2008 in recognition of first-year undergraduate students' excellent academic results and extra-curricular achievements. Each scholarship recipient is awarded a scholarship of up to HKD 50,000.

The awards were presented to the following 8 students, including Chan Sin Yuen Sharmaine from King George V School; Chan Wing Yan Chloe from Marymount Secondary School; Fong Yan Hon from St Paul's Co-Educational College; Fung Ka Kiu Kali from Diocesan Girls' School; Lee Ka Yee from CCC Kei Yuen College; Leung Justin from Diocesan Boys' School; Leung Tsz Kwan from Shun Lee Catholic Secondary School; and Wong Hin Yau Goldia from Good Hope School.

The distinguished guests included Professor Arthur Ellis, Provost, CityU; Mr Stephen Hung, President, The Law Society of Hong Kong; Professor Geraint Howells, Dean, CityU Law School; Mr Chan Tsun Kit, Principal, CCC Kei Yuen College; Ms Chim Yin Chu, Principal, Shun Lee Catholic Secondary School; Ms Cynthia So, Vice Principal, Good Hope School; and the following faculty members from CityU Law School: Professor Lin Feng, Associate Dean; Professor Gu Minkang, Associate Dean; Dr Rebecca Ong, LLB Programme Leader; Ms Alisa Kwan, Associate LLB Programme Leader; Dr Andra le Roux-Kemp, Assistant Professor; and Mr Jack Burke, Senior Teaching Fellow.

Professor Arthur Ellis welcomed all on behalf of CityU. He stated, "the CityU Law School is dedicated to providing professional legal education for tomorrow's lawyers. The LLB students will have the opportunity to take part in various activities such as mooting. Mooting is exemplary of the Discovery-Enriched Curriculum. Through the participation in mooting competitions, students are given chances to enhance and apply their legal knowledge."



## PROGRAMME HIGHLIGHTS

In his remarks, Mr Stephen Hung said, "the Law Society is heartened to see that the Law School has established the Admission Scholarships to encourage students to pursue academic achievements and to participate in extra-curricular activities to enhance their cognitive and social skills."

Ms Cynthia So congratulated the scholarship recipients and wished them every success in their academic pursuit in law and the quest for truth and justice.

In his vote of thanks, Professor Geraint Howells said, "the Law School is delighted and excited to have these bright students in the LLB Programme. I hope you will strive for excellence in the Law School."

### ***LLMArbDR: The Right to Arbitrate — Pre-eminent Scholar in International Arbitration Speaks at the 20<sup>th</sup> Goff Arbitration Lecture***

The 20<sup>th</sup> Goff Arbitration Lecture, organized by the School of Law, was held on 13 January 2015 at the Connie Fan Multi-media Conference Room, City University of Hong Kong. This year, the School of Law was honored to have Professor Gary Born, a preeminent scholar and practitioner in the field of arbitration, deliver a timely and thought-provoking lecture on the historical and contemporary developments on the right to arbitrate. Among many accomplishments, Professor Born is a partner of Wilmer Cutler Pickering Hale and Dorr LLP and the Chair of its International Arbitration Practice Group.

The title of Professor Born's lecture was 'The Right to Arbitrate: Historical and Contemporary Perspectives'. He first addressed the historical development and contemporary status of the right to arbitrate. In the historical perspective, arbitration was used in solving disputes among individuals for example among farmers and business or even within the country. He added that in the contemporary world, arbitration was applied to wider fields, not just in commercial use but in new uses such as sports, aviation and double taxation among countries, which were barely existed 30 years ago. The growing number of arbitration cases over years also indicated the increasing importance of the dispute settlement by this method.

He then examined the treatment of arbitration in the past by quoting from the works of Joseph Story, a American lawyer and jurist who served on the Supreme Court of the United States. In the 1800s, Joseph Story felt that "arbitrators, at the common law possess no authority, or to compel the attendance of witnesses: They cannot compel the production of documents and papers and books of account; they are not ordinarily well enough acquainted with the principles of law or equity; the judgment of arbitrators is but rusticum iudicium." In this regard, Professor Born added that many people had the same doubts as former Justice Story towards using arbitration



as a mean of dispute resolution and they thought that arbitration was not sufficient to safeguard the rule of law. Professor Born disagreed with such views and drew audience's attention back to how the right to arbitration has consistently been upheld since then, stressing that the right to arbitrate is in other protected principles such as freedom of contract and association as well as individual autonomy which form the foundation of constitutional principles and form the foundations of the rule of law.

Professor Born went on with some vivid examples to demonstrate the status of arbitration in its development and the practical implications of that right for international commercial and other disputes by arbitration agreement. The Lecture ended with a fruitful discussion, where participants had raised questions actively like the future development of arbitration as to resolve dispute resolution, the consensus and limitation of the right to arbitrate, while Professor Born shared his point of views with the participants accordingly.

At last, Professor Geraint Howells, the Dean of the Law School, presented a gift to Professor Born, in thanking him for delivering an insightful and valuable Lecture.

### **About the Goff Arbitration Lecture**

The Goff Lecture was instituted in 1990 by the City University of Hong Kong to celebrate the commencement of our Master of Arts in Arbitration and Dispute Resolution. The first lecture was delivered by Lord Goff of Chieveley, Lord of Appeal, who then consented to the series bearing his name. The Goff Lecture provides an excellent opportunity for discussion and exchange of views among practitioners and academics in the field. Over the years, the Goff Arbitration Lecture has gathered 20 eminent scholars to share their views on arbitration.



## About the Speaker

Professor Gary Born is the world's leading authority on international arbitration and litigation. He is the author of *International Commercial Arbitration* (Kluwer, 2<sup>nd</sup> ed. 2014) and numerous other works on international dispute resolution.

Professor Born is also the Chair of the International Arbitration Practice Group at Wilmer Cutler Pickering Hale and Dorr LLP and, for the past 20 years, has been ranked as one of the world's leading international arbitration practitioners. He is one of only two arbitration practitioners in the world ranked with 'starred' status by Chambers Global.

He has served as counsel in over 600 arbitrations, including several of the largest arbitrations in ICC and ad hoc history. He has also sat as arbitrator in more than 150 institutional and ad hoc arbitrations. He is an Honorary Professor of Law in International Arbitration at University of St. Gallen Law School in Switzerland and teaches regularly at law schools in Europe, Asia and North America. Most recently, in December 2014, Professor Born was appointed as a Visiting Professor at Tsinghua University School of Law in Beijing, which is in addition to other visiting professorships in Singapore and the United States.



## LLM: Graduation Ceremony for 6<sup>th</sup> LLM Programme for Chinese Judges

The Graduation Ceremony for 6<sup>th</sup> LLM Programme for Chinese Judges was held on 9 January 2015 at Connie Fan Multi-media Conference Room, Cheng Yick-chi Building, City University of Hong Kong. Officiating guests included Professor Huang Yongwei, President, National Judges College, People's Republic of China; Dr Liu Xinkui, Director-General, Department of Law, Liaison Office of the Central People's Government in the HKSAR; Mr Ji Jianjun, Deputy Director-General, Department of Educational, Scientific and Technological Affairs, Liaison Office of the Central People's Government in the HKSAR; Dr Tian Lixiao, Director-General, Department of Treaties and Law, Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR; The Hon Andrew Liao Cheung-sing, GBS, SC, JP, Non-official Member of the Executive Council of HKSAR, Professor Nohyoung Park, Professor of Law, College of Law, Korea University; Mr Thomas So Shiu Tsung, Vice President, The Law Society of Hong Kong; Mr George Tam Siu Ping,



Assistant Supervisor, Wah Yan College, Hong Kong; Mr Herman Hu Shao-ming, BBS, JP, Council Chairman, City University of Hong Kong; Professor Way Kuo, President and University Distinguished Professor, City University of Hong Kong; Professor Geraint Howells, Dean, School of Law, City University of Hong Kong; Professor Wang Guiguo, Director, Centre for Judicial Education and Research, City University of Hong Kong, and Chair Professor of Chinese and Comparative Law, School of Law, City University of Hong Kong; Professor Gu Minkang, Associate Director, Centre for Judicial Education and Research, City University of Hong Kong, and Associate Dean, School of Law, City University of Hong Kong. Ms Elsie Leung Oi-sie, JP, former Secretary for Justice, and Deputy Director, the Basic Law Committee also taking the time to attend.

Professor Wang Guiguo in his welcoming remark, mentioned that a lot of people, in particular young people thought they were not living in the right time and the world was not as good as they wished. But Professor Wang believed all of us were living in a great time of history; a great time of history in China; a great time of history in the world. It was especially a great time for judges to be in China. He was sure that the things they had learnt even though not much would be very useful as long as they paid attention to the changes of the world and made contributions to the changes. Gradually, they would realize that they have become more important and more useful than what they thought. And the world would be much nicer. He concluded his speech with his anticipation for the graduates, that when he saw the graduates next time, no matter what their status would be, they had made contributions to China and to the world.



Mr Herman Hu Shao-ming pointed out that to fully understand the legal system in a region, he believed that you must stay in the region for some time. He hoped the Chinese judges obtained valuable experience about the legal system in Hong Kong through their stay here in the past year. They could gain new insights and enhance

## PROGRAMME HIGHLIGHTS

their views towards the legal system and most importantly, apply them to their working place. Finally, he encouraged all graduates to be always loyal to the rule of law, and to try their best to maintain social justice. He also took this opportunity to wish all the Chinese judge students a bright future and great contribution to the legal system in China.



Professor Way Kuo mentioned that no judges could always make perfect judgment. It may happen that a good person judged with guilty and a bad person judged innocent. A good judge should try his best to minimize these kinds of errors. A judgment being either too lenient or too strict is not desirable, therefore it requires wisdom to deal with this human mistakes.



Professor Huang Yongwei believed the teaching methods and management of the City U Law School was very successful so the students could develop independent observation and thinking. He believed the total 168 graduates of LLM Programme for Chinese Judges would play important roles in China's judicial system. The 6<sup>th</sup> cohort graduates were from different schools, different regions, and different courts, so they had different experiences, knowledge and insights. By studying in CityU for one year, with professional training including visits, essay writing, as well as the communication among them, they certainly would generate new ideas and the impact would be influential in the long run.



The Hon Andrew Liao Cheung-sing mentioned that he attended the welcoming ceremony for 6<sup>th</sup> LLM Programme last year. In his speech in that ceremony, he mentioned that the reform of judicial system in China would bring big changes and challenges, and he believed that the LLM students would find these experience during their stay in Hong Kong for one year. Today, he hoped that the students could

already find this experience after their stay in Hong Kong for one year. He also mentioned that one of the major tasks for judges was to improve the judicial credibility, and every effort should be made to ensure justice was served in very cases coming before the courts.



Professor Geraint Howells mentioned that we were so fortunate to have successfully run the LLM Programme for Chinese Judges that attracts young talented judges working in the Mainland judicial system for six years. He congratulated to all the graduates and he thought their performance was very impressive. He also mentioned that the Programme was very intensive: within the tight study schedule, the judges not only managed to meet the requirements of all the courses, but also attended short-term courses held in Emory University and Korea University. They also exchanged viewpoints with legal experts in both academia and professional practice.



Professor Nohyoung Park said that he and Korea University were very proud to join the LLM Programme for Chinese Judges in the past five years. These Chinese judges who sat here were very serious and eager to meet and discuss with the Korea judges and took a look at the Korea legal system and society under a limited time frame. Their integrity and fluency in English left great impression in Korea. He felt confident that China would develop further with credibility based on the rule of Law. Those Chinese judges in the LLM programme would greatly contribute to the development of Chinese legal system by understanding the rule of law and thus eventually to develop the legal system.



Mr Thomas So Shiu Tsung mentioned that LLM programme provided a channel for the legal professionals to exchange and update their knowledge, skills and experiences, and to serve the even increasing demand on legal sectors and communities. The development of the closer economic partnership between the mainland and Hong Kong highlighted the need for legal professional not only to keep updating the skills and knowledge, but also to ensure our capability in handling legal issues with an increasing transactional region.



Judge Zhang Li, the student representative of the 6<sup>th</sup> LLM Programme for Chinese Judges, expressed her appreciation to National Judges College and City U. The wonderful organization, hard work, dedication, and support enabled them to achieve their dreams and goals. In City U, they were provided ideal environment for learning. She was also grateful for their professors who encouraged them to bring the best out of themselves, and thanked the professors for sharing wisdom, experiences and knowledge with them. She believed the program broadened their horizon and helped them to have a deeper understanding of the differences of legal and cultural system among Mainland China and other regions. She also became more confident and mature because of the one year study.



In his Vote of Thanks, Professor Gu Minkang expressed that the success of the LLM programme really relied on the generous support of a number of organizations. To Supreme People's Court of China, National Judges College, City U leaders, Dean of School of Law, The China Liaison Office, Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR, the local legal institutions, and the IAB members, he would like to express his heartfelt appreciation. Because of their generous support, generous donation and the hard work of the team here at City U, he believed that the graduates from LLM programme would be able to contribute in the reform of mainland China as well as facilitate the global trade in the future. He was therefore very proud to provide the programme for six consecutive years for the Chinese judges. He wished every one of them could apply what they had learnt from the programme on their judicial careers.

### ***JSD: Programme Updates***

The Doctor of Juridical Science (JSD) is one of the Law School's most advanced Law degrees. The programme integrates in-depth theoretical explorations and thesis writing at a doctorate level to provide students theoretical rigors in their professional pursuit. As one of its milestones of the programme development, the JSD programme started offering a JSD Programme for senior Chinese Judges (JSDCJ programme) in 2011. The JSDCJ programme operates under School's close cooperation with the National Judges College in the admission of Chinese senior judges. This arrangement provides a platform for the two judicial systems to exchange by bringing together scholars and experts from different jurisdictions to explore deeply law theory and education. The programme has become a flagship programme of our School. Current students enrolling in the JSD programme are very diverse in terms of their education backgrounds, theoretical pursuits, and career paths.

Promoting academic as well as professional exchange locally or internationally has always been one of the priorities of the JSD programme. In addition to the regular JSD curriculum, students also have the opportunity to participate in the collaborative programme with University of Vienna: LLM European and Asian Legal Studies. This will broaden students' horizon and contribute to the branding of the School and CityU through global outreach. For senior Chinese judges enrolling in the JSD programme, the School has organized various exchange trips to Europe, the US, and South Korea in the past to facilitate exchange and mutual understanding between legal communities in China and the Europe, the US, and South Korea. In Semester B 2014/15, 30 students participated in a trip to the US during 19 April – 2 May 2015 organized by the School and Tulane University Law School, and 7 students participated in a trip to Seoul, Korea during 3 – 9 May 2015 organized by the School in cooperation with Korea University School of Law. Exchange activities at a local level including visits to Legislative Council and High Court and research seminars by faculty members or invited speakers have also been organized at a regular basis to facilitate professional exchange, widen their scope of knowledge, and enhance their learning.

The School has always been doing its very best in driving for research excellence of the JSD programme. The School provides various financial supports and recognitions in facilitating research excellence, including conference grant, thesis editing support and Outstanding Publication Award. With the support of the conference grant, some JSD students have successfully participated in various international academic conferences in Mainland China, South Korea, and the US. In the past year, three students have won the School of Law Outstanding Publication Award for their articles in SSCI and CSSCI indexed journals. The Award serves as recognition of students' research excellence of their academic achievement which encourages students' pursuit of research excellence. The awards will improve students' research quality and help promote the regional and international exposure of the JSD and JSDCJ programmes.

### ***School Retreat on 5 – 6 December 2014***



The School of Law organized a successful retreat on 5-6 December 2014 at Le Méridien Cyberport, Hong Kong. Around 60 participants, including our teaching staff, administrative staff and an invited guest, attended the two-day retreat. The retreat aimed at providing a valuable opportunity and platform for them to discuss ways to improve their teaching and learning, and to brainstorm and generate useful new ideas and suggestions for the School's and the programmes' development.

At the reception Professor Geraint Howells, Dean of School of Law, made a presentation on strategic and operation plans. It was emphasized that five guiding features — internationalization, interdisciplinarity, impact and knowledge transfer, discovery-enriched curriculum (DEC) and employability agenda — would be expanded upon before they were applied to the areas of teaching, research and School management.

The two-day retreat was divided into sessions with different topics including international strategy, law school and the community (outreach, engagement and impact), support to students, employability agenda and programmes' development.

**Professor Gu Minkang** made a presentation on international strategy. He gave an overview of current links, emphasizing the importance of internationalization for education and research as well as a future plan for collaboration.

**Dr Surya Deva** presented his views on 'Law School and the Community: outreach, engagement and impact'.

**Dr Rebecca Ong** and **Ms Alisa Kwan** had a presentation on support to students. Current support offered by the Law School and ways in enhancing students' supports were introduced.

**Ms Sara Tsui** and **Ms Scarlet Tsao** gave a presentation on the topic of employability agenda including the current tools used for implementation, what had been done so far and what could be done more to help the students.

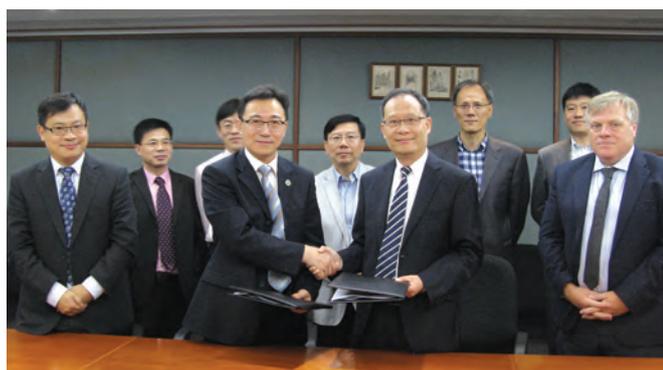
**Ms Sara Tsui**, **Dr Guan Wenwei**, **Mr Mitchell Stocks** & **Mr Jack Burke**, **Professor Lin Feng** and **Dr Rajesh Sharma** gave the presentations on programme development respectively.

**Professor John Lowry**, Chair of Commercial Law at Faculty of Law of the University of Hong Kong, was invited to make a presentation on research strategy. He shared his views on how researchers could allocate time in doing research. He further emphasized that research quality was more important than research quantity, and how the refereeing process helped in improving the quality of scholarly research as comments given to the scholars and colleagues' feedback were equally important.



Professor Howells finally made the concluding remarks. He expressed that he appreciated the open and down-to-earth discussion during the retreat, which help him to form his views on the possible directions the Law School should go. He also welcomed colleagues to meet and discuss with him on other relevant matters.

### ***Collaboration between City University of Hong Kong and South China University of Technology***



The School of Law (SLW), City University of Hong Kong (CityU) and the Law School, South China University of Technology (SCUT) have recently reached the Memorandum of Understanding and the agreement on the collaboration on Legal Science Undergraduate Programme. Both law schools look forward to and would work closely for the collaboration.

The SCUT delegation team included **Professor Zhu Min**, Vice-President, **Professor Zhang Qinyuan**, Deputy Associate Dean of Graduate of Studies, **Professor Xia Zhenglin**, Associate Dean, Law School, **Mr Wang Qingnian**, Director, Office for HK, Macau

& Taiwan Affairs and **Ms Cathy Huang**, Deputy Director, Office for Hong Kong, Macau & Taiwan Affairs.

The CityU staff members included **Professor Paul Lam**, Chief-of-Staff, **Professor Geraint Howells**, Dean, **Professor Lin Feng**, Associate Dean, **Professor Gu Minkang**, Associate Dean and **Dr Chen Lei**, Associate Professor.

### ***The 6<sup>th</sup> Law Forum of Hong Kong, Macau and Guangdong***

The 6<sup>th</sup> Law Forum of Hong Kong, Macau and Guangdong, jointly held by the School of Law, City University of Hong Kong, the Guangdong Law Society and the Faculty of Law, University of Macau took place on 20 December 2014 at the Connie Fan Multi-media Conference Room in CityU and was brought to a successful close.

The officiating guests included **Mr Frank Poon**, Solicitor General of Hong Kong, Department of Justice; **Mr Xiao Yubin**, China Law Society; **Mr Liang Weifa**, President, Guangdong Law Society; **Professor Gu Minkang**, Associate Dean, School of Law, City University of Hong Kong; **Mr Du Chun**, General Manager, China Legal Service (Hong Kong) Co., Ltd.; **Professor John Mo**, Chair Professor, Faculty of Law, University of Macau; **Mr Wang Jianyuan**, Department Director, Research Office, Department of Law, Liaison Office of the Central People's Government in the HKSAR; and **Mr James Wong**, Vice President, Greater China Legal Affairs Committee.

About forty legal experts and scholars participated in the Forum. They were from various university law schools and legal institutes, including the School of Law, City University of Hong Kong; the Faculty of Law, University of Macau; Guangdong University of



Foreign Studies; Law School, Guangzhou University; Guangdong Law Society; Guangdong Institute of Public Administration; Faculty of Law, Chinese University of Hong Kong; Law School, Jinan University; just to name a few.

When delivering his speech, Mr Frank Poon, Solicitor General of Hong Kong, Department of Justice said that the legal systems were different among the three regions and it required collective efforts to coordinate the legal issues in relation to the Greater China legal system. With a good foundation established, he wished to further improve the legal systems of the three regions.

Mr Xiao Yubin from the China Law Society mentioned that the Central People's Government of the PRC highly recognized the importance of the legal cooperation among Guangdong, Hong Kong and Macau and would ensure high degree of autonomy in Hong Kong and Macau.

Mr Liang Weifa, President, Guangdong Law Society deemed the Forum of vital importance to improve the legal systems of Guangdong, Hong Kong and Macau and wished the Forum a success in advance.

Professor Gu Minkang, Associate Dean, School of Law, City University of Hong Kong expressed appreciation on behalf of the School of Law to all the participants for their support to the Forum. He expected the Forum participants could gain new perspectives of legal cooperation among the three regions through the one-day event.

During the Forum, the speeches delivered covered a wide range of topics, offering an opportunity for the participants to gain new insights from different areas of law. The experts and scholars who commented each speech provided very detailed and practical suggestions. Other participants also played active roles in discussion.

At the Forum closing, Professor Gu hoped the Forum participants could enhance their views towards legal cooperation among the

three regions through the comments, concluded that the Forum outcome was as fruitful as expected, and encouraged participants to carry on for an even brighter future of the Forum.

### ***School of Law's Participation in The CityU Employers' Luncheon: Platform to Connect with Potential Employers***

The Employers' Luncheon was held by CityU on 9 April 2015 at the Hong Kong Convention and Exhibition Centre. This newly initiated event aimed at providing a platform for CityU students to demonstrate their achievements to prospective employers as well as to strengthen the connections between CityU and employers.

The event highlights were student work exhibition and the keynote speaker **Mr Antony Leung Kam-chung**, Chief Executive Officer of the Nan Fung Group. Around 300 representatives from a wide spectrum of industries and fields participated in the Luncheon. A number of representatives were partners or senior management of reputable firms and chambers, including Allen & Overy, Stephen Lo & P Y Tse, George Y.C. Mok & Co. International Group, Lau & Ngan, Hastings & Co., Pinsent Masons and Gallant Y.T. Ho & Co. The Dean **Professor Geraint Howells** and two other academic staff from School of Law, **Ms Sara Tsui** and **Mr Mitchell Stocks**, also took part in the event.

The student project exhibition was scheduled 45 minutes before the Luncheon outside the banqueting hall. The School of Law was one of the six colleges to take part in the exhibition. During the exhibition, **To Cheuk Lun Alan**, a Juris Doctor (JD) student, served as our student representative to introduce the School's mooted achievements to the guests.



## SCHOOL OF LAW EVENTS



The exhibition included nearly 70 display panels and depicts the learning experience and achievements of CityU students. At the School of Law exhibition, the guests were introduced to the different mooting competitions that our students had participated in.

In particular, two remarkable achievements were highlighted: in 2012, our students won the championship in the 9<sup>th</sup> Annual Willem C. Vis (East) International Commercial Arbitration Moot held in Hong Kong; and in 2013, we won the championship in the 20<sup>th</sup> Annual Willem C. Vis International Commercial Arbitration Moot held in Vienna. While mooting competitions served as an excellent example to demonstrate our students' abilities, Alan also shared with guests his personal experience of undertaking internship in mainland China.

During the luncheon, Mr Antony Leung Kam-chung spoke on the topic—'Career Opportunities for the Post-90s Generation during the New Economic Era'.

According to Mr Leung, improving Hong Kong's competitiveness should be based on two aspects. The first aspect is to serve China's economic globalisation. The second aspect is to refine and augment



Hong Kong's development strategy so we can truly become an international centre with global impact.

He also shared with guests on what attributes students should equip themselves with in the workplace.

"Recently I have been working with a number of friends who are in the education sphere to re-study Hong Kong's education again." He continued, "We would like our students to be able to think and learn throughout his or her life, to improve their creativity, and most important of all, to strengthen their soft skills because nowadays, in order to be successful, you need soft skills, such as the ability to take winning and losing much better."

The event ended with a vote of thanks by Mr Vincent Chow, Deputy Chairman of the CityU Council. He thanked Mr Leung for sharing his views with CityU students. He also thanked students for demonstrating their achievements to the employers.

## UPCOMING EVENT



The School of Law, City University of Hong Kong will be co-organizing the following event:

### **UNCITRAL Asia-Pacific Judicial Summit on the Role of National Courts in International Arbitration**

with *UNCITRAL, HK Department of Justice, and HKIAC*

28 October 2015 9:00 AM - 5:00 PM

Harbour Grand Hong Kong (23 Oil St, North Point, Hong Kong)

\*UNCITRAL – United Nations Commission on International Trade Law

\*HKIAC – Hong Kong International Arbitration Centre

## STUDENT SHARING



My first year as a law student at the City University of Hong Kong (CityU) has absolutely just flown by. I remember how confused I was during the first few weeks when the sheer size of CityU and all it has to offer was still new to me. But, soon that all changed and the School of Law and library became my second home: the former because I felt at home and the latter because I basically lived

there. It wasn't all work and no play though – there were plenty of opportunities for socializing and getting involved.

My first day at the School of Law included a speech by a professor who very sternly told us that we need to seize all the opportunities available to us starting from day 1. This was a daunting task as at this stage I was not even aware what those opportunities were, nor did I know how to seize them. But, soon it became apparent that there was a very wide variety of things to get involved in at the School of Law. You could get involved with such ease that before I checked myself I had loaded my “work-plate” fuller than a student at an all-you-can-eat buffet. This, of course, led to some unnecessary stress, but the rewards of being an involved student definitely made up for that.

The truth of the matter is that as a first year law student you have to work... you have to work hard. You have to put in the long hours and try your level best not to drown under heaps of cases. And then people ask me: how do you law students do it? How do you put up with all those hours of reading? The answer is simple – the study of law is an absolute pleasure. There is always something new and exciting to discover in your textbooks or in a book you find in the dark back corners of the library. This is true of all law schools, but at CityU with its internationally recognized academic staff this is doubly so. After being exposed to the ideas and thoughts of our professors it is simply impossible not to be inspired to go back into the library and march forth through that contract law textbook.

My first year at CityU School of Law was a pleasure, but I doubt it would have been the same without the contributions of my professors and fellow students. For, when you get down to it, a law school is nothing but a building without the people who make it exceptional.

– *Jacobus Du Plessis (LLB)*

My experiences at the City University of Hong Kong (CityU) School of Law have run the gamut from fear to frustration, to moments of Eureka, to sheer pleasure.

To start with, I was forced – I use that term in a benign way – to think critically and precisely, and to articulate my ideas with clarity and conviction. I recall numerous occasions when having presented a certain legal stance, I was struck first with terror – when challenged by either the class or the professor to justify my position – and then elation, when having successfully done so.

Secondly, although the professors often strove to explain the rule of law in a particular case or area, as a student I found I needed more – I had to develop and organize my own understanding of the ‘shape’ and ‘trend’ in the law by reviewing both the history of cases that had arisen and also the appeals against rulings that subsequently arose. I was hence driven to analyze and synthesize all the ‘raw materials’ of the common law into a framework that afforded me coherence and structure. To be sure, such a task was difficult at first, at times almost Sisyphean, but as I progressed through School of Law I found myself becoming noticeably more adept at the task, and appreciative of the insight that resulted.

My most sobering experience was to be reminded that ‘good enough was not good enough’. While there was no shortage of support – the professors themselves, the materials available in the library and interactions with students roped in together on occasion to combine to address a particular legal issue – taken all together that was still not enough. I soon learned that mastering any particular subject required that I go deeper into the issues and seek out the questions that either weren’t answered well enough, or weren’t answered at all – and then attempt my own theoretical responses. It was insufficient to simply observe the legal landscape – I needed to add to the debate.

Outside of the regular regime, I was honored to be on the board of the Law Review and later to be its Editor-in-Chief. While this responsibility was costly in terms of the extra time and effort it required, the experience of being a participant in commentary central to the legal culture was and remains highly rewarding.

Finally, while I enjoyed my traverse through the substantive law subjects, it was Jurisprudence and Legal Theory that both



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challenged and satisfied me the most. The former subjects taught me what the law 'is' – the latter made me consider 'why' the law is as it is and contemplate what it 'should be' as well.

– Gillan Roger Howard (JD)



I decided to do a LL.M programme pretty much because of my desire to find out how the law operates in Hong Kong, and how things are done in the field of Hong Kong Mediation and Arbitration.

City University of Hong Kong (CityU) just seems to be a place where I am from in Melbourne.

I also wanted to be in a place where I would feel safe, and I researched about this university and I thought it would probably be a good choice, as to the proximity of other institutions I applied to.

I love the curriculum; basically it is designed to provide students with very much hands-on technical knowledge in the field of Arbitration and Dispute Resolution. It also helps people with different career backgrounds to achieve and extend their legal knowledge with the most up-to-date affairs in the field. Whether one is a current practicing solicitor, a barrister, or working in the construction, maritime field, the course will benefit the student with the latest practice and movement in the field. Therefore, I think the curriculum, the environment and the general atmosphere are perfect for me here at CityU.

At CityU, the professors are "A class" in terms of their approach to learning. If I ever needed a professor, there would be somebody who is available straight away. It is the helpfulness of the faculty as well as the comprehensive package of "services" provided here at CityU that make this School of Law stand out from the other legal education institutions.

What I treasure most is the cultural diversity brought by my classmates at CityU School of Law: their backgrounds ranges from the mainland China to the Europe. If you are a student looking for a unique legal education experience enriched by committed teachers, knowledge about Chinese and international laws, and

practical know-hows, CityU School of Law would be the right place for you.

In a word, this programme would prepare you for the challenges ahead.

– Alan Jit-ho Mak (LLMArbDR)



Law is an area which has interested me for a long time since a very young age. I consider myself to be well suited to a career in the legal field as I pay much attention to detail and take pleasure in undergoing work which raises social issues in today's ever-changing

society. Academically, I have always been a determined and studious individual, hence why I knew that a Master's degree at the University would be my definite next goal. I have broad interests in many areas of subject yet feel drawn towards the area of intellectual properties and technology law, the nature of which is always complicated and intriguing.

Currently, I am working as a trainee solicitor at a local law firm and am keen on developing a legal career with a focus on civil litigation. During my traineeship, I have gained experience in handling diverse types of cases. It may seem more appealing to continue studying without getting a full-time job, but I find myself enjoy doing both at the same time. As I have anticipated, a Master's degree – particularly doing it in a part-time mode - is far more intensive and demanding than an undergraduate degree, and I have to be very disciplined and extremely well organized so as to cope with both full-time job and the study; otherwise, I would risk falling behind with either one.

I am thankful that the School of Law of the City University of Hong Kong (CityU) has created a harmonious environment for me to learn and grow. As a part-time postgraduate student with several years of legal work experience, I take the golden opportunity to update my research and analytical skills. More importantly, it is indeed my great pleasure to have met so many professors, lecturers and classmates who are always passionate, enthusiastic and helpful throughout.

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Apart from my full-time job and part-time study at CityU, I have engaged in acting as assistant instructor for various mediators' training courses, contributing to legal texts as well as serving as Director/ Hon. Legal Adviser in several charities in Hong Kong. In April 2015, I received from the Home Affairs Bureau and Commission on Youth of the HKSAR Government "Top 10 Hong Kong Outstanding Youth Award (Star of the Stars)" and "Hong Kong Youth Leadership Award". Being selected means an utmost honour and motivation to continue to strive in my career and academic journey. To achieve such recognition is extremely encouraging and I would like to take this chance to express my sincere gratitude towards everyone that made this possible.

– Chan Ho-ting Mac (LLM)



Like many, I did not approach the PCLL with much enthusiasm. However, nine months later, I can look back fondly on what has been an invaluable experience.

Coming from Auckland, it took time to adjust my study in Hong Kong. Packed canteens, escalators to class and student societies chronically shouting their lungs out were eye-openers. Despite regularly being mistaken for an Australian and a recipient of frowned looks for my New Zealand accent, I was impressed at the diverse and international nature of our class. Beyond academics, PCLL has been a great way to form your future networks (especially for those from abroad).

Teaching in PCLL is split between lectures and tutorials. The City University of Hong Kong's (CityU) emphasis on 'tutorial based' learning provides an intimate teaching style. PCLL's content focuses on practical aspects of transactions and disputes, such as drafting corporate agreements and court documents. It builds on, and adds to, the legal theory we learnt at School of Law. I was struck by the quality of teaching staff on hand, including former partners at international law firms and leading barristers. It has, undoubtedly, equipped us for the better as we venture into our respective training contracts and pupillages.

A highlight was the careers talk PCLL students held at the School of Law. The Hong Kong law graduate recruitment process is

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arduous and competitive. It was an opportunity for us to give back to younger students. My hope is that we can continue making a difference to the community around us.

As Mitchell Stocks, PCLL programme leader, so succinctly put to us in our last class: "To leave the world a bit better; this is to have succeeded".

– *Wong Wai Ming (PCLL)*



"It's daunting to have a dream, to have an idea of my own, to be thoroughly serious, and to be stubborn enough to persist." – from a Shanxi poet

That year I was working in Hulunbuir. Hectic work schedules. The charming summer pastures. I wasn't bold enough to even imagine studying overseas until one day, a judge from the Supreme People's Court came for a lawyers' talk, when I was one of the hosts. Over lunch this judge mentioned that CityU and the Supreme People's Court were organizing a Doctor of Juridical Science (Chinese Judges) programme, and that the admission information had already been released on the web. I wondered: What is Hong Kong like? Are all teachers foreigners? Can I adapt to their education? Then I went through the admission requirements, the aims and orientation, and learnt that the programme aspires to nurture Chinese judges with a global vision. I was intrigued about taking up study at a world-class institution like CityU, and so I determined to pursue this dream and proceeded to make the necessary preparations.

June 7, 2011 was an unforgettable day. Admission interviews were held at the office of the Supreme People's Court. There were butterflies in my stomach and as my interview was to be

held in the afternoon, I was in no mood for lunch. The qualification checking and preparation of materials went smooth. To my great joy and relief, the admission letter finally arrived at the Hulunbuir Court in September 2011. I was excited for several days, but then I was faced with the tension between doing my duties at work and the forthcoming intensive study. I struggled to apply for leave from my senior.

While bearing the weight of my seniors' and colleagues' expectations, my study at CityU was a pleasant journey. The open cultural atmosphere, as well as the orderly campus, makes CityU a unique place with an exotic touch. I never ceased to be amazed by the course management style --which was completely different from that of mainland China--and the rigorous, dedicated teaching team led by Dean Wang Guiguo. The courses covered fields including global investment, intellectual property, Hong Kong Basic Law, Hong Kong administrative law, and legal methodology. The case method adopted by the teachers required students' critical thinking to put what we read (original works) and what we wrote (theses) together. We cannot simply compare this two-month study in Hong Kong with other legal education programmes back in the mainland. It was the thorough consideration from the school, and the intimacy between the school and us students, that made the days I spent at CityU so memorable. Nonetheless, it was far from easy to study at CityU Law School. Studying to meet such high standards and strict requirements at such an "old" age, I did taste my share of sourness and bitterness: without stubbornness never could I accomplish my JSDCJ programme. Just as Justice Wan Xiang (the vice chairperson of the Standing Committee of the 12<sup>th</sup> National People's Congress) who happened to be the original planner of this programme once remarked, "It would be such a rare opportunity to learn from the world famous legal experts and enrich legal knowledge in renowned law schools."

Thank you, CityU Law School, for all the golden memories you brought to me.

– *Qiao Xin (JSDCJ)*

## ***Preparing for the Contracts (Rights of Third Parties) Ordinance***

Alexander F H Loke

Professor G H Treitel has described the outcome of the battle over privity as “the most significant doctrinal development in English contract law in the twentieth century”.<sup>1</sup> The outcome – the UK Contracts (Rights of Third Parties) Act 1999 – facilitates the conferral of enforceable rights on third parties through a contract. Provided that the statutory elements for investing such rights on third parties are satisfied, the privity rule will no longer pose a doctrinal obstacle to the law upholding such contractual intentions.<sup>2</sup>

In Hong Kong, however, the privity rule retained its vitality into the 21<sup>st</sup> century. The Contracts (Rights of Third Parties) Ordinance was passed by the Legislative Council in November 2014, some nine years after the Law Commission of Hong Kong recommended in 2005 the legislative reform of the rule along the lines foreshadowed by the UK legislation.<sup>3</sup> Whether the legislative inroad into the privity rule constitutes the *most* significant doctrinal development in Hong Kong contract law in the 21<sup>st</sup> Century will have to await appraisal nearer 2099. There can, however, be no doubt that when the legislation comes into force, it will prevent the privity doctrine frustrating parties’ intention to confer on a third party an enforceable right. Provided the threshold elements required by its enabling provisions are satisfied,<sup>4</sup> the Ordinance stands ready to honour the parties’ intentions by creating in the third party a statutory right of action against the promisor.<sup>5</sup>

This is not to say that contracting parties have not, through their lawyers, been able to creatively circumvent the obstacle posed by the privity doctrine. Indeed, determined contracting parties who desire to confer on third parties enforceable rights have been able to do so using existing private law doctrines.<sup>6</sup> Nonetheless, the development of the Himalaya clause seeking to limit the liability of stevedores and similar agents from suits by cargo owners demonstrates that the road to achieving the desired outcome can sometimes be a long and difficult one.<sup>7</sup> From the perspective of economic analysis of the law, there can be little doubt that the Act greatly reduces the transaction costs necessary to achieve the contracting parties’ intentions. Commercial parties would surely be grateful that they would not have to engage lawyers to undertake the intellectual challenge of navigating the obstacle course presented by the privity rule.

The elements that must be satisfied in order for a contract to confer an enforceable right on a third party are found in section 4. In addition to a contractual term which expressly provides that the third party may enforce a term of the contract (s. 4(1)(a)), the third

party may also acquire an enforceable right if “the term purports to confer a benefit on a third party” (s. 4(1)(b)).<sup>8</sup> One advantage of transplanting the UK legislation with a time lag is the benefit of judicial precedents interpreting the provisions, and thus a better understanding what the legislation entails. “A term which purports to confer a benefit” connotes “language used by the parties (which) shows that one of the purposes of their bargain (rather than one of its incidental effects if performed) was to benefit the third party.”<sup>9</sup> The mere fact that the position of the third party is improved by the due performance of the contract is insufficient to satisfy this element. Nonetheless, threshold is not a high one – for if a term can be shown to be one which seeks to benefit the third party, the threshold is crossed. The consequence is that the third party has presumptively an enforceable right -- unless the promisor is able to demonstrate that “on a proper construction of the contract, the terms are not intended to be enforceable by the third party” (s. 4(3)).

Judicial precedents indicate that threshold posed by s. 4(1)(b) is not a very demanding one. In *Nisshin Shipping v Cleaves & Company*,<sup>10</sup> a charterparty which provided that a commission is payable by the owner of the vessel to the shipbrokers was found to meet the requirement of the UK equivalent of s. 4(1)(b).<sup>11</sup>

In *CLAAS Medical Centre Pte Ltd v Ng Boon Ching*,<sup>12</sup> the sale of an aesthetic medicine practice entailed its transfer to an asset-holding company. The non-competition clause was found in a shareholder’s agreement whose signatories included both the vendor-doctor and the acquiring doctors; significantly, the asset-holding company was not a party to the non-competition agreement although it was the entity to which liquidated damages for breach of the non-competition clause was payable. The Singapore Court of Appeal was prepared to find that the non-competition clause purported to confer a benefit on the third party-holding company within the terms of the Singapore equivalent of s. 4(1)(b). While the trial judge held that the presumption of third party enforceability was rebutted on a true construction of the contract, the appeal court disagreed. To the trial judge, the presumption of enforceability was rebutted by two matters, in particular: (i) the fact that the agreement could be terminated by the parties in writing, and (ii) the prohibition on the assignment of rights and benefits under the Agreement without the consent of the other contracting parties. The Court of Appeal found the reasoning erroneous. The provision for termination related to the reservation of the right to vary or extinguish the third party’s rights as contemplated by the equivalent of s. 6; it does not impact on whether parties intend the third party to have enforceable rights. To rebut the presumptive right once s. 4(1)(b) is satisfied, the prohibition of assignment must relate to assignment to the third party in question; a general prohibition against assignment is an insufficient indication that parties do not intend the creation of enforceable third party rights. In the absence of further evidence of contrary intention, the rebuttable presumption of enforceable third party rights stood.

Relying on the dictum in *Dolphin Maritime* that one of the purposes of the term must be to benefit the third party in order to come within s. 4(1)(b), the Singapore High Court in *Columbia Asia Healthcare Sdn Bhd v Hong Hin Kit Edward*<sup>3</sup> opined that “it is only when the third party establishes that it is an intended beneficiary that the burden then shifts, under the second limb to the [promisor].”<sup>14</sup> While s. 4(1)(b) does contemplate a distinction between the intended and incidental beneficiary, it does so in a limited manner. Section 4(1)(b) focuses on the term in question: does an objective interpretation of the term allow one to draw the conclusion that it is intended to benefit the third party? If the answer is yes, the rebuttable presumption operates. Section 4(2) then directs one to a holistic interpretation of the contract; does a holistic consideration of the contract bring one to the conclusion that the parties did not intend to confer enforceable rights on the third party? That is, that the third party is not an intended beneficiary of enforceable rights. The two provisions operate together to distinguish the intended beneficiary from the incidental beneficiary. In short, the intended vs incidental beneficiary inquiry permeates both s. 4(1)(b) and s. 4(3).<sup>15</sup>

Given the threshold posed by s. 4(1)(b), contracting parties who have no intention of creating enforceable third party rights should insert an express provision excluding the application of the Ordinance. The privity rule will thereby apply with full force and with it, the insulation against unintended liability to third parties.

Even if enforceable third party rights are intended, the ease with which the rights can crystallize and are rendered unchangeable means that it is advisable to reserve a right to the contracting parties to vary or rescind the right without having to obtain the consent of the third party. Under s. 6(2), this happens upon the third party communicating his assent to the promisor. No reliance or prejudice need be demonstrated. The reservation has to be in the form of an express term; it cannot be an implied term.<sup>16</sup> As such, without an express reservation of the right to rescind the contract or vary the third party's rights, contracting parties stand the very real risk that the room to negotiate changes to the agreement will narrow or dissipate upon the events crystallizing the third party's rights taking place.<sup>17</sup>

The Ordinance remains, at heart, an enabling piece of legislation that allows contracting parties to overcome the privity rule if they so choose. It may be that, by reason of the presumption in s. 4(1)(b), the Ordinance too readily takes contracting parties as desirous of creating enforceable third party rights. With the Ordinance soon to come into force, contracting parties will need to review their contracts carefully to ensure that the third party rights come into existence only in accordance with their expectation.<sup>18</sup>

## About the Writer

Professor Alexander Loke,  
Assistant Dean, School of Law



Alexander F H Loke JSD, LL.M (Columbia), LL.B (Hons)(NUS) is Professor at the City University of Hong Kong School of Law. Prior to his relocation to Hong Kong in January 2015, he was Deputy Director of the NUS Centre for Banking & Finance Law and was responsible for starting up the Researcher Program which aims to stimulate research on banking and finance law issues concerning the Asian and the global financial systems. Loke publishes widely in contract law, international corporate finance and securities regulation, and is regularly cited in judicial decisions and the academic literature. He contributed the chapters on “Directors’ Duties and Liabilities” and “Directors and Other Corporate Officers” in Walter Woon on Company Law, Rev 3rd Ed (2009) and 3rd Ed (2005). Other representative publications include: “Tainting Illegality” (2014) 34 *Legal Studies* 560, “Rethinking the transplantation of *TSC Industries v Northway* in Singapore” (2013) 28 *Aus J Corp Law* 253, “Mounting Hurdles in Securities Litigation – Addressing the Funding and Collective Action Issues” (2010) 22 *Sing Acad LJ* 660 and “From the Fiduciary Theory to Information Abuse: The Changing Fabric of Insider Trading Law in the U.K., Australia and Singapore” 54 *Am J Comp L* 123 (2006).

- <sup>1</sup> *Some Landmarks of Twentieth Century Contract Law* (Oxford University Press, 2002) at p. 47.
- <sup>2</sup> UK 1999 Act s. 1.
- <sup>3</sup> Law Reform Commission of Hong Kong, Report on Privity of Contract (2005). Available at <http://www.hkreform.gov.hk/en/docs/rprivity-e.pdf>.
- <sup>4</sup> In addition to s. 4(1)(a) and (b) discussed in the main text, s. 4(2) prescribes that “[t]he third party must be expressly identified in the contract by name, as a member of a class or as answering a particular description.”
- <sup>5</sup> Note should be taken of excluded contracts listed in s. 3(2).
- <sup>6</sup> The Contracts (Rights of Third Parties) Act 1999 (2004) 120 *LQR* 292.
- <sup>7</sup> Culminating in *The Eurymedon* [1975] AC 154.
- <sup>8</sup> Section 4(1)(b).
- <sup>9</sup> *Dolphin Maritime v Sveriges Angfartygs Assurans* [2009] 2 *Lloyd’s Rep* 123 at [74].
- <sup>10</sup> [2004] 1 *Lloyd’s Rep* 38.
- <sup>11</sup> See also *The “Laemthong Glory”* [2005] 1 *Lloyd’s Rep* 688 (Letter of indemnity issued by receivers and addressed to charterers held to confer an enforceable benefit on the shipowners, who were found to come within the term “agents (of the charterer)” in the indemnity clause.)
- <sup>12</sup> [2010] 2 *SLR* 386.
- <sup>13</sup> [2014] 3 *SLR* 87.
- <sup>14</sup> *Ibid* at [278].
- <sup>15</sup> *CLAAS Medical Centre Pte Ltd v Ng Boon Ching* [2010] 2 *SLR* 386 at [29].
- <sup>16</sup> Section 6(3).
- <sup>17</sup> In addition to the communication of assent, two other circumstances render the third party's rights unchangeable without his consent: where the third party has relied on the term and either (a) the promisor is aware of the reliance, or (b) the promisor can reasonably be expected to have foreseen that the third party would rely on the term: s. 6(2)(b)(i) and (ii) respectively.
- <sup>18</sup> The Ordinance will only apply to a contract entered into on or after the Ordinance comes into operation: s. 3(1).

### **CityU LLB Graduate Heading to Notre Dame Law School on a Fulbright Scholarship**

Miss Charity, Nwe Nwe Lwin, a 2013 CityU Bachelor of Laws (LLB) graduate, won the Fulbright Scholarship after a long and intense competitive selection process. This scholarship will enable her to pursue LLM at the Law School of University of Notre Dame in the United States (US) this Fall.



The competition for Fulbright scholarship grant is always fierce. Charity had to compete against over 500 candidates from Myanmar. Candidates participated in a merit-based, open competition. They were chosen based upon their leadership potential, academic excellence, maturity, ability to adjust successfully to life in the US, and potential to promote mutual understanding between the US and the people of other countries.

As an evidence of her academic prowess, Charity had received admission offers from 3 reputable US universities, namely Georgetown, Washington and Notre Dame at an earlier stage. However, as the local embassy could nominate her only as an alternate candidate, her scholarship could not be confirmed until she was upgraded as a principal nominee by the Fulbright Commission in the US.

When being asked the reason of concentrating on international human rights law, Charity explained, "I feel it is important to be part of the struggle for global justice. The danger of oppressive regime and corporate abuses under the veil of capitalism yields the greatest injustices in society, and this is exactly what is happening to my country, Myanmar." She also highlighted how the CityU School of Law ignited her curiosity in the field of human rights. Elective courses like Corporate Social Responsibility, and Human Rights and Civil Liberties stimulated her passion to contribute in this field as a legal scholar.

Charity also received a fellowship offered by the Regional Center for Social Science and Sustainable Development (RCSD) at the Faculty of Social Sciences, Chiang Mai University, with funding from the International Development Research Centre (IDRC) of Canada, to write a legal anthropological paper on Myanmar migrant workers. The paper – 'Legal Structures Impacting Agricultural Myanmar Migrant Workers in Tak Province and the Migrants' – will be presented at an international conference on Burma/Myanmar studies called 'Burma/Myanmar in Transition: Connectivity, Changes and Challenges' in Thailand. "That paper is just the very first step I take to contribute something academically to Myanmar society, which I have been long dreaming of", said Charity.

What Charity has gained is not merely a financial support to study abroad, but also the honor of being successfully receiving

the Fulbright Scholarship, as this is one of the most prestigious scholarships available to students from developing countries, like her home country Myanmar.

Dr Surya Deva, an Associate Professor at CityU Law School, had mentored Charity since 2009. "I feel very happy and proud for Charity; this is something that she deserved", said Deva. The School of Law would like to congratulate Charity for getting the Fulbright Scholarship. We hope that this higher education in the US would enhance Charity's capabilities to make a positive contribution to the political/legal transformation process of Myanmar in the future.

### **PCLL Graduate Wins Murder Appeal in Privy Council**

A CityU PCLL's graduate, Mr Kim McCoy, a New Zealand barrister and his team have recently won a final appeal quashing a murder conviction. The Privy Council in London overruled the decision by the New Zealand Court of Appeal affirming a life sentence for Teina Pora (the appellant).



Kim's legal team, headed by Jonathan Krebs, represented Pora and appeared in the London court late last year. The team argued that new evidence – an expert opinion on false confessions and a recent assessment that Pora suffered from a form of fetal alcohol spectrum disorder – supported the claim that his confessions could not be relied on.

Teina Pora was convicted in June 1994 of the murder of Susan Burdett, 39, who was found dead in her home in March 1992 in Auckland, New Zealand. The ruling relied heavily on Pora's confessions of involvement in the crime. Pora was sentenced to life imprisonment. After a number of unsuccessful appeals, the case was finally referred to the Privy Council in London. On 3 March 2015, the Privy Council upheld Mr Pora's appeal and quashed his conviction for the 1992 murder.

This was the last ever appeal to the Privy Council from New Zealand, a jurisdiction in place from 1851 to 2015.

### **PCLL Students Received the Law Society of Hong Kong / Bloomsbury Books Prizes 2014/15**

The Law Society of Hong Kong and Bloomsbury Book Prizes 2014/2015 Presentation Ceremony was successfully held on 17 March 2015 at the Law Society Clubhouse. 4 PCLL students of the CityU's School of Law, including Mr Iavorskyi Viacheslav, Miss Lam Pui Ki, Miss Man Ka Mei Cammy and Miss Ng Lok Sze Connie, won

## STUDENT ACHIEVEMENTS



the prizes. **Mr Stephen Hung**, the President of the Law Society of Hong Kong, and **Mr Edmund Lau**, General Manager of Bloomsbury Books Ltd., presented the prizes to the winners. Associate Dean, **Professor Lin Feng** and Teaching Fellow, **Mr Peter Chan** also attended the presentation ceremony. The prizes are intended for law students selected from the three local law schools based upon merits and/or financial needs.

### ***Certificate Presentation of Claes Isacson Scholarship***

Against the background of Claes Isacson's engagement in and commitment to the shipping and marine insurance industries during his entire working life, and his particular focus on internal education



and training through the establishment of the Gard Academy, the Claes Isacson Scholarship is intended to help young people to finance an education at university level with a view to finding work within the shipping and marine insurance sectors.

**Mr Vincent Yeung Yiu Hsuan**, a student of Juris Doctor (JD) programme, had been selected for the Claes Isacson Scholarship offered by the GARD P & I Club. A certificate presentation of Scholarship was held in CityU's School of Law on 27 May 2015.

The certificate presentation was attended by **Professor Geraint Howells**, Dean of CityU's School of Law, **Dr Poomintr Sooksripaisarnkit**, Assistant Professor of CityU's School of Law, as well as **Mr Dick Corwin** and **Mr Trygve Nøkleby**, Regional Director and Director of GARD (Hong Kong) Limited respectively.

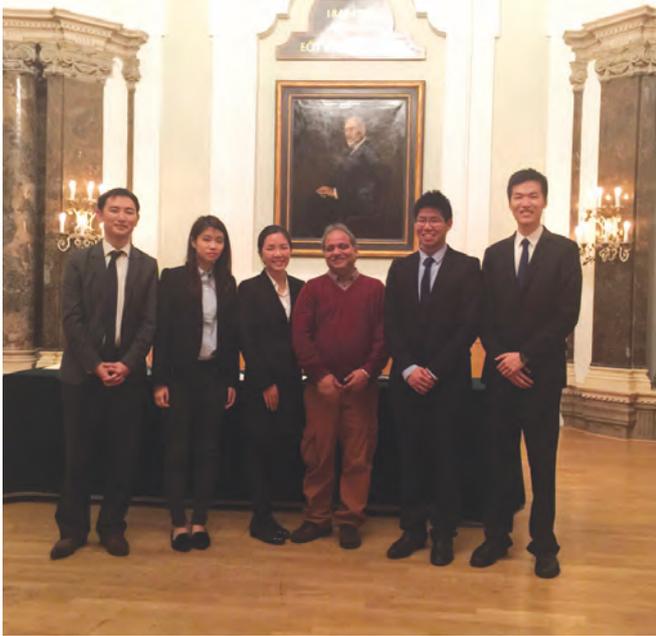
During the certificate presentation, a brief introduction on GARD as well as the Claes Isacson Scholarship was conducted by the representatives from GARD (Hong Kong) Limited. It was also emphasised that the competition for the Scholarship was keen since students from approximately 60 Universities around the world could apply for the Scholarship.

Professor Howells mentioned that C.Y. Leung, Chief Executive HKSAR, made a special note on the development in maritime law of CityU during the 30<sup>th</sup> Anniversary Dinner. Vincent Yeung was further invited to share his experience on Scholarship application. Professor Howells and Dr Sooksripaisarnkit finally congratulated Vincent Yeung in obtaining the Scholarship and hoped that he would excel in maritime-related industry in the future.



The School encourages students to broaden and sharpen their legal training by participation in international moot competition. A credit-bearing course in International Mooting and Advocacy aims to develop students' research, analytical and advocacy skills. Specialist support and training are provided to students taking part in the competitions.

During the academic year of 2014–15, the SLW participated in two international moot competitions and reaped a bumper harvest in the competitions as follows:



### ***Twelfth Annual Willem C. Vis (East) International Commercial Arbitration Moot (Held in Hong Kong, 15 – 22 March 2015)***

#### **Achievement:**

- Runner up for the Eric Bergsten Award for Best Claimant Memoranda

#### **Team members:**

- Chau Chun Kit (LLB)
- Law Wing Yat Adrian (LLB)
- Ho Tiffany Toni Lok (JD)
- Tsang Yiu Fai Nyon (LLB)
- Siu Lori (LLB)

#### **Coach:**

- Dr Rajesh Sharma, Assistant Professor, School of Law
- Mr Eric Ng, Alumni Coach



### ***5<sup>th</sup> Budapest Pre-moot for Twenty Second Annual Willem C. Vis International Commercial Arbitration Moot (23 – 26 March 2015 ) Twenty Second Annual Willem C. Vis International Commercial Arbitration Moot (Held in Vienna, 27 March – 2 April 2015)***

#### **Achievement:**

- Runner up in the 5<sup>th</sup> Budapest Pre-moot

#### **Team members:**

- Chau Chun Kit (LLB)
- Law Wing Yat Adrian (LLB)
- Ho Tiffany Toni Lok (JD)
- Tsang Yiu Fai Nyon (LLB)
- Siu Lori (LLB)

#### **Coach:**

- Dr Rajesh Sharma, Assistant Professor, School of Law
- Mr Eric Ng, Alumni Coach



### Centre for Judicial Education and Research 司法教育與研究中心

#### *The International Conference on the Rule of Law in a Globalized Environment*

For the first time since its establishment, the Centre for Judicial Education and Research held a two-day international conference on 31 March and 1 April, 2015.

Professor Wang Guiguo, Director of Centre for Judicial Education and Research, CityU; Chair Professor of Chinese and Comparative Law, School of Law, CityU, precluded the Conference with an opening speech. He mentioned China's "One Road and One Belt" initiative when introducing the Conference background. Professor Wang thought the initiative emerged as the time required.



The Conference intended to address a wide range of issues relating to the rule of law in a globalized environment, such as i) the impact of the international legal framework relating to trade and investment on domestic laws and law enforcement; ii) the role of judges and courts in the context of globalization; iii) the rule of law as a shared value of the international community; iv) international law and conventions in the domestic courts; and v) prospects of the rule of law in the time of globalization.



Seventeen legal scholars and practitioners from home and abroad were invited for paper presentation on the Conference. They have discussions over several international hot topics, including FTA, ISIS, international investment arbitration, global rule of law and so on.

The Conference turned out to be a great success. It has provided an opportunity for international legal scholars and practitioners to exchange ideas and generate new insights into the rule of law in the time of globalization.

#### Centre for Chinese and Comparative Law (RCCL)

#### *Conference on Condominium Laws and Urban Governance in Asia, 27-28 November 2014*



The Centre for Chinese and Comparative Law (RCCL) of the School of Law organized the Conference on Condominium Laws and Urban Governance in Asia on 27-28 November 2014 to investigate the legal rules and policies governing apartment ownership in selected Asian jurisdictions.

The one-and-a-half-day conference was kicked off by the speech of our distinguished guest, a former judge of the High Court Professor Anselmo Reyes. After that, our Dean Professor Geraint Howells and co-organizer of the conference Professor Cornie van der Merwe also delivered speeches to welcome all the participants.

The whole conference was divided into five sessions. During these five sessions, 11 speakers from nine jurisdictions (including China, Hong Kong, India, Israel, Japan, Singapore, Taiwan, Vietnam, and South Africa) presented their national reports on the laws and policies relating to condominium laws. These reports not only gave a detailed background to the participants, but also highlighted the problems in the practice of condominium laws in different countries which provided a basis for discussion in the respective sessions.



While time was short, this one and a half day's conference was well received. Participants expressed that they found the conference productive and enjoyable.

### ***Roundtable on the Second Round of Consultation on the CE Election 2017, 14 February 2015***

On 14 February 2015, the RCCL held a Roundtable to provide a platform for people from different political backgrounds/stances to exchange their views on various issues relating to the second round of consultation on the 2017 CE Election rationally and constructively. Ten speakers, including scholars of law, political science and communication studies, as well as legal practitioners, were invited to participate in this event.

The Roundtable was divided into two sessions. Session One, moderated by **Professor Lin Feng** (Associate Dean & Professor, School of Law, City University of Hong Kong), focused on discussing one of the most controversial issues relating to the method of universal suffrage of the Chief Executive, that is the Nominating Committee's composition, formation and the procedure for nominating the Chief Executive candidates. **Professor Ray Kin-man Yep** (Assistant Head & Professor, Department of Public Policy, City University of Hong Kong), **Mr Lawrence Ma** (Barrister; Chairman, China-Australia Legal Exchange Foundation), **Dr Mark Kielsgard** (Assistant Professor, School of Law, City University of Hong Kong) and **Professor Gu Minkang** (Associate Dean & Professor, School of Law, City University of Hong Kong) presented their views regarding the methods to democratize the nominating committee, the legality of the Decision of the Standing Committee of the National People's Congress promulgated on 31 August 2014 with regard to the 2017 Chief Executive Election, as well as the interpretation of the Basic Law provisions relating to universal suffrage.

Session Two of the Roundtable was moderated by **Mr Pui Yin Lo** (Barrister; Chairman, Special Committee on Constitutional Affairs & Human Rights, Hong Kong Bar Association). **Professor Albert Chen Hung-ye** (Chan Professor in Constitutional Law, Faculty of

Law, The University of Hong Kong), **Professor Zhao Xinshu** (Chair Professor, School of Communication, Hong Kong Baptist University), **Dr Surya Deva** (Associate Professor, School of Law, City University of Hong Kong), **Professor Ho Lok Sang** (Head of Department of Economics & Director of Centre for Public Policy Studies, Lingnan University) and Professor Lin Feng introduced various voting methods that might be applied in the 2017 Chief Executive election and gave their comments on the merits and demerits of those methods.

Apart from the speakers, audiences also actively participated in the discussion during the Q & A sessions by putting forward questions to speakers and expressing their own opinions.

All the discussions during the Roundtable were constructive and important, and they laid a useful foundation for further discussion on the relevant issues in the Hong Kong society.



### ***Public Seminar on The Safe Port Warranty after "The Ocean Victory"***



A public seminar was organized by the Hong Kong Centre for Maritime and Transportation Law (HKCMT) on 20 January 2015. **Mr James M. Turner QC** from Quadrant Chambers was cordially invited to conduct a presentation on the topic of *The Safe Port Warranty after "The Ocean Victory"*.

During the Opening Remarks, **Dr Poomintr Sooksripaisarnkit**, Associate Director of HKCMT, welcomed the speaker and attendees as well as introduced Mr James Turner to the audiences.

Mr James Turner first shared some of his personal history. He appeared at first instance (2013) and the Court of Appeal (2014) in *The Ocean Victory*, having been working on the case since 2007. Although the judgment in *The Ocean Victory* has not been made by the Court of Appeal, Mr James Turner could still introduced

## RESEARCH CENTRES



the background of the case, summarized the crucial points in the decision of the Queen's Bench Division, and highlighted the points which are being considered by the Court of Appeal.

By referring to the classic statement from Sellers LJ, "*... a port will not be safe unless... the particular ship can reach it, use it and return from it without, in the absence of some abnormal occurrence, being exposed to danger which cannot be avoided by good navigation and seamanship*", two significant topics on i) the meaning of "abnormal occurrence" and ii) the construction of the clause relating to



insurance in the Barecon 89 standard form were addressed. There was a Q&A session after the presentation conducted by Mr James Turner. It served as a platform for exchanging wisdom and insights between the guest speaker and attendees.

This seminar was opened to the public. Around 50 attendees participated in the seminar including academia as well as the solicitors and other interested lawyers. The participants from academia and industry found the seminar fruitful.



## **Selected Publications**

### **Elizabeth BRANDON**

"Transboundary Environmental Governance in Asia: Practice and Prospects with the UNECE Agreements", (Edward Elgar), April 2015. S. Marsden and E. Brandon.

### **Jack BURKE**

"Post-Incarceration Supervision of Pedophile Offenders: An International Comparative Study", The Criminal Law Bulletin, (Thompson Reuters) Minnesota State University, Vol. 51, No. 1, 2014. Mr Jack Burke and Dr Mark Kielsgard.

### **GU Minkang**

"TPP: Its Impact on Chinese State-owned Enterprises and Possible Countermeasures", Journal of CUPL (Beijing), Vol. 6, 2014, pp. 145-156. GU Minkang and Meng Qi.

"零資本制度下的資本維持原則"，《人民司法•應用》，2015年第7期，第74-79頁。

### **Andra LE ROUX-KEMP**

"Shaken Baby Syndrome: A South African Medico-Legal Perspective", Potchefstroom Electronic Law Journal (IBSS Journal) Vol. 17, No. 4, 2014, pp. 1292 – 1321. Andra Le Roux-kemp and Burger, E.

"Criminal Procedure & Sentencing", 2013 Annual Survey of South African Law, JUTA, 2015, pp. 333-379.

"Human Subjects Research Regulation: Perspectives on the Future (2014)" Book review: Cohen, Glenn I. & Lynch, Holly Fernandez (eds.), MIT Press, Published on 18 February 2015 on the Medical Humanities Blog, Durham University.

### **Eugene LIM**

"Thin-Skull Plaintiffs, Socio-Cultural 'Abnormalities' and the Dangers of an Objective Test for Hypersensitivity", Dalhousie Law Journal, Vol. 37, No. 2, 2014, p. 749.

"Proximity, Psychiatric Injury and the Primary/Secondary Tortfeasor Dichotomy: Rethinking Liability for Nervous Shock in the Information Age" Nottingham Law Journal, Vol. 23, No. 1, 2014.

### **Daniel PASCOE**

"Three Coming Legal Challenges to Indonesia's Death Penalty Regime", Indonesian Journal of International and Comparative Law, Vol. 2, No. 2, 2015, pp. 239-280.

### **WANG Guiguo**

"International Investment Law: A Chinese Perspective", Routledge, 2014.

## ***Reference to publication***

### **Alexander LOKE**

In a recent case, *TMT Asia Ltd v BHP Billiton Marketing AG* (Singapore Branch), of the High Court of the Republic of Singapore, the court cited an earlier draft manuscript of the article by Prof Alexander LOKE, which was published as "Common Origins, Different Destinies: Investor's Rights against Market Manipulation in the UK, Australia and Singapore" in *Australian Journal of Corporate Law* Vol. 21, 2007, pp. 22-50. The article explores the different degrees to which the jurisdictions of UK, Australia and Singapore have gone beyond regulatory protection and the common law to confer on investors statutory rights to compensation for market manipulation.

Full details of the citation were set out in the High Court judgement dated 28 January 2015.

## ***Selected Presentations***

### **Jack BURKE**

"Postcards from the Edge: Take 2 (An overview of practical legal changes throughout a number of common law jurisdictions)" at the Australasian Professional Legal Education Conference, Institute of Professional Legal Studies, New Zealand, Auckland, New Zealand, on 14-15 November 2014.

### **GU Minkang**

"Judicial Review and Good Governance in Hong Kong", at the "Greater China's Rule of Law Forum", organized by the Faculty of Law, Macau University of Science and Technology, Macau, on 19-20 March 2015.

"Strengthening and promoting the concept of 'One Country' in Hong Kong", at the International Law Conference of 25<sup>th</sup> Anniversary of Hong Kong Basic Law, organized by Hong Kong Basic Law Education Association and Hong Kong Basic Law and Macau Basic Law Research Association, Hong Kong, on 11-12 April 2015

### **Andra LE ROUX-KEMP**

"How to eat an elephant - some thoughts on the essentials of postgraduate research", at the Hong Kong Law Research Postgraduate Symposium, organized by the Faculty of Law, CUHK, Hong Kong, on 11 April 2015.

### **Daniel PASCOE**

"Investigating the Practice of Diya in Death Penalty Cases", at the Harvard Law School Institute for Global Law and Policy Workshop, Doha, on 3-12 January 2015.

"Situating the Practice of Diya within the Death Penalty and Clemency Literature", at the 12<sup>th</sup> Asian Law Institute Conference, Taipei, on 21-22 May 2015.

### **YANG Fan**

An Evening Talk: "The proper law of the arbitration agreement: English and Mainland Chinese cases compared", organized by the Chartered Institute of Arbitrators East Asia Branch, at the Hong Kong International Arbitration Centre, Hong Kong, on 12 January 2015.

"The Future of the CISG in Asia Pacific", at the UNCITRAL-Singapore Seminar on: 35 Years of the CISG: Achievements and Perspectives, jointly organized by the UNCITRAL Secretariat, including the UNCITRAL Regional Centre for Asia and the Pacific, the Attorney-General's Chambers of Singapore, the Ministry of Law, the Singapore Academy of Law, the Singapore Management University (SMU) and the National University of Singapore (NUS), Singapore, on 23-24 April 2015.

## ***Appointment***

### **YANG Fan**

Appointed as a sole arbitrator in an HKIAC Administered Arbitration

## ***Membership***

### **Eugene LIM**

Member (Academic Professor Category), International Trademark Association (INTA), New York, U.S.A.

## ***Interviews***

### **Daniel PASCOE**

Interview with Radio Austria on Recent Developments Concerning the Death Penalty in Indonesia (Vienna, 19 January 2015)

TV Interview with Channel News Asia on Clemency and the Death Penalty in Indonesia, 'Insight' Program (Singapore, 29 January 2015)

## ***Honour***

### **Christopher TO**

Mediation Lawyer of the Year (Hong Kong), awarded by Finance Monthly Global Awards 2015

Amongst 295 of the world's leading mediators, selected by Who's Who Legal: Mediation 2015

Amongst 816 individuals selected by Global Arbitration Review's independent research, included in Who's Who Legal: Arbitration 2016



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