

School of Law Newsletter



School of Law (SLW), City University of Hong Kong

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Message from the Dean

I am delighted to present the fourth issue of the Newsletter of the School of Law (SLW) of City University of Hong Kong. The Newsletter is now well established. It is entering its second year of publication and has meanwhile achieved a wide circulation in Hong Kong, the Mainland and globally. Many congratulations to the Co-Editors-in-Chief and other members of the Editorial Committee of the Newsletter, to the members of the Advisory Committee and to the members of the General Office!



The broad distribution of the Newsletter reflects the character of the SLW which is a modern law school based in Hong Kong with an international staff, an international curriculum, and a global outlook. The School now has about 1,000 students in its very diverse range of law programmes. In addition, there are about 380 students in the LLM programme of the Renmin University of China hosted by our School of Law. Most of the students are studying at postgraduate level and many of our non-local students are from the Mainland, Europe, North America, Canada and other countries in the Asia Pacific region. Readers may be interested to learn that in 2005 we had a total number of more than 380 graduates. Among these graduates, 52 completed the undergraduate LLB (Honours) programme, 126 finished the postgraduate PCLL programme and a total of 192 graduated in our various LLM programmes and the well-known MA in Arbitration and Dispute Resolution (MAArbDR) programme.

At this occasion, I am pleased to note that the SLW has made great achievements in expanding its self-financed programmes in response to the government funding cuts and the UGC's decision to convert all taught postgraduate programmes to self-financing. Indeed, the School is recognized as being one of the most successful departments of the University in this regard. I would like to warmly congratulate all our staff members to this outstanding achievement, sincerely thank them for shouldering additional hard work and for striving to do more with less, especially in the past two years.

The time has now come to review all our programmes in terms of quality, competitiveness, efficiency, financial benefits, and, last not least, staff commitments. Two task forces will conduct a thorough examination of options in this regard and I hope they will be able to report soon. Meanwhile, the School will continue to hire new academic staff to enhance our faculty. A special welcome to the new colleagues that have joined the School recently: Mr Surya Deva, Ms Anna Koo, Mr Wilson Kwan, Ms Nancy Leung, Mr Hans Mahnke, and Ms Michelle Soong. The School will be looking for additional staff during 2006 in various areas. Interested colleagues are cordially invited to visit the School's website (www.cityu.edu.hk/slw) for information and to contact the Dean.

Professor Peter Malanczuk
Dean and Chair Professor



Focus: Conference on Tort Law in China in a Comparative Perspective

More than 60 eminent scholars and legal practitioners from mainland China and Hong Kong attended a conference on “Chinese and Comparative Tort Law Legislation” organized by the School of Law (SLW) at City University of Hong Kong from 27 to 28 October 2005. Participants conducted an in-depth comparative study of tort law issues, providing significant insights into the future legislative development of tort law in the Mainland.

The conference demonstrates CityU’s commitment to pursuing comparative and international law scholarship and was co-organized by the School’s Centre for Chinese and Comparative Law (RCCL), the School of Law, Renmin University of China, and the Research Centre of Civil and Commercial Jurisprudence at Renmin University of China.

“The School of Law has a strong general interest in promoting comparative and international law scholarship,” said **Professor Peter Malanczuk**, Dean of CityU’s law school. He said CityU maintained close links with many law schools in China and that the university was committed to fostering greater understanding of the different legal systems and new legal developments in mainland China and Hong Kong.

The conference would make important contributions to the comparative study of

tort law and legislative developments in China, Professor Malanczuk added.

Tort law is one of the most important components in civil and commercial law, and given that transactions between Hong Kong and the mainland are increasing, more issues relating to the law of torts are likely to rise over the next few years. The conference offered a timely and comprehensive discussion on issues such as: the system and structure of tort law in China; general theories and principles of tort law; protection of the right to personality and personal safety in tort law; and liability for accidents and legal issues relating to special tortious behaviours.

Officiating guests on 27 October were **Mr Steven Wong**, Deputy Solicitor General of the Department of Justice, HKSAR, and **Mr Peter Lo**, President of the Law Society. After the inaugural session, **Professor Wang Liming**, Dean of the School of Law at Renmin University, introduced the latest development of tort law legislation in China. Other sessions were moderated by Professor Malanczuk; **Professor Yang Lixin**, School of Law, Renmin University; **Professor Wang Guiguo**, SLW; **Professor Zhang Xinbao**, School of Law, Renmin University; and **Professor DK Srivastava**, SLW.

The conference is part of a series on

Chinese and Comparative Law organized by the RCCL. Established in 1993, the RCCL aspires to become the premier Chinese and Comparative Law research centre in the Asia Pacific region. Through conferences and scholarly publications, the RCCL provides a platform for academic exchanges and develops links for co-operative research.





Conference on Law & Bio-Safety at the School of Law

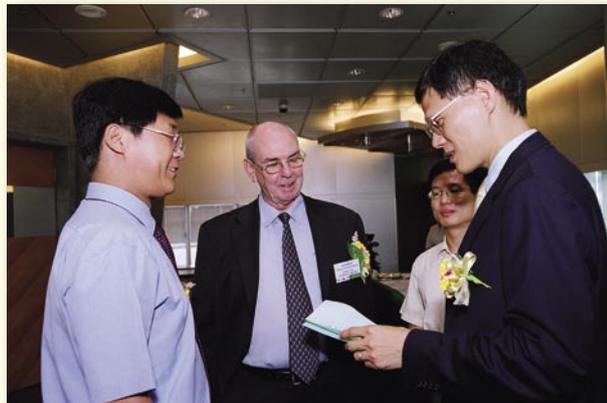


The legal regulation of bio-safety has become a vital topic in today's environmentally-aware society, arousing deep concerns within green organizations throughout the world. In order to facilitate an open exchange of views among mainland and regional scholars, environmentalists and leading experts on legal issues concerning bio-safety protection, the Centre for Chinese and Comparative Law (RCCL), School of Law (SLW), City University of Hong Kong, and the Research Institute of Environmental Law, Wuhan University, jointly organized an International Conference on Legal Issues Relating to the Protection of Bio-safety at CityU on 23–24 August 2005.

The Conference underscores the mission of the RCCL to provide a platform for a diverse group of scholars from Hong Kong, the Chinese mainland and other jurisdictions to foster scholarly discussion and a co-operative research culture.

Officiating at the opening ceremony were **Professor Wang Shuyi**, Chairman of Environment and Resources Law Society of China Law Society, **Professor Cai Shou Qiu**, Deputy Chairman of the Academic Committee of the Research Institute of Environmental Law, State Environmental Protection Administration and Wuhan University, **Mr Zhai Yong**, an official from

the Legal Affairs Division of the Environmental and Natural Resources Protection Special Committee of the National People's Congress Standing Committee, **Ms Yan E**, an official from the Policy and Legislature Affairs of State Environmental Protection



Agency, **Professor Shen Zhuang Hai**, Director of the Social Science Research Division at Wuhan University, **Professor Peter Malanczuk**, Dean of CityU SLW and RCCL Acting Director, and **Dr Lin Feng**, Associate Professor of SLW and Associate Director of RCCL.

At the start of the Conference, Professor Wang said environmental problems worldwide had become more serious. "Issues on bio-safety protection are now on the agenda of

international societies. They have become an integral part of national security and national policy in many countries," he said, adding that he hoped the Conference would be able to direct more attention to legal regulation of bio-safety in China.

The two-day Conference's participants consisted of representatives from 23 higher education institutions on the mainland including Wuhan University; Renmin University; East China University of Politics and Law; Northwest University of Politics and Law; Jilin University; and Chongqing University. Participants undertook a thorough discussion on a wide range of

topics, such as bio-safety legislation, bio-safety law, and eco-environmental safety and security. They also exchanged opinions on suggestions over environmental policy.

Over the past decade, the School of Law has established itself as the premier centre for research into Chinese and Comparative Law in the

Asia-Pacific region, hosting conferences and conducting research on contemporary issues. Two staff members of the School, Dr Lin Feng, Associate Professor, and **Ms Charu Sharma**, Lecturer, are both working on research projects in relation to bio-safety protection and trade.





Eminent Speakers Lecture Series



Philip J Dykes

A year on from the inaugural Eminent Speakers Lecture Series, the School of Law invited Mr Philip J Dykes, SC, Chairman of the Hong Kong Bar Association, to speak at City University on 6 October 2005.

Mr Dykes was born in Warrington, Lancashire in 1953. He was educated at St John Rigby Grammar School, Wigan and Lincoln College, Oxford University between 1972 and 1975 where he read English Language and Literature. He was called to the Bar in 1977 and practised

on the Northern Circuit from the chambers of H K Goddard, QC in Manchester. He came to Hong Kong in 1985 and joined the Attorney-General's Chambers. Between 1989 and 1991 he was an Assistant Solicitor-General with special responsibilities for human rights and constitutional affairs. He left government service in 1991 and joined the chambers of Denis Chang, SC.

He took silk in 1997. He has served in the Hong Kong Bar Council for a number of years and was elected Vice-Chairman in 1999, 2000, 2003 and 2004, and Chairman in 2005.

Speaking on the topic "Law, Policy and Politics in Hong Kong", Mr Dykes gave his views on the connection between these three areas of public administration from the perspective of the chair of the bar association in Hong Kong.

Law was defined by Mr Dykes as the binding rules in civil society applied in both the private sphere and the public domain. Policy consists of attitudes set by the executive to achieve goals, while politics refers to the arguments for or against particular policies. On the surface, law would appear to be separate from policy and politics, but Mr Dykes noted that in Hong Kong, the three spheres have become intermingled as a result of the constitutional arrangements for the governing of Hong Kong under the Basic Law.

One area where law has become intertwined with policy and politics is where the final power of interpretation of the Basic Law has been vested, pursuant to the Basic Law, in the Standing Committee of the National People's Congress (NPCSC). While the courts are primarily concerned with the interpretation and application of law, rather than dealing with the type



of policy matters generally within the responsibility of the executive or the legislature, in Hong Kong, judicial decisions can be overturned by a political body (namely the NPCSC). In addition, judicial decisions can be pre-empted by executive action through the government seeking an interpretation by the NPCSC before the matter has gone through the courts. Mr Dykes opined that such a process of circumventing the courts



potentially diminishes the importance of the courts in the eyes of the public. That is undesirable from a common law perspective, which traditionally sees an independent and impartial judiciary divorced from political considerations as being vital to the rule of law.

Mr Dykes noted that while it is lawful and within the power of the NPCSC to give interpretations under the Basic Law, he cautioned against that power being exercised too readily, due to the negative impact that such interpretations can have on the operation of judicial independence in Hong Kong.

In his talk, Mr Dykes emphasised that politics is beyond the ordinary role of lawyers and the courts. But often there is an incorrect perception that lawyers or the courts have become politicised. The legal profession only provides the legal view in relation to particular matters. Lamenting the situation where those who disagree with a particular legal view might dismiss it as being "political" while categorising views with which they agree as being "sound legal opinion", Mr Dykes emphasised that the public must appreciate that in giving a legal view, the legal profession is not necessarily advocating a particular political position.

On a final note, Mr Dykes gave the view that ideally the main concerns of a chairman of the bar association should be in the safeguarding of the interests of barristers and in matters pertaining to the administration of justice such as laws of evidence and procedure, rather than in wider "political" debates. The latter should ideally be left to elected representatives of the people.



Emily Lau

On 24 November 2005, Ms Emily Lau Wai-Hing gave a public lecture at CityU, as a part of the Eminent Speakers Lecture Series, on “Constitutional Reforms in Hong Kong: Problems and Prospects”.

Professor Peter Malanczuk, Dean and Chair Professor of the School of Law, gave a welcoming address, introducing Ms Lau as a courageous woman who has not hesitated to speak out on issues of human rights and democracy, noting that it is valuable to have persons such as Ms Lau in our community who are not afraid to talk about matters which need to be raised.

Emily Lau is a Legislative Council member representing New Territories East. She became the first woman to be directly elected into the Legislative Council in 1991, and has been serving as a legislator for over ten years. Having received a BA in Broadcast Journalism from the University of Southern California (1976) and a MSc in International Relations from the University of London (1982), she was an active reporter for the South China Morning Post (1976–1978), Hong Kong TVB News (1976–1981), BBC TV, London UK (1982–1984), and was also the Hong Kong correspondent for the Far Eastern Economic Review (1984–1991). She was also the chairperson of the Hong Kong Journalists Association from 1989 to 1991. She received the Human Rights Award from the Bruno Kreisky Foundation in 1998 and was awarded the Monismian Prize on Freedom of Speech in 2003.

The topic of Ms Lau’s lecture was timely in light of the political reform package unveiled by the HKSAR government

in October 2005. Ms Lau observed that not only is the subject one which is very alive in Hong Kong, but it is also something close to her heart. Yet, opined Ms Lau, there is always a feeling of *deja vu* when talking about democracy, as it is something that she has been talking about since 1991. The period since then has been one of trying to engage with the central government to secure democracy for Hong Kong.

Ms Lau noted that her goal, and that of the Frontier group of legislators, of which she is a member, is for the people to have the right to elect the government by universal suffrage, through the concept of “one person, one vote”. This right is something that persons in many countries around the world enjoy. In response to a question from the audience, Ms Lau added that democracy is vital for good governance and would not come at the



expense of economic development, but rather can be complimentary with economic prosperity. The current system is defective, according to Ms Lau, as there are 3.2 million registered voters in Hong Kong, but only 800 persons in the Chief Executive election committee have the right to choose the Chief Executive. Another problem is that members of the election committee might only vote for a candidate who has been given the blessing by Beijing.

Ms Lau observed that the October proposals on constitutional reform only seek to double the membership of the election committee to 1600. While it seems to widen the franchise, an extra 800 members is still a drop in the ocean compared with the number of citizens in Hong Kong who could be eligible voters. The proposals are also intended to widen the franchise through the inclusion of district councillors, many of whom have been voted by the public. Part of the problem is that there are district councillors who have been appointed by the chief executive, and these persons

would not be representative of the public. Another problem is that even for the existing district councillors who were elected, they had been elected in 2003 and were not elected by the people with the understanding that the successful candidates would have a say in voting for the Chief Executive. In other words, the voters would not have known the positions of the district councillors in relation to the councillors’ views on the appropriate person to be elected Chief Executive, and so it is difficult to say that the councillors are fully representative of the people. What would be desirable would be for new elections of district councillors to take place before the election of the next Chief Executive.

Ms Lau suggests that the constitutional reform for 2007–08 should go much further in providing democracy, even if universal suffrage is not possible under the Basic Law interpretation given by the National Peoples’ Congress Standing Committee (NPCSC) in 2004. Ms Lau emphasised that the people in Hong Kong are undoubtedly ready for democracy and can be expected to exercise their votes rationally and maturely. “It is an insult to say otherwise”, observed Ms Lau. The maturity of the Hong Kong public has been demonstrated by their peaceful marches in recent years, showing that the public is law-abiding and peaceful. Ms Lau emphasised that even if the October proposals are rejected by the Legislative Council, it does not mean that there are no other alternatives for 2007–08. The government is able to, and should, put forward other proposals for further widening the franchise, within the constraints of the Basic Law and the NPCSC interpretation.

On a final note, Ms Lau mentioned the plight of Aung San Suu Kyi, who has been kept under house arrest in Burma and denied the right to govern despite having won the popular election over a decade ago. Ms Lau noted that, in reply to a question about whether she was optimistic that Burma would have democracy, Aung San Suu Kyi had said “yes, I have confidence in my people”. Ms Lau adopted those words and stated that we can also have confidence in the people of Hong Kong to achieve democracy in Hong Kong.



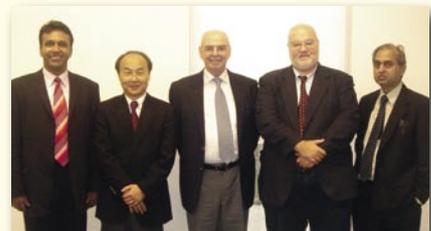
School of Law's Engagement with Universities in Japan

Dean Malanczuk, Associate Dean Professor DK Srivastava and Assistant Professor Mr C Raj Kumar were invited to present papers at the International Symposium on the theme: "Disaster Victimization: Understanding and Responding to the Impact and Needs of Disaster Victims" organised by the **Tokiwa International Victimology Institute (TIVI)**, Tokiwa University, Mito, Japan during 13–14 October 2005. Dean Malanczuk was invited to deliver a key-note address and both Professor DK Srivastava and Mr C Raj Kumar spoke on tort law and human rights issues relating to disaster management respectively. In the sidelines of the visit to Japan, Dean Malanczuk, Professor DK Srivastava and Mr C Raj Kumar has visited some of the top law schools in Japan. The visit to the law schools in Japan were for discussions with the Deans and other faculty members was to facilitate various possibilities of collaboration.

There were meetings with the faculty members of the **Keio University Law School, Waseda University Law School, Meiji Gakuin University Graduate Law School and University of Tokyo**. The discussions relating to collaboration were held with Professor Kaoru Kamata, Dean and Professor of Law, Professor Akio Shimizu, Associate Dean and Professor of Law and Professor Koji Tonami of the Waseda Law School, Professor Gerald Paul McAlinn and Professor Kensuke Itoh, both Professors of Law at the Keio University Law School. The visits to both Keio Law School and Waseda Law School and the discussions with the faculty members helped the CityU delegation better understand the new law school system that has been introduced in Japan recently and its larger implications for legal education and the legal profession in Japan. It is believed that this

initial interaction and establishment of certain key contacts would pave way for further exchange among the law schools in Japan and the School of Law of CityU.

During this visit, Dean Malanczuk, Professor DK Srivastava and Mr C Raj Kumar visited the University of Tokyo and had meetings with law professors at the Institute of Social Science (ISS) of the University of Tokyo. The ISS plays an important role in the academic and educational activities of the University of Tokyo, which is one of Japan's reputed research-oriented universities. The ISS has researchers in law, politics, economics, and sociology, and has the reputation of the only comprehensive social science research institute in Japan's national university system, that brings together scholars with a broad spectrum of expertise and promoting collaboration among them. The meetings were held with Professor Kazuhiro Nakatani, Professor and Director of the ISS, Professor Junji Nakagawa, Professor of International Economic Law and Professor Yuji Iwasawa, Professor of International Law. The meetings were useful as the discussion focused on the specific type of collaboration that is possible among faculty members of the ISS and the CityU School of Law in mutual areas of research interest. The CityU delegation also visited the Meiji Gakuin University Graduate Law School in which meetings were held with Professor Kazuhisa Kawakami, Dean, Faculty of Law & Professor, Department of Political Science, Professor Hajime Yoshino, Professor of Law and Professor Mao Guirong. There were wide ranging discussions held on different modalities of collaboration and the details are currently being worked out. Overall the visit to Japan was very useful and helped to formulate concrete proposals for collaboration with some of the best Universities in Japan.





Staff Seminars by Visiting Professors

Revisiting the Jurisprudential Foundations of the Concept of Rights



Professor Yogesh Tyagi

In October 2005, Professor Yogesh Tyagi, Professor of International Law and Chairperson, Centre for International Legal Studies, Jawaharlal Nehru University, New Delhi, visited the School of Law. Apart from delivering lectures in the course on Jurisprudence and Political Theories for the Doctor of Juridical Science (JSD), he also presented at the School of Law a staff seminar entitled “Revisiting the Jurisprudential Foundations of the Concept of Rights”.

Professor Tyagi began by proposing that “the concept of rights is one of the oldest concepts. It is older than even the concept of state and sovereignty. It is central to the rule of law. However, in spite of its rich history, widespread use, and constant reference in legal theory and practice, the concept of rights lack clarity in jurisprudential terms.” Against this backdrop, he made a case for revisiting the jurisprudential foundations of the concept of rights. In particular, he explored three issues. Firstly, why do we need to revisit the jurisprudential foundations of the concept of rights? Secondly, what methodology should we use for this purpose? Lastly, what benefits are we likely to derive from this process?

At the outset, Professor Tyagi canvassed several reasons to emphasise the need for revisiting the jurisprudential foundations of the concept of rights. The concepts of state, sovereignty and property vis-à-vis rights are undergoing significant and extensive

changes. The role of states, for example, is diminishing (including in law making) and the allegiance of people is shifting from the state to civil society organisations. Also, if human rights are indivisible and inseparable, how could states be allowed to pick and choose when it comes to their implementation? Last but not least, demands are being made for the recognition of intellectual property rights (IPRs), corporate rights or even animal rights as human rights. These developments, he argued, should compel scholars, especially from Asia and Africa, to come forward and engage in the process of re-examining the jurisprudential foundations of the concept of rights. “After all, why should law, lawyers, and legal institutions always lag behind the scientific developments that are shaping up our lives?”

In terms of methodology, Professor Tyagi suggested an interdisciplinary, inclusive and integrated approach as an alternative to the existing approach that has created an “avoidable divide” between different civilisations. As far as the benefits from the re-examination of the jurisprudential foundations of the concept of rights is concerned, it should not only help in challenging the “intellectual unipolarity” but also lead to academic freshness, intellectual excitement and functional utility.

The presentation of Professor Tyagi was followed by a brief but intense discussion on some of the issues raised by his talk.

Professor Tyagi is a well-known scholar of international law, international trade law, human rights law and legal theory. He received his LLM from the Columbia University School of Law, where he was a Fulbright Scholar, and his MPhil and PhD from the Jawaharlal Nehru University. He has held visiting appointments at several prestigious academic institutions, including the London School of Economics and Political Science, UK; the University of Georgia, USA; University of Tokyo, Japan; and the Max Plank Institute for Comparative Law and International Law, Germany. He is a member of the

Executive Council of the Indian Society of International Law and the Director of the Human Rights Centre in the School of International Studies, Jawaharlal Nehru University, New Delhi.

Professor Tyagi has published extensively including in journals such as the *British Year Book of International Law*, *International Studies*, *Journal of World Trade*, *Michigan Journal of International Law*, *Texas International Law Journal*, *Indian Journal of International Law*, *Social Scientist*, *Social Science & Medicine*, and *World Focus*. His publications have been well received and are quoted by academic peers in scholarly journals.

Taking Sides in the Death Penalty Debate



Professor B B Pande

In November 2005, Professor BB Pande who is a Visiting Professor at the School of Law, City University of Hong Kong delivered a seminar entitled “Taking Sides in Death Penalty Debate”. He has been a Visiting Professor at the School since September and has been teaching courses on Criminal Law and Criminology.

During his stay in Hong Kong, Professor Pande has presented two conference papers: one in the Tort Law Conference held at CityU on the topic entitled: “Setting Higher Standards of Care for the Professionals: Trends in Medical Negligence Liability in India” and another in the 2nd International Conference on Theories of Crime Systems organised by the Law School of Shandong University, Jinan, Mainland China on the topic entitled: “Paradoxes in the Common Law of Crimes: A Comparative Analysis in the Light of The Criminal Law of Hong Kong, The United Kingdom And India”.

Professor Pande began by cautioning the audience that the discussion would



not go on conventional lines of analysis of punishment of death, its normative elements, or its international or domestic developments. But instead, the focus of the seminar was about the issues relating to the administration of the death penalty, ie as to how the death penalty is administered by policy makers, legislators, judges, prosecutors, the media and even academics. Since in these diverse situations, the administration of the death penalty involves taking sides, either consciously or unconsciously, it was felt that there is a need to critically examine what taking sides is all about and what it really signifies. It was hoped that such a deeper examination will help the side taker to know about the hidden motivations of his or her position and ultimately, lead to a better and informed side taking in the future.

The discussion was carried out in four broad parts. First, concerning as to what the death penalty is about; second, what are the diverse positions in the death penalty debate and what are the main arguments for and against the death penalty; third, why sides are taken and what does side taking imply, in particular the penological, political, sociological and psycho-analytical implications of side taking were discussed; fourth, a case

study of the contemporary Indian society's response to administration of the death penalty was presented.

Professor Pande concluded that the reasons for such an all round unsatisfactory state in respect of such an important debate are the non-intellectual and unscientific way in which the death penalty is constructed and conducted. If there was greater awareness of the issues, perhaps it would lead to an improved environment where the administrators can take conscious stands and informed decisions. Finally, Professor Pande observed that the approach discussed in the presentation has value not only for the death penalty, but for all other forms of penalization that are based on repressive deployment of the power of the state to make some one pay for the deviations, which is essentially an exercise in stigmatisation and disintegration of one or a group of individuals.

Professor Pande was, until recently, a Professor of Law at the Faculty of Law, University of Delhi. His areas of specialisation are Criminal Law, Criminal Procedure, Law of Evidence, Criminology, Juvenile Justice, Human Rights, and Jurisprudence. He has over seventy five

published research papers and comments in international and national journals and compilations. He has more than forty years of teaching experience. He has taught in the University of Jabalpur (1962–70) and University of Delhi (1971–2005). He rose to professorship in 1988. He has also taught at Lucknow University 1991–1994, where he was also Dean and Head of the Department of Law in 1993–94, and at the Faculty of Law, University of Dar es Salaam, Tanzania (East Africa) 1981–83. He has been a Visiting Professor at the Faculty of Law, University of Cardiff, Wales (1998) and at the Faculty of Law, University of Hong Kong (1996), in addition to several national law schools, law faculties and institutes within India. He was awarded the *Max Planck Fellowship* by the Max Planck Institute of International and Foreign Penal Law, Freiburg, Germany (1988, 1992, 1995 & 1997). He has been a member of several advisory committees and was also a UNDP expert consultant to the Rule of Law and Reform of the Judiciary Projects of the Kingdom of Nepal since 2000. He received the Senior Social Scientist Award (1995) and the Kumarappa-Reckless Award, 2002 from the Indian Society of Criminology in October, 2003.

Student Column

SLW Mooting Team Wins First Prize for the Best Memorandum

In November 2005, a team of five students consisting of **Edmond Lai, Simon Tang, Io Tse, Maggie Wong, and Ronald Yu** participated in the first Late Madharao Scindia Memorial Intellectual Property Law Moot Court Competition organised by the Faculty of Law, University of Delhi in India. The coaches were Assistant Professor Mr C Raj Kumar, Teaching Fellow Ms Nancy Leung, and Professor DK Srivastava. 17 teams were invited to the competition. Among the participants were teams from Nepal, Bhutan, Sri Lanka, India, Mauritius, Mongolia, Indonesia, Pakistan, Africa, China, Thailand, the UK, USA and two teams from Australia.

The CityU team won the prize for Best Memorial (a set of four volumes of Indian penal code, that will be donated to the Run Run Shaw Library) and was commended for its legal skills and its ability to identify a variety of legal issues and implications.

In the overall competition, the City U team was ranked 6th in a tightly fought contest that saw the fourth, fifth and sixth place teams come within a handful of points of each other.

After the event, the team thanked their coaches for their guidance, and CityU for the funding for the trip.





Studying Human Rights, Development and Governance Issues at CityU

Experience the power of multilateral discussions within the CityU campus. Newly introduced this past semester, **LW6557E, Human Rights, Development, and Governance** is more than just another post-graduate elective course offered by the School of Law. While most courses are taught on a lecture-tutorial basis, this course promotes vibrant interaction amongst the students via a seminar-based atmosphere where the issues are discussed openly. In effect, in sitting in the classroom, one can almost envision a mini-UN materialising before your eyes. Perhaps the most diversified class in terms of nationalities ever offered by the School of Law, the course attracted students from Canada, France, Hong Kong, Mainland China, Pakistan, Portugal, Sweden, UK, and US.

Throughout the semester, the most recent issues in the human rights discourse were brought upfront and debated. In light of the recent current events upon Hurricanes Katrina and Rita in the USA, Asian Tsunami, and French riots, these problems were discussed in terms of their implications for human rights, development, and governance. Such issues were discussed from an international perspective as well as the experiences of the students belonging to the affected countries. Some of the important issues that were discussed include the Millennium Development Goals (MDGs), Economic and Social Rights, Poverty as a Human Rights violation, Corruption, Terrorism, and the role of Multinational Corporations. This course differed from standard human rights courses; emphasising linkages with development and governance, **Mr Larry Cox (JD 2nd Year, USA)** notes, “The students have been challenged to frame human rights issues outside the boundaries of their own national perceptions into the domain of the global community and universal norms.”

The course topics were as diverse as the class. **Mr Bertie Jonsson (LLM,**

Sweden) noted that the course “opened up new possibilities for application of Swedish law with an international aspect.” Similarly, even though the course was offered by the School of Law, **Ms Sarah Polcz and Ms Leila Kerimi (exchange students, Canada)**, stated, “Human rights are not simply in the domain of law. This course forced us to realise the interdisciplinary nature of the human rights discourse: international institutions, NGOs, corporations, governments and individuals coming together to form the pertinent issues of the day regarding human rights, development and governance”. In addition to the multifaceted appeal of the course, the students found that the subject was a refreshing change, “It is nice to see this kind of course organised in Hong Kong” said **Ms Selina Chong (LLM, Hong Kong)**.

The course leader, Assistant Professor **Mr C Raj Kumar**, explained, “The course was designed with a view to discussing human rights issues in the broader context of law, politics, and society. I have been quite impressed with the group of students who have chosen this course and immensely enjoyed the many engaging discussions that have taken place during the semester. I hope we can continue this momentum with regard to teaching human rights law at CityU.”

The students also expressed their sentiments; **Mr SHI, Shi Feng (MPhil, China)**, stated, “Frankly, I was deeply impressed by Mr Kumar’s classes and have benefited from them. Aside from the wonderful lectures, he was successful in motivating us to think and discuss diverse issues relating to human rights.” “One important thing is that there



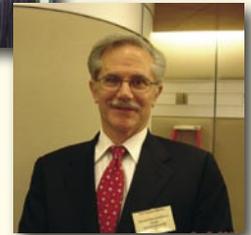


was no political bias,” explained the French exchange students, **Ms Amanda Rullon and Ms Anais Delcambre (LLM, France)**. In addition to being an opportunity to “hone our spoken English, we found that it was a very interesting way to study Human Rights, especially in an interactive class. We’ve learned lots about international issues.”

The course is again being offered in the upcoming semester and it will be jointly taught by Assistant Professor **Mr C Raj Kumar** of the School of Law, CityU and **Professor Stephen Marks** from Harvard

University, who is joining the School of Law, CityU as a Visiting Professor in January 2006. Professor Marks is a world renowned authority in this field and is the François-Xavier Bagnoud Professor of Health and Human Rights at the Harvard School of Public Health, where he teaches international law, and is also the Director of the François-Xavier Bagnoud Center for Health and Human Rights.

Vincent Wing Yin Sze (with help from the class of LW6557E)



Professor Stephen Marks

Personal Reflections on Law Studies at CityU—The JD Experience and Beyond

In September 2004 I entered CityU’s Juris Doctor Programme with little knowledge of law. Today I am on my way to joining the legal profession. This is a dramatic change for an electrical engineer like myself and it all started with a childhood dream. Having lived abroad for many years including in Manila, Taipei, Adelaide, Tokyo, Halifax, Toronto and Montreal, I always maintained a strong desire to study and to practise law in my homeland—Hong Kong.

This summer, aside from attending summer school, I spent three months working for four leading law firms: Mallesons Stephen Jaques, Lovells, Johnson Stokes & Master and Linklaters. As a summer intern, I was given enormous responsibilities ranging from legal research to drafting of agreements, memoranda of legal advice and legal opinions. With my training as an electrical engineer from the University of Toronto and McGill University, I was invited to attend a client meeting where I was able to advise on 3G telecom related issues. My training in finance through courses I took from the Canadian Securities Institute and through the Chartered Financial Analyst program assisted me greatly in due diligence related activities for an IPO and an M&A transaction. Each firm provided me with an excellent opportunity to understand how I could best prepare myself for the legal profession and to contribute to our community upon graduation. While working intensively with next to no sleep,

I had an extremely rewarding summer experience which eventually led to several offers for a 2007 training contract, not to mention being short-listed as a top finalist for the 2005 Lovells Hong Kong Photography Competition.



Having attended the Law Fair in early 2005, like many other law students, I learned that I needed to apply two years before my start date for a training contract. Struggling with five courses in the demanding JD fast-track Programme, I delicately juggled my life such that I would have sufficient time for job applications and interviews in addition to my commitments at school as a JD Class Rep, a student representative on CityU’s Law School Board, as well as being a Mentor and Electrical Engineering Department Coordinator for the Women Engineers Mentoring Students program at the University of Toronto. Certainly, without my family’s support and understanding, I would not have been able to achieve any of this.

While I was approaching law firms, I learned that the industry has little knowledge about our JD Programme. As such, I took the initiative to promote the JD Programme whenever I was invited to

interviews by law firms. I would encourage everyone to adopt this practice such that we can continually strengthen the reputation of CityU’s School of Law. We are walking, talking billboards and we rock! Currently, with assistance from the School of Law and the Law Library, JD Class Reps from both 2004 and 2005 Cohorts are in the process of establishing a career corner for students. We hope these efforts will be fruitful in helping our students to secure summer placements, training contracts or positions in other careers.

This year the School of Law has taken significant steps to promote career development. First we had Mr Hectar Pun, Barrister of the High Court of Hong Kong, to speak with students on “The Legal Profession in Hong Kong: An Insider’s Perspective”. Next, Lovells’ Graduate Recruitment Manager of Asia, Ms Gill Shepherd, visited our school to talk about applying for vacation placements and training contracts. Following my summer internship at Linklaters, I helped the School of Law invite three key recruiting personnel from Linklaters to visit our law school to deliver a career seminar in which I also shared with students some of my experience as a summer intern. Many enthusiastic law students who are interested in joining international law firms attended these career seminars and certainly picked up many good interview tips.

While I cherish the learning I have gained through the JD Programme, I am even more inspired by my teachers and classmates and hope we will continue together to build the reputation of CityU’s School of Law.

(Suk Ho Emmy Choi)



Alumni Column

SLW Alumni Addresses the Law Students

On 21 September 2005, the School of Law hosted Mr Hectar Pun, Barrister-at-Law, High Court of Hong Kong to speak to the law students on the topic: “The Legal Profession in Hong Kong”.

Hectar was admitted to practice as a Barrister of the High Court of Hong Kong in 1995, and is a member of Denis Chang Chambers. Hectar graduated from the School of Law of CityU in 1995. He was elected as the President of the Students’ Union in 1992 and in 1996 he was awarded a Chevening Scholarship to read a Master of Laws at Kings College, University of London.

He practises mainly civil cases with an emphasis on public law. He has done a plethora of judicial review cases in respect of decisions made by various public bodies including the Hong Kong Housing Authority, the Commissioner

of Police, the Director of Immigration, the Commissioner of Television and Entertainment Licensing Board, the Municipal Services Appeal Board, the Town Planning Board, the Hong Kong Arts Development Council, the Dogs and Cats Classification Board, the Amusement Games Centre Appeal Board, the Chinese Medicine Practitioners Board, the Hong Kong Institution of Engineers and the Law Society of Hong Kong.

In addition, he teaches Administrative Law in the Department of Law of the University of Hong Kong as an Honorary Associate Professor. Hectar also taught as a part-time law lecturer at the School of Law of City University of Hong Kong from 1998 to 2002. He was a Bar Council Member of the Hong Kong Bar Association from 2000 to 2004, and has been a member of the Bar Special Committee on Constitutional Affairs and Human Rights since 2000.

Hectar is a distinguished alumni of our Law School and was kind to take out time to talk to our students. He provided useful perspectives on the legal profession in Hong Kong. In particular, in sharing his experience, he provided the students with practical information that would be extremely valuable for young aspirants to the legal profession in Hong Kong.



Reminiscing my days at the CityU Law School in the 1990s—Kelvin Lee

When I was asked to write something for the newsletter of the Law School of City University as a member of the alumni, I suddenly realized that time flies! Thoughts of my days as a student came flowing back and it all seemed as if it was just yesterday. I remember those days with fondness—the memory of all those happy days spent chatting, eating, playing (and studying occasionally) in our designated PCLL Rooms (and the unhappy days when we were in a hurry finishing our assignments or waiting to enter into the examination halls) comes back easily to me.

I started my days as a law student in 1990. I was one of the lucky students who could enjoy the then City Polytechnic Kowloon Tong campus, which was new

at that time. City University was later inaugurated. It may be a blessing that we did not have Festival Walk at that time. At least, it was easier for us to concentrate on our studies.

I graduated in 1994 and was called to the Hong Kong Bar thereafter. I practised in the private sector and now I am working for the Government. Apart from my professional career, I am married and am a proud father of a lovely three year old daughter. As an additional bonus (and God’s blessings), my wife happened to be my classmate. However, I must stress that this is not the reason why I studied at City University or why I remember the Law School as a great law school.

The Law School has been providing extensive curricula to students since the

beginning. Apart from classes, various activities which helped us to understand and develop our own professional interests were organized. One of them is mooting, which was the main reason for me to choose the Bar as my career. It is a challenging exercise. One needs to analyse the problems, identify the issues and the relevant legal principles, apply the law to solve the problems, and most important of all, persuade the judge to accept your arguments.

We were fortunate that apart from teachers, we have experienced practitioners (sometimes members of the judiciary) to help us. Two years as a participant in mooting competitions in the Law School laid the foundation for my career at the Bar, and helped me to understand the duties, ethics, and the practice of the Bar.

Another activity that helped me most is the mentor programme. Under the programme, every student (the mentee)



is paired up with a lecturer, or an experienced volunteer practitioner (the mentor) who will meet the mentees regularly. My mentor helped me not only on academic questions (like a “handy tutor”), he also helped me to know and understand better whether I should join the Bar or be a solicitor, the pros and cons of becoming a barrister or a solicitor and what particular area of legal practice that would interest me. My mentor provided me with all the necessary information I required to plan my future career. I will always be indebted to his assistance.

The mentor/mentee programme (and the mootng programme) is still continuing at the Law School and as I understand, is enjoying a great success. I am happy to contribute my time to the School and am one of the School’s mentors. The Alumni Society must be credited for its excellent work in organizing and operating the mentor programme. It is good to see that more and more alumni are joining this programme.

Apart from teaching and sharing, the Law School has made substantial contribution to legal education in Hong Kong. I still recall that when I did my PCLL, the first series of textbooks for

PCLL students were published with the help of the Law School. Furthermore, in student days, apart from having new facilities, the Law School had specialised teachers and practitioners from various jurisdictions, including Hong Kong, with updated knowledge, modern teaching philosophies and techniques to teach us.

I am glad to see that the contribution and input of modern knowledge and ideas are still a major function of the Law School. The courses and curricula are constantly under review by the Law School itself

and by practitioners, including the Hong Kong Bar and the Hong Kong Law Society. New courses with new teaching methods (like criminal advocacy in PCLL) have been introduced to the Law School. The Law School is capable of coping with the ever-changing world. I am sure that our fellow schoolmates will treasure all the facilities and efforts and will develop themselves into useful members of the legal profession.

(Kelvin Lee)
(LLB; PCLL: 1990–1994)



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