

# SCHOOL OF LAW

## *Newsletter*

VOLUME 9 No.2 • DEC 2014



## Interviewing Professor Geraint Howells, New Dean

General Research Fund  
Awarded to Four Faculty Members

PCLL Programme: The Teaching  
Law Firm and Chambers



香港城市大學  
City University of Hong Kong  
30th Anniversary



# CONTENT

VOLUME 9 NO. 2 · DEC 2014

- 1 MESSAGE FROM DEAN
- 2 FOCUS OF THE ISSUE
- 3 PROGRAMME HIGHLIGHTS
- 4 SCHOOL OF LAW EVENTS
- 5 MOOTING CORNER
- 6 RESEARCH CENTRES
- 7 NEW FACULTY
- 8 STAFF ACHIEVEMENTS

## MESSAGE FROM DEAN

One of the many qualities that attracted me to CityU's School of Law is the School's commitment to research and teaching, and the extraordinary quality of the students who study here. You will know the staff as your teachers but many of them are also important researchers. There is a strong link between research and teaching. The best teachers are often, but not always, the best researchers as they can impart their enthusiasm for knowledge to students. Students also benefit from the reputation they bring to our Law School. They are all however committed to providing students with a world class legal education.



In pages of this newsletter, we celebrate the General Research Fund (GRF) awarded to four of our faculty members. The four principal investigators of successful grants are Dr Chen Lei, Dr Ding Chunyan, Professor He Xin, and Professor Lin Feng. We take great pride in the submission of the high quality GRF/ECS proposals on a range of issues, including the Emergence of Rural Land Markets in China, the Medical Negligence Law of China after the 2009 Tort Law Reform, Blood Money and Negotiated Justice in China, and Hunting, Fishing and Gathering Law and Policy for Minority Peoples in China's Autonomous Areas.

In keeping with our vision to be a world renowned centre for research and teaching of law, the programme leaders have all done their best to offer quality education to undergraduate and postgraduate students. In Programme Highlights, Mr Mitchell Stocks, the new PCLL Programme Leader, talks about the promise of the PCLL Programme which is to "add practical skills to the substantive law they learn in their undergraduate or JD courses".

At the same time, we are working to expand our connections to legal scholars around the globe. One way we are doing this is through holding seminars and conferences. We have been honoured to have experts deliver talks on different topics ranging from Universal Suffrage of the Chief Executive in 2017 to Intellectual Property Law and Technology Transfer in Offset Agreements. Through these events, CityU's School of Law has forged a number of new connections and inspired the spirit of intellectual exchange that permeates our teacher-student community.

This year marks another breakthrough in our mooting competition history. Mr. Chan Sai Ho Kevin was ranked 13<sup>th</sup> as the best individual oralist in the International Round of the Jessup Moot, which is the best result a Hong Kong law student has ever achieved in this prestigious international moot competition. Before I came here, the mooting competition results of the School of Law impressed me greatly. Mooting is a good test of law students' intellectual skills, and their power of analysis and persuasion. I am also glad to see that members of our legal community come along and coach our teams. One of my ambitions is to imbed the CityU Law School firmly in the legal community of Hong Kong. The way in which we engage our alumni to coach our mooting teams is one example of this relationship in action.

This newsletter was completed during my first term as Dean. The editorial staff and I are eager to learn what you think in relation to our news and also how we deliver it. I welcome your thoughts at ghowells@cityu.edu.hk. Communication is key to our sense of community and I hope everyone feels part of a Law School which promotes the highest standards in all aspects of our work.

**Professor Geraint Howells**  
Dean and Chair Professor of Commercial Law

# INTERVIEWING PROFESSOR GERAINT HOWELLS, NEW DEAN OF SLW

## **Vision and Blueprint for the School of Law**

Q: We understand that CityU Law School aspires to become the law school of choice for future lawyers in the Asia–Pacific region. Could you share with us your vision for the School?

H: We are ideally placed to be a Law School with global impact. Hong Kong is a legal centre of importance within the common law tradition, but our Law School also brings to the table undoubted expertise in Chinese law. In an interconnected world where common and civil lawyers are seeking means to communicate and with the demand for lawyers conversant in both Asian and Western legal cultures, we are uniquely placed to serve local, regional and global legal needs.

Q: What do you think are the strengths of our School? How would you further develop such strengths?

H: There are undoubted areas of strength. Chinese and Comparative law, Arbitration and Dispute Resolution and areas of commercial law, such as maritime law are clearly areas the School has sought to develop. However, what impressed me, as I met staff, is the breadth of scholarship. More important than anything else is obviously the commitment of staff to ensuring this Law School is successful. It is the quality, strength and innovation of our staff that makes the School what it is. As a Dean you cannot teach every class or write every paper; I see my role as creating the conditions to allow staff to excel in these endeavours.

## **Developing a world–class research profile**

Q: What are your plans to promote active research among our academic faculty?

H: We are clearly a very active research community. Being awarded four RGC grants last year is just one indicator of that. My message to any researcher is that they need to make sure they are saying something distinctive and then put that message out in a polished manner through quality mediums that are widely read. In a society where there are so many ways to be published getting published is in itself not the achievement it once was when the outlets were more limited. The challenge is to make your voice heard when so many people are writing in the same field. We need to ensure that when City U staff write, people seek out their views. We need to be the lawyers who not merely comment on but also influence the debates.

Q: How do you see the relationship between teaching and

research at our School, and how would your staffing arrangement balance the two?

H: My view is quite simple. I want us to be a research led university, partly because I want us to be a leader in the debates but also because I want our students to be excited by their legal studies and the infectious love of the best scholars for their subject often makes them also the best teachers. I have no time for those who neglect their teaching duties. Students only have one chance at a legal education and

it deserves our full attention—no matter how many deadlines, the students' reasonable needs must come first. There are also some truly outstanding lawyers who prefer to focus on pedagogy rather than publishing and I think law schools benefit from their presence. These people though normal still have an inquisitive mind that wants to explore the challenges of their subject: they just choose not to publish. For most scholars getting the balance between teaching and research is the largest challenge. Often our commitment to our research agendas means we spend many evenings and weekends meeting deadlines. That should not be necessary merely to fulfil contractual expectations, but for many scholars their personal expectations are more demanding.

## **Connecting with the local legal profession**

Q: In what ways do you think the School could partner with the profession in delivering an even better legal education to our future lawyers?

H: We need to take full advantage of having so many quality legal professionals on our doorstep. I have had several opportunities to meet practitioners and I am impressed by their commitment to legal education and the future of the profession. We need to harness that enthusiasm and make them an even more integrated part of our community. I am a believer in the notion that universities should serve their communities. At the School retreat I hope we will be able to set out the School Strategy going forward. It will then be my priority to meet the profession and share our ideas and make them enthusiastic about what we want to do and find ways we can work together.



Q: Do you think the Professor of Practice in Law model could attract leading practitioners to teach in the PCLL programme?

H: It is a challenge to find the right structures for involving practitioners in teaching. The need for quality practitioners to be involved in the PCLL is obvious, but practitioners can also bring insights to academic courses through means such as guest lectures. The Professor of Practice model is certainly a helpful tool. I will be working with the Programme Leader of the PCLL, Mitchell Stocks, to ensure we have the best mix of staff.



### Collaborations

Q: Can you update us on the progress of internal collaborations with other Schools and Colleges within CityU?

H: City U is keen to develop interdisciplinary work and joint appointments are encouraged. I am working with the other Deans on plans for such appointments as part of our overall staffing strategy.

Q: At present we are collaborating with a number of Mainland Chinese and overseas institutions. What are your plans to strengthen the School's international links and profile?

H: I certainly see internationalization as central to my view of legal education and scholarship. Personally I have always benefited from working with scholars from other jurisdictions. When I was young I just found them exciting people to work with who gave me insights into different approaches to the subject. Nowadays, in an age when metrics counts ever more, research shows joint research with international partners tends to be better cited.

For students it is important to have international experiences to broaden their understanding of law. One of the greatest comparative lawyers of all time Professor Patrick Glenn, sadly passed away recently. I would recommend everyone to read his book *Legal Traditions of the World*. We will be seeking new opportunities for our students to experience those legal traditions, but will also make our classes full of students from those various rich traditions through our exchange programmes. Ultimately most people conclude there is more that unites than divides most legal traditions, but working out the differences is fun!

### Personal Impressions

Q: What impresses you most since you assumed office at the School? Are you teaching any courses at the moment?

H: The hard work and friendliness of all staff—academic and administrative—has deeply impressed me. I would like to give special thanks to Cora, Helen and Sandy who have helped me in so many ways. Also I am fortunate in having Associate Deans, Professors Lin Feng and Gu Minkang, who care so much and know so much about the School. To me being new to Hong Kong a lot has been new; but everyone has been so helpful and kind.

I am giving some contract lectures on “terms”. I chose contract as it is a subject I love and also allows me to meet both the LLB and JD students. One of the downsides of being Dean is that it is not practical to teach too much as the diary just gets so full. I still get an adrenalin rush when teaching, perhaps even more now that I do it relatively rarely. I enjoyed my first class here—I hope the students survived. It is also very kind of Jojo and Surya to allow me to intrude on their courses.

Q: How do you think of Hong Kong compared to your initial expectations, and did anything interesting come up since you joined CityU?

H: Obviously the pro—democracy protests have been a major event. As someone new to Hong Kong I do not see it my place to comment on the substantive issues, but clearly I am concerned for the safety of our students and everyone else. I was also very proud that we hosted a conference on the constitutional issues, organised by Professor Zhu Guobin, and commentators of all perspectives engaged in an informed, constructive and friendly dialogue. Universities have a role to play in providing a platform for dialogue.

In relation to lifestyle, Hong Kong is generally familiar to me except that people in England go to work early and leave office early. They may go home to work but Hong Kong people tend to work very late. In terms of shopping, the things which are expensive in England are cheap here while the reverse is also true. And never have I seen a durian in England!

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

The School of Law is pleased to announce that we have had a very successful year competing for General Research Fund (GRF) in 2014–15 exercise. As was announced by the University Grants Committee (UGC), CityU's Law School has received awards for a total of 4 GRF projects, on a par with the Faculty of Law, University of Hong Kong. The total amount of research grants exceeds HK\$2 million. The four principal investigators of successful grants are **Dr Chen Lei**, **Dr Ding Chunyan**, **Professor He Xin**, and **Professor Lin Feng**. Let's express our warmest congratulations to them. In

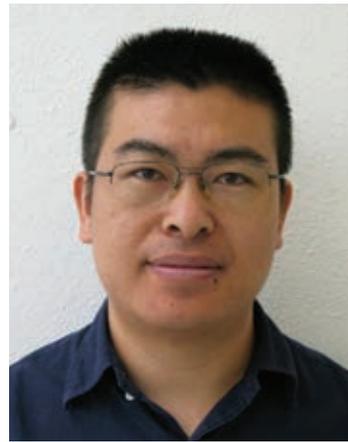
addition, applications which have been rated fundable would be sponsored by internal grants. Further details will be provided by the University Research Committee.

We would like to thank all the colleagues who have made strong efforts in submitting high quality GRF/ECS proposals in this round. The School of Law encourages further efforts by our colleagues who have missed out in this round to enhance their application and submit in next round.

The details of the four funded grants are as follows:



The project title of Dr Chen Lei is "Understanding Property Transitions: The Emergence of Rural Land Markets in China", and the fund granted amounts to \$495,000.



Professor He Xin secured \$706,500 for his project "Blood Money and Negotiated Justice in China".



Dr Ding Chunyan's project is titled "The Medical Negligence Law of China after the 2009 Tort Law Reform: Has it made a difference?" She was granted \$313,478 for the project.



Professor Lin Feng's project is called "Hunting, Fishing and Gathering Law and Policy for Minority Peoples in China's Autonomous Areas—An Empirical and Comparative Study". The amount of fund granted is \$578,418.

### **Postgraduate Certificate in Laws (PCLL) Programme: The Teaching Law Firm and Chambers**



As an American who studied law in a three-year, post-graduate Juris Doctor (JD) programme, the first time I encountered a loan agreement was when I was asked by my supervisor to revise one as a first-year lawyer. He gave me a 100-page agreement from the last aircraft

transaction our firm had documented and told me to get started. I remember staring at the agreement and wondering where to begin. Which clauses should I change? How should I change them? Which part of this negotiated document should be revised to a more neutral or perhaps client-favourable position? Were there any market constraints on how far I should go?

While my university gave me a strong grounding in substantive law, legal writing and reasoning, it provided me no opportunity to develop the practical skills a new corporate and commercial lawyer needs. In some ways this was unfortunate, because even then, the better US law schools, including my own, had advanced programmes in trial advocacy and legal clinics that gave my litigation-oriented classmates a chance to do “real” litigation work. But, for us corporate and commercial types, the learning by doing would only begin after entering the law firms’ doors.



When I started teaching in the PCLL Programme two years ago, I immediately saw the promise it affords students to add practical skills to the substantive law they learn in their undergraduate or JD courses. The combination of practical skills and substance is likely to produce trainees who are several steps ahead of where I was over twenty years ago as a first-year lawyer. My colleague, Jack Burke,

talks about the “teaching law firm and chambers”. I like this phrase as it succinctly describes the experience we are trying to provide our students—that the PCLL Programme is really the first ten months of students’ training contracts during which we will ask them to do the work of a first-year trainee and provide them with the feedback they need to identify strengths and areas for growth so any gaps can be closed before they begin live-fire exercises for real clients.

This is the promise of the PCLL Programme, and we are fortunate to have a group of teaching professionals who are dedicated to delivering it.

—Mr Mitchell Stocks, PCLL programme leader

### **LLB: Information Seminar and Mooting Training Workshop**

The LLB Information Seminar and Mooting Training Workshop were successfully organized on CityU Information Day on 11 October 2014. Both events received overwhelming response from secondary students and parents.



The LLB Information Seminar imparted useful information about admission requirements and special features of the LLB programme, including overseas learning opportunities and career prospects of law graduates. LLB Associate Programme Leader, Ms Alisa Kwan explained the selection criteria and gave useful advice to potential students on how to prepare for admission interviews. Ms Vivian Tang, LLB final year student and LLB student ambassador, also shared her own learning experience at CityU Law School, including G-LEAP courses, Legal Placement and mooting activities.

The secondary school students also had a taste in participating in the mock moot competition. Dr Rajesh Sharma, Director of Mooting of SLW together with two alumni coaches Mr Mike Lam, Mr LC Au of the Manfred Lachs Space Law Moot, conducted the moot



demonstration for the secondary school students. The Lachs moot team students, including Ip Shing Ho Jonathan, Ma Ming Chun, Ng Ping Luen, Siu Hoi Ling Holly, shared the experience on how to prepare for a moot competition. The workshop was organized to promote legal education, introduce legal knowledge and to enhance students' skills in debating, public speech and writing. The secondary school participants then took part in a mock moot competition after the moot demonstration.

*—Dr Rebecca Ong, LLB programme leader*

### **LLMArbDR: Programme Highlights and Update of Recent Developments**

#### **Overview**

The LLMArbDR (Master of Laws in Arbitration and Dispute Resolution) Programme is focused on both theoretical and skills-based training in dispute resolution. Courses are taught by internationally respected and experienced academics, practitioner-academics and local practitioners. The Programme offers a unique blend of academic and practical training in a broad range of dispute resolution methods, including but not limited to, negotiation, conciliation, mediation, domestic and international arbitration, international conflict prevention, as well as foundations of legal concepts, commercial contracts, and proof and procedures as related to dispute resolution.

#### **Popular Aspects**

Over the years, the programme has been collaborating with a number of leading ADR institutions both within and outside Hong Kong such as the Chartered Institute of Arbitrators (CIArb), Hong Kong Institute of Arbitrators (HKIArb), Hong Kong International Arbitration Centre (HKIAC), Hong Kong Mediation Accreditation Association Limited and the Law Society of Hong Kong. Upon fulfilling certain requirements, graduates are eligible to apply for professional recognitions offered by these institutions. As of 2014, the programme is one of only two institutions in Hong Kong recognized by the Chartered Institute of Arbitrators to offer Module 4—Award Writing (LW6409B) in Hong Kong.

#### **Recent updates in the LLMArbDR Programme**

First, the LLMArbDR Programme had a very successful 2014 admissions cycle and, given the competitiveness of the dispute resolution arena, applicants continue to recognise the importance of having the types of professional recognitions that can be earned through CityU's LLMArbDR Programme. During the 2014 admissions cycle, over 250 applicants from Hong Kong, mainland China, Europe, South America, and the greater Asia-Pacific region competed for one of 80 intake places. The LLMArbDR Programme is pleased to have exceeded its intake quota this year.

Applicants during the 2014 admissions cycle included, but were not limited to, law school graduates and working professionals from a variety of industries, such as construction, finance, technology, education, medical, investment, and banking sectors. Their diverse backgrounds coupled with their industry experience make them ideal candidates for the programme. The knowledge gained from the courses offered by the programme can be applied directly to these respective fields which, in turn, benefits students professionally as well as their industry and the community at large.

Second, in order to continue towards being an internationally-recognised dispute resolution programme in the Asia-Pacific region, the LLMArbDR Programme improved the efficiency and effectiveness of the programme by consolidating courses and introducing a new dispute resolution elective centered on international conflict prevention, analysis, and resolution. The aim of these progressive achievements is to provide relevant educational opportunities that coincide with developments in the dispute resolution field and increase knowledge transfer across the breath of dispute resolution processes.

In September 2014 during Semester A 2014/15, the LLMArbDR Programme actively participated in CityU's Cross-Institutional Course Enrolment Scheme by supporting a postgraduate and research student from one of the eight UGC-funded universities in Hong Kong to enroll in an LLMArbDR course.

In October 2014, Dr Avnita Lakhani, Associate Programme Leader, was invited to deliver an expert talk to high school students in the New Territories, Hong Kong on the topic of 'The Importance of Dispute Resolution Skills for Achieving Personal and Professional Success'. The expert talk focused on the importance of understanding and developing some core skills in dispute resolution and how the School of Law can help students to understand and use important dispute resolution mechanisms as well as continue to develop these important life skills. This is especially important as high school students consider their personal and professional development options and grow to live and work as adults in society. Identifying, managing, and resolving conflicts in effective ways are essential skills for long-term personal and professional success.

## PROGRAMME HIGHLIGHTS

Finally, on 20 November 2014, Dr Avnita Lakhani, Associate Programme Leader, served as Co-ordinator of a Symposium titled 'Discovery-Enriched Curriculum in Action: Best Practices for Dispute Resolution Teaching and Learning'. This year's Symposium is one more step taken by the School of Law in leading the dispute resolution field by engaging scholars, practitioners and the community towards finding effective and peaceful resolution to disputes by cultivating innovation in the teaching and learning of important alternative dispute resolutions processes such as negotiation, conciliation, mediation, arbitration, conflict analysis and prevention, and hybrid processes.

*–Dr Christopher To, LLMArbDR Programme Leader & Dr Avnita Lakhani, Associate LLMArbDR Programme Leader*

### **LLM: six streaming options**

The Master of Laws (LLM) Programme at CityU offers a unique blend of comprehensive legal knowledge, skill-based training, independent research, and flexibility to study any of a variety of streams and international study options. We aim at achieving academic diversity with students with different backgrounds and a multi-cultural faculty.

The Programme offers the following six streaming options:

(I) Chinese and Comparative Law Stream

–focuses on a comparative understanding of the legal framework in China.

(II) International Economic Law Stream

–deals with international legal issues concerning business transactions with particular emphasis on problems relating to different jurisdictions.

(III) Common Law Stream

–provides students with the opportunity to study the origins, practices, values, principles and theory of common law as well as equips them to compare common and civil law systems and methods.

(IV) Maritime and Transportation Law Stream

–deals with legal issues concerning maritime and transportation law with particular emphasis on carriage, insurance and admiralty law.

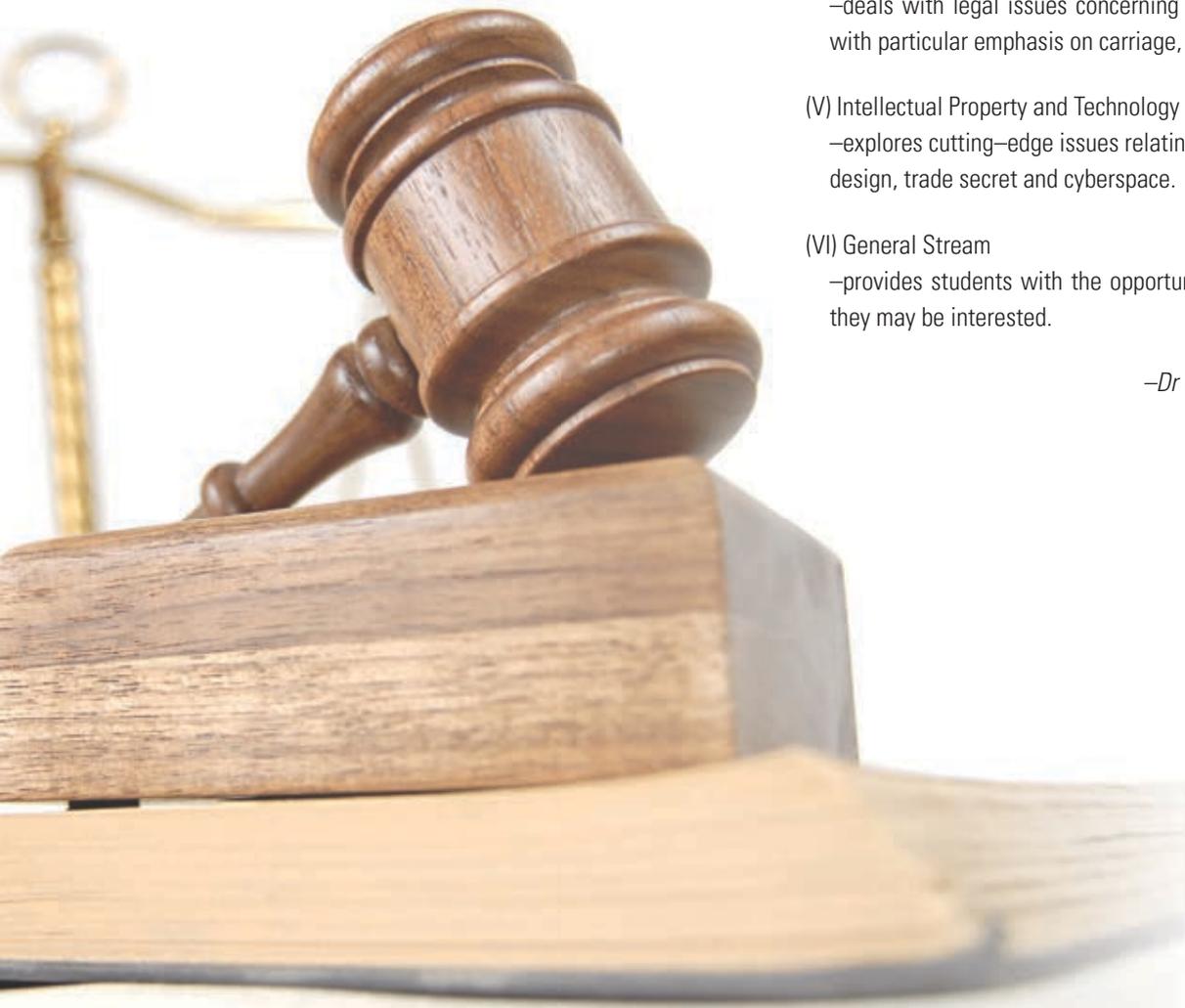
(V) Intellectual Property and Technology Law Stream

–explores cutting-edge issues relating to copyright, patent, trademark, design, trade secret and cyberspace.

(VI) General Stream

–provides students with the opportunity to study any topics in which they may be interested.

*–Dr Chen Lei, LLM Programme Leader*



# CONFERENCES

## *Roundtable on Issues Relating to the 2017 Chief Executive Election*

Universal suffrage of the Chief Executive in 2017 is a significant milestone in the constitutional development of the Hong Kong Special Administrative Region (HKSAR). People of all walks of life in the HKSAR, as well as the international community have been showing great concern for this and have been closely watching its development. However, there have been serious divergent opinions, or even arguments, on how to implement the unprecedented universal suffrage of the Chief Executive in the HKSAR.

To provide a platform for organizations/people with different views on this matter to express and exchange their opinions and to discuss issues of common concerns constructively and rationally, the Centre for Chinese and Comparative Law (RCCL) of our Law School held the “Roundtable on Issues Relating to the 2017 Chief Executive Election” on 26 April 2014.

Speakers of this Roundtable include local legal and political science scholars—such as **Professor Albert HY Chen** (Chan Professor in Constitutional Law, Faculty of Law, The University of Hong Kong); **Professor Joseph Cheng Yu–shek** (Chair Professor of Political Science, City University of Hong Kong and Convenor of Alliance for True Democracy); **Dr Chan Kin–man** (Associate Professor, Department of Sociology, Chinese University of Hong Kong and Organizer of Occupy Central with Love and Peace); and **Professor Lin Feng** and **Dr Priscilla Leung** of our Law School—as well as people from different local political parties and with different political convictions—such as **Ms Emily Lau** (Chair of the Democratic Party and Legislative Councillor of HKSAR); **Mr Holden Chow** (Chair of Young DAB); and **Mr Lawrence Ma** (barrister and Chair of China–Australia Legal Exchange Foundation). Additionally, we were honoured to have prominent political science scholar **Professor Iain McLean** of Oxford University join the discussion for one session through video conferencing. His brilliant student—Dr Alan Renwick, Reader in Comparative Politics and Acting Head of the Department of Politics and International Relations at the University of Reading—accepted our invitation to travel to Hong Kong and participate in the discussions of all the four sessions of the Roundtable, providing us with an international view on issues relating to the implementation of universal suffrage.

At the Roundtable, controversial issues related to the 2017 Chief Executive Election and various universal suffrage proposals tabled by different political parties, organizations and individuals were examined critically from both academic and political reality perspectives. While speakers presented their different views and engaged in heated debate with each other, audiences also actively expressed their opinions and put forward difficult questions to



speakers during the Q & A sessions. In short, the atmosphere of the Roundtable was interactive, enthusiastic and thought–provoking.

As with other similar conferences and forums, it is certain that this Roundtable would not directly result in reaching a consensus on various issues related to the 2017 universal suffrage of the Chief Executive among Hong Kong Society. This also was not the objective of the Roundtable. Undoubtedly, discussions and debates, or even arguments, over related issues will continue. Notwithstanding that, however, most of the panelists did reach consensus on the following four points:

- It is possible that the nominating committee can work, and we can find a solution to it under the Basic Law, provided that the nominating committee can enhance its content legitimacy and procedural legitimacy, such as by adding civic nomination and/or political party nomination before the nominating committee’s functioning;
- The electoral base of the nominating committee needs to be broadened to enhance its democracy;
- Either a two–round voting system or an alternative voting system should be used in the 2017 Chief Executive Election; and
- The existing nomination threshold should continue to be used by the nominating committee in the 2017 Chief Executive Election.

To conclude, by organizing this Roundtable, the RCCL has facilitated the enhancement of communication and understanding among people with different views, hence contributing to such significant constitutional reform of the HKSAR.

## SEMINARS

***Some Recent Developments of Arbitration Law and Practice in Austria***

Professor Walter H. Rechberger is a Full Professor of Law at the Vienna University School of Law, Head of the Department of Civil Procedure Law and Co-Director of the Research-Institute for Legal Development. He gave a seminar on the topic of "Some Recent Developments of Arbitration Law and Practice in Austria" on 19 March 2014 at CityU School of Law.

Dr Avnita Lakhani, Assistant Professor and Associate Programme Leader of the LLMArbDR Programme, gave the introduction stating that the seminar consisted of two parts: the first part focusing on a major amendment brought by the Arbitration Amendment Act 2013 and the second part focusing on the main changes to the Vienna Rules 2013, the Rules of Arbitration for arbitration proceedings administered by the Vienna International Arbitral Centre (VIAC), as compared to its predecessor, the Vienna Rules 2006.

Under Arbitration Amendment Act 2013, the Supreme Court is the first and final instance for claims challenging an arbitral award; claims regarding the declaration of the existence or non-existence of an arbitral award and for proceedings as to the formation of the arbitral tribunal, including appointment of an arbitrator, challenge of an arbitrator, and early termination of arbitrators' mandates. That said, the current procedural levels remain in force for disputes involving consumer and labor law disputes. Also, County Courts remain competent for recognition and enforcement of arbitral awards, enforcement of interim and protective measures, and judicial assistance.

Professor Rechberger also discussed the costs of the proceedings in front of the Austrian Supreme Court. The court fees is 5% of the value in dispute (with a minimum fee of EUR 5,000), and the appointment and challenge of an arbitrator and the early termination of an arbitrator's mandate costs € 2,010.

Following the above discussion, the Vienna International Arbitral Centre ("VIAC") was brought into focus. Representing one of Europe's leading arbitral institutions, the VIAC serves as a focal point for the settlement of commercial disputes in the regional and international community. The VIAC was founded in 1975 as a permanent arbitral institution of the Austrian Federal Economic Chamber ("AFEC") and

has since enjoyed a steadily increasing caseload from a diverse range of parties spanning Europe, the Americas and Asia. Lying in a neutral country in the centre of Europe, the VIAC offers its services in the settlement of international disputes. The arbitral proceedings are individually designed according to the parties' requirements and meet the highest quality criteria. VIAC administers international cases involving at least one party with its place of business or normal residence outside of Austria or cases concerning disputes with another international character.

The VIAC has administered over 1,500 proceedings since its inception and is thereby one of the most experienced arbitration centres in the region. The VIAC benefits from a robust global network of leading arbitrators experienced in international arbitration under the Vienna Rules. Austria has adopted the UNCITRAL Model Law as its law of arbitration in 2006 with minor changes thus ensuring that the *lex arbitri* is in conformity with international standards.

Professor Rechberger stated that compared to its predecessor, the Vienna Rules 2006, the main changes in the Vienna Rules 2013 involve quite a few aspects. The new provisions concerning multi-party proceedings, joinder of third parties and the consolidation mechanism were explained in detail. Issues about the incorporation of different expediting measures such as the expedited procedure, removal of arbitrators in case of inactivity, the announcement of the anticipated date for the issuance of the final award, and the costs of an arbitration administered by the VIAC were also discussed.

***Specialist in Intellectual Property Law gave a lecture on Intellectual Property Law and Technology Transfer in Offset Agreements***

A staff seminar titled "Intellectual Property Law and Technology Transfer in Offset Agreements" was held on 28 May 2014 in School of Law's conference room. Ms Therese Keelaghan, the speaker, has been a member of the University of Aix Marseille Law School, France, for the past 22 years. As Research Associate there, she lectures in Intellectual Property Law and Transfer of Technology. She is a member of the State Bar Association of California since 1982 and

a member of the French Bar Association since 1997, qualifying as a Certified Specialist in Intellectual Property Law in 2003. In 2012, Ms Keelaghan was nominated by the French Minister of Foreign Commerce to the position of Counsellor for Foreign Commerce to the government of France. Her practice specializes in international commercial matters and, in particular, the sale of high technology products and services, research and development, and the international transfer of technology.

Countries importing innovative products want to obtain the technology and know-how involved in the production of these foreign-manufactured products, in order to promote domestic production and research leading to innovation and invention, and ultimately to achieve economic independence from foreign suppliers. Governments contracting for large infrastructure, nuclear or transportation projects with foreign companies request a transfer of the technology used in such projects. Private sector enterprises engaged in importing the high technology negotiate the communication and transfer of the information, know-how and legal rights to technology so as to develop new and improved technology of their own.

The transfer of intellectual property rights used in large-scale public projects or high technology consumer products is at the core of contract negotiations between suppliers and buyers in both public and private sectors. An understanding of the protection and inherent limits of intellectual property law, transfer of technology contract and national and international legislation applicable to offset agreements is thus critical to successful technology transfer in offset deals. The seminar has provided a brief overview of intellectual property law as applied to technology transfer in offset agreements, a significant and growing area of international law and finance.



The presentation of Ms Therese Keelaghan was divided into three parts. In the first part, “technology transfer in general” was introduced. Technology transfer, by definition, is the transfer of intellectual property rights (“IPR”) from the owner to a third party to be exploited under the conditions specified by agreement between the parties, while IPR is the right to a monopoly for the exploitation of certain intellectual creations for a limited period of time granted to an inventor or creator by a specific country. The second part

focused on “technology transfer in the private sector”. Successful technology transfer depends upon “Technological Capacity” of a market, which is the ability of a market or an enterprise to integrate transferred technology and apply it to a commercial end. In the third part, “technology transfer and offsets in the public sector” was elaborated on. The words in European Parliaments’ high level conference, “Defense and Securities Industries and Markets”, were cited to define offsets: “Offsets are economic compensations which many Member States may require from foreign suppliers for the purchase of defense equipment. These compensations can take various forms, but the ultimate purpose of offset requirements is always to oblige non-national defense suppliers to generate business for local companies in the country that is purchasing.”

Dr Ding Chunyan, Associate Programme Leader of CityU’s LLM programme, said the topic is new to attending students and said that if the LLM students are interested in intellectual property rights, they can take the Intellectual Property and Technology Law stream, which has recently been introduced. The stream explores the cutting-edge issues relating to copyright, patent, trademark, design, trade secret and cyberspace. It further investigates the possible boundaries in intellectual property between commerce, industry, technology innovation, governance, education, and the relationship of law to each. Courses, covering both local and international law, are taught by leading experts or practitioners in their fields. The introduction of this new stream will enable students to acquire further knowledge in this field.

### ***Stories from New York and the Implications of Binding Prenuptial Agreements in the UK and Hong Kong***

Suppose you were a millionaire and wished to marry a woman from a more humble background, would you consider asking your partner to sign a prenuptial agreement with you?

Dr Sharon Thompson, Lecturer in law at Keele University, made a presentation on the topic “Prenuptial problems: stories from New York and the implications of binding prenuptial agreements in the UK and Hong Kong” in a lunch seminar held on 18 September 2014. Dr Thompson specialises in family law and her research currently focuses on prenuptial agreements. She is publishing a book titled *Prenuptial Agreements and the Presumption of Free Choice: Issues of Power in Theory and Practice* with Hart Publishing.



The aim of Dr Thompson's presentation was to introduce the current position of prenuptial agreements, with a focus on her research on prenuptial agreements in New York. She finished by discussing the future of prenuptial agreements in the UK and Hong Kong.

Firstly, Dr Thompson pointed out that it is against public policy for a prenuptial agreement to be able to govern the financial consequences of divorce because statute says that this is up to the discretion of the judge under section 25 of the Matrimonial Causes Act 1973.

The judgment of the Supreme Court in *Radmacher v Granatino* [2010] established that pre-nuptial agreements were now to be given effect so long as they were entered into by both parties freely and with full appreciation of their consequences, unless in the circumstances prevailing it would not be fair to hold the parties to their agreement.

Respect for individual autonomy is an important reason to give effect to nuptial agreements—the court should respect the decisions made by individuals as to the future regulation of their financial affairs.

At this point, Dr Thompson looked at the legislative background in New York. Domestic Relations Law 236B states that “[a]n agreement by the parties, made before or during the marriage, shall be valid and enforceable in a matrimonial action if such agreement is in writing, subscribed by the parties, and acknowledged or proven in the matter to entitle a deed to be recorded.” In other words, agreements must be fair and reasonable when made and not unconscionable when enforced.

Dr Thompson made references from the interviews she conducted in New York. There are three basic types of clientele who entered into prenuptial agreements: people with family money; people who have established a great deal of wealth, and people who are entering into the second or third marriage. As for the reason for entering into an agreement, as said by one New York attorney, “clients often expressed a desire to not have to go through what can be in New York at least, a long, difficult process of determining for the process of equitable distribution.”

However, it is noteworthy that the desire for an agreement is often one-sided. Often times, it is the more affluent party who desires the agreement, wanting to preserve what he or she has coming into the marriage and then dictating also what may happen in the event that the marriage does not work out. Dr Thompson is concerned about the link between the allocation of wealth between parties to an agreement, and the balance of power within these relationships. The unequal power gives rise to the fact the less affluent may not want to sign a prenup. Individual attorneys' responses to the problem include demanding full financial disclosure, independent

and competent legal advice, or sunset clauses.

Dr Thompson's analysis is especially important to jurisdictions like the UK, where the legal status of prenuptial agreements is currently under review, and Hong Kong, which is sensitive to developments in matrimonial law in the UK.

### ***Research fund capture in the 21<sup>st</sup> century—strategy, luck and a good idea***



The School of Law was honored to have Professor Toni Williams from the University of Kent to deliver a talk on the topic “Research fund capture in the 21<sup>st</sup> century—strategy, luck and a good idea” on 24 September 2014.

With reference to Aldridge and Derrington's recent book, *The Research Funding Toolkit: How to Plan and Write Successful Grant Applications*, Professor Williams discussed how to plan, strategise and assemble funding applications for research projects in law.

What kinds of applications capture funds? Professor Williams suggested that a successful application asks important research questions about a significant research problem, and the proposed project should very likely solve or answer the problem. It should also be cost-effective; the benefits of the project should surpass the resources required to carry it out. Finally, the applicant should show his/her competence in executing the planned programme of work.

Professor Williams highlighted that researchers should understand the funder in terms of its priorities, criteria and process, so that they would be able to give the funder compelling reasons to fund their work. A law researcher also needs to bear in mind that decision makers rarely have a law background and so he/she should write the proposal as a bid or a mini-prospectus, and not as a mini law-review article.

Notwithstanding, if an application that is strong in regard to both research questions and research design, methods and resources is rejected, it may be due to bad luck.

### ***The interpretation of retention of title clauses—has the Court of Appeal got it wrong in Wilson v Holt?***



The School of Law was honoured to have **Professor Louise Gullifer** from Oxford University speak at a lunch seminar held on 27 September 2014. More than fifty students and teachers attended the seminar.

In the recent Court of Appeal decision in *Wilson v Holt*, the majority interpreted a retention of title clause in a sale of goods contract as creating an agency relationship between the

buyer and seller, so that the buyer sub-sold the goods as agent of the seller. This meant that property in the goods never passed to the buyer, and the seller could not bring an action for the consideration.

Professor Gullifer argued that the agency construction is wrong as it gives rise to many uncommercial consequences, leads to uncertainty and potentially upsets the balance of interests between financiers of small and medium sized enterprises. She contends that the case of *Aluminium Industrie Vaassen B.V. v. Romalpa Aluminium Ltd*, used to support many uncommercial interpretations of retention of title clauses, is fundamentally flawed and should be put to rest. Finally, it is argued that the view of the Court of Appeal in *Wilson v Holt* that section 49 of the Sale of Goods Act 1979 includes the only two circumstances in which a seller can sue for the price is unsatisfactory, and that the section should be reinterpreted or, ideally, reformed.

Professor Louise Gullifer is Professor of Commercial Law at Oxford University. She has been teaching at Oxford since 1991, and before that she practised as a barrister. She teaches Roman law, Contract law, Commercial Law, Corporate Insolvency law and Corporate Finance law and has been the senior law tutor at Harris Manchester College since 1999.

## STUDENT ACTIVITIES

### ***LAI Kiu Fung (LLB, Year 2) won the 1<sup>st</sup> Law Reform Essay Competition***

LAI Kiu Fung (LLB, Year 2) was among the five finalists in the 1<sup>st</sup> Law Reform Essay Competition 2013/2014 organised by the Law Reform Commission of Hong Kong ("LRC"). The topic chosen for the competition was: "Should pre-nuptial agreements be recognised and enforceable in Hong Kong? If so, how?"

This essay competition was organised by the Law Reform Commission for the first time to raise awareness and interest in the importance of law reform among young law students. The competition also offered participants an added opportunity to reflect on and suggest proposals on what the law should be on a given topic.

In this competition, 41 essays were received. Thirteen essays were shortlisted for the second marking and the five finalists were eventually chosen after very careful assessment by the Adjudicating Panel comprising **Mr John Budge** (who is the Chairman of the Panel), **Professor Lin Feng**, **Mr Peter Rhodes**, **Mr Paul Wan** (the Law Draftsman of the Department of Justice) and **Professor Michael Wilkinson**.

LRC members unanimously considered that the five finalists' essays were of a very high standard both in terms of substance and presentation.

Below is a transcript of our interview with Lai Kiu Fung.

#### **Why are you interested in the topic of pre-nuptial agreements?**

Lai: Honestly speaking, I had no prior background knowledge on family/matrimonial law, let alone issues regarding pre-nuptial agreements. Therefore, it is the first time for me to know and delve

deep into understanding this area of the law through self-studying and self-initiated research.

#### **How did you find the time to write this essay given your busy LLB schedule?**

Lai: Indeed the LLB schedule is pretty tight. There was limited time for me to conduct research and structure my essay. At the beginning, I was not that interested in the competition because I had been unfamiliar with the topic of the essay. However, there were repeated emails in January this year from the law school encouraging students to participate in the event. Therefore I gave it a try and only spent the 7–10 days before the deadline to research and complete the essay during Chinese New Year holiday.

To speed up the whole process, I chose to start with some commentaries and journal articles, from which I can have a basic overview of the topic. After that, I looked for case-law and textbooks on pre-nuptial agreements/family law in general of different jurisdictions for further comparisons and analyses so as to weigh up different options available for HK's situation.



*The Hon Mr Justice Tang, PJ and finalists*

## Describe your experiences studying law at CityU in the past 2 years.



The Hon Chief Justice Geoffrey Ma awarded a certificate to Mr Lai Kiu Fung.

Lai: Fruitful and enjoyable! CityU's Law School adopts a discovery-based approach which creates incentives for us, students, to take the initiative to learn new things through first-hand experience. Furthermore, it also encourages students to know not merely "what the law is", but also "what the law should be", thus

enabling us to critique the policy reasons and philosophies behind the law. More importantly, CityU Law School's G-LEAP furnishes students with the opportunity to have a glimpse of the legal education and experience in other parts of world, hence equipping us with a broader legal and cultural perspective amidst globalization.

## School of Law welcomed new students

The School of Law's Orientation for new students was held on 26 August 2014.

The orientation for LLB, JD and PCCL students was held in the daytime while the orientation for LLM and LLMArbDR students was held in the evening.



Professor Geraint Howells, new Dean of the School, gave a welcoming speech to the new students. He hoped the students would take full advantage of their time in the Law School to make new and lasting friendships and to broaden their horizons.

The teaching staff, including the programme leaders and associate programme leaders, also introduced themselves and welcomed the students.

After a lunch break, the new LLB and JD students were given introductions on different aspects of school life. Dr Rajesh Sharma, Director of mooting, introduced mooting competitions together with some present and past mooters of the Law School. The mooters



shared how mooting benefitted them in terms of school grades and their career development.

Dr Surya Deva, Faculty Editor of CityU Law Review, introduced the academic law journal published by the School of Law with two student editors, and Ms Sara Tsui introduced the work of Professional Career Services, which intends to help students find a job at the end of their education.



The School of Law is honored to have Ms Bonita Chan, the Chairlady of the School's Alumni Association, coming over and sharing tips on how to be successful in studies and career. She advised the students to work hard, have an analytical mind and think critically. She also reminded the law students to uphold the rule of law and judicial independence.

The new students were also given a talk on how to use the Law Section of the Run Run Shaw Library by librarian Ms Lau Lai-chu and had a library tour. They were also taught how to use the Blackboard and Canvas systems by Mr Vicker Leung from the Office of the Chief Information Officer.

The evening session of the Orientation for new LLM and LLMArbDR students attracted more than 100 attendees. They were welcomed by the Dean and the teaching staff, and met their programme leaders and course leaders in respective rooms.

## VISITS

***A delegation from China University of Political Science and Law's Institute for Human Rights visited CityU's School of Law***

A delegation from China University of Political Science and Law's Institute for Human Rights visited CityU's School of Law on 20 June 2014. Professor Lin Feng, Professor Zhu Guobin and Dr Chen Lei from the School of Law met with the staff of the Institute that included Deputy Director Zhang Wei, Professor Yang Qin Huo, Associate Professor Sun Meng, in addition to three executive staff.



The Institute for Human Rights is an interdisciplinary research institute of human rights and humanitarian affairs at China University

of Political Science and Law (CUPL). It was set up in June 2002 to promote, support and carry out higher education on human rights and humanitarian law and conduct relevant researches. It was named as Institute of Human Rights and Humanitarian Law by Professor Xianming Xu, then President of CUPL. In 2011, thanks to the first Chinese National Human Rights Action Plan, the Institute was recognised as one of the three national bases for human rights education and training by the Ministry of Education and China Society for Human Rights Studies. The Ministry of Education provides 13 positions for this Institute. In order to take a more interdisciplinary approach to human rights studies, CUPL authority decided to rename the Institute as Institute for Human Rights.

In the past years, the Institute invited academics and relevant professionals to jointly work in the following areas: (i) advocating on the establishment of National Human Rights Institutions in China with the support of Raoul Wallenberg Institute and Swedish International Development Agency; (ii) drafting a feasibility study and legal opinion on a proposed national government act for the prevention of disabilities; (iii) delivering a shadow report to the CERD Committee on Chinese government report; (iv) providing human rights education and training programmes for university teachers, students and judges through a human rights law master and Ph.D. programmes, summer schools and workshops in China; and (v) celebrating Human Rights Day with other Chinese universities starting from 2005 through various activities, in particular with the EU Delegation to China in 2011. Since its very beginning, the Institute has been actively engaged in international cooperation with EU Human Rights Small Project, Nordic human rights Institutes, EIUC, the Ford Foundation, etc.

The Law School's Centre for Chinese and Comparative Law is also committed to conducting in-depth comparative research in constitutional and administrative law which is related to human rights, and organize on a regular basis, seminars on Chinese law, Hong Kong law and comparative law. For example, in early 2014, the Centre for Chinese and Comparative Law held the Fourth Annual Conference of the School of Law of City University of Hong Kong

(CityU) and the School of Law of Renmin University of China (RUC). The theme of the conference was set as "State Capacity and Human Rights Developments in China", and the topics covered a wide range of areas, including the relationship between human rights and democracy; graft-fighting; judicial protection of human rights; human rights protection in criminal cases; the relationship between constitution and the rule of law, etc.



CityU's School of Law welcomed the Institute's staff and looks forward to more opportunities of cooperation in relation to human rights in the future.

***A delegation from James E. Rogers College of Law at The University of Arizona visited CityU's School of Law***

Professor Marc L. Miller, Dean, and Professor Brent White, Associate Dean, James E. Rogers College of Law, The University of Arizona visited CityU's



School of Law on 13 October 2014. Professor Geraint Howells and Professor Gu Minkang, Dean and Associate Dean of the School of Law respectively, received the delegation.

At the beginning of the reception, Professor Miller conducted a brief introduction on The University of Arizona and James E. Rogers College of Law. Following the introduction, the delegation focused on a discussion with Professor Howells and Professor Gu in exploring the possibility of international collaboration among the two Universities. In the discussion, Professor Miller and Professor White promoted Arizona Law's Advanced JD Admission Programme of The University of Arizona by emphasizing its appealing features; namely, it is the best-valued and dual qualified Programme aiming to nurture global lawyers with full licensure in at least two countries and legal fluency in at least two legal cultures during less than three years of study.

Professor Howells stressed the current trend of internationalization as well as its importance while Professor Gu conducted an introduction on the Juris



Doctor (JD) Programme offered by CityU's School of Law stating that the Programme could be considered as a potential starting point for partnership between the two Universities. Further details would be worked out in order to search for the possibility of collaboration and both parties look forward to the potential partnership.

# STUDENTS' ACHIEVEMENTS IN MOOTING COMPETITIONS 2013–14

The School encourages students to broaden and sharpen their legal training by participation in international mooting competitions. 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 2013–14, the SLW participated in various international mooting competitions and reaped a bumper harvest in the competitions.

## ***The 2014 Philip C. Jessup International Law Moot Court Competition***



### **Achievements:**

Hong Kong Regional Round, 8–9 March 2014

- Championship
- Best Respondent Memorandum
- Best Applicant Memorandum
- Best Speaker: Third Place (Chan Sai Ho)

International Round (Washington, D.C.), 6–12 April 2014

- Advancing into the knock out round
- Ranked 13<sup>th</sup> as the best individual oralist (Chan Sai Ho)

### **Team members:**

- Chan Sai Ho (LLB 2010)
- Fan Siu Leung (LLB 2012)
- Leung Ming Yin Henry (LLB 2010)
- Liu Wing Sum Michelle (LLB 2012)
- Tam Hey Juan Julian (LLB 2012)

### **Coach:**

- Mr Mohammed Talib, Visiting Fellow, School of Law

## ***Eleventh Annual Willem C. Vis (East) International Commercial Arbitration Moot held in Hong Kong, 31 March–6 April 2014***



### **Achievements:**

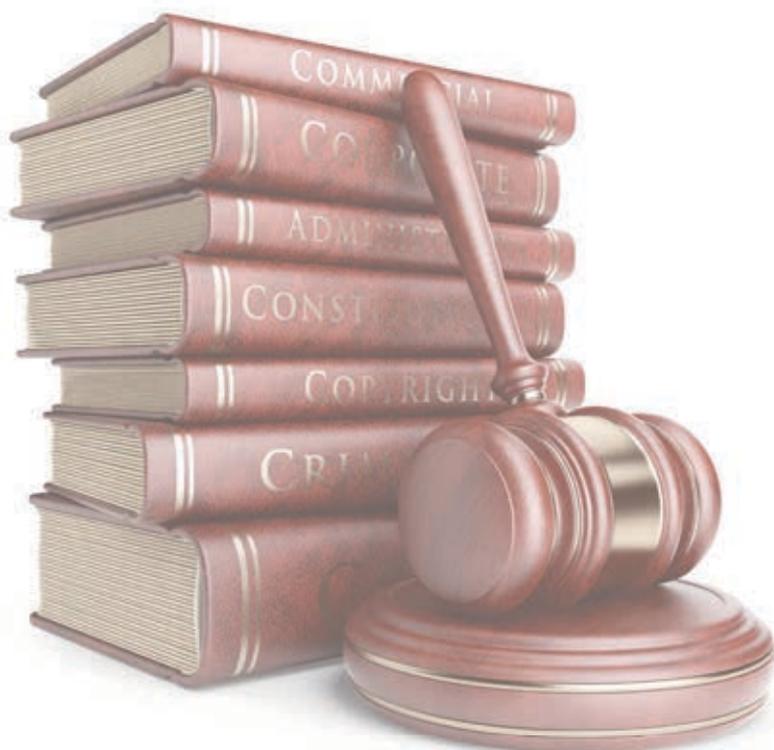
- Ranked 16<sup>th</sup> out of 99 teams
- Honorable Mention for the Respondent Memorandum

### **Team members:**

- Ahuja Navin Gopaldas (LLMArbDR 2013)
- Cheung Yuk Yu (LLB 2010)
- Lam Siu Yeung (LLB 2010)
- Poon Kathleen Hei Tung (LLB 2012)
- So Ka Ho Patrick (LLMArbDR 2013)

### **Coach:**

- Dr Rajesh Sharma, Assistant Professor, School of Law



### ***Twenty First Annual Willem C. Vis International Commercial Arbitration Moot held in Vienna, 12–17 April 2014***



**Achievements:**

- Ranked 25<sup>th</sup> at the end of the general round among 290 teams
- Honorable Mention for the Respondent Memorandum

**Team members:**

- Ahuja Navin Gopaldas (LLMArbDR 2013)
- Cheung Yuk Yu (LLB 2010)
- Lam Siu Yeung (LLB 2010)
- Poon Kathleen Hei Tung (LLB 2012)
- So Ka Ho Patrick (LLMArbDR 2013)

**Coach:**

- Dr Rajesh Sharma, Assistant Professor, School of Law

### ***Manfred Lachs Space Law Moot Court Competition (Asia Pacific Regional Round) held in Beijing, 23–25 May 2014***



**Achievements:**

- Ranked 5<sup>th</sup> in the memorial score
- Ranked 12<sup>th</sup> after the general round among 27 teams

**Team members:**

- Ip Shing Ho Jonathan (LLB 2012)
- Ma Ming Chun (LLB 2010)
- Ng Ping Luen (LLB 2011)
- Siu Hoi Ling Holly (LLB 2012)

**Alumni Coaches:**

- Mr Lam Ho Yan
- Mr Au Lut Chi

### ***15<sup>th</sup> International Maritime Law Arbitration Moot held in Hong Kong, 4–8 July 2014***



**Achievement:**

- Ranked 9<sup>th</sup> at the end of the general round among 22 teams

**Team members:**

- Chu Joshua Allen Kiu Wah (JD 2011)
- Hui Ka Lam (LLB 2012)
- So Lok Kan (LLMRTL 2013)
- Yim Choi Wai Bridget (LLB 2012)

**Coach:**

- Dr Poomintr Sooksripaisarnkit, Assistant Professor, School of Law

### ***The International ADR Mooting Competition 2014 held in Hong Kong, 27 July–2 August 2014***



**Team members:**

- Cheung Ming Tai Edward (LLB 2011)
- Li Sze Man (JD 2012)
- So Ka Ho Patrick (LLMArbDR 2013)
- Tsoi Angie (LLB 2012)
- Wong Edwin Jacob (LLB 2011)

**Coach:**

- Dr Yang Fan, Assistant Professor, School of Law

### **Awards dinner brought a graceful finale to the 5<sup>th</sup> International ADR Mooting Competition**

Twenty-four teams participated in the 5<sup>th</sup> International ADR Mooting Competition held during 27 July and 2 August 2014. The final results were announced at the Awards Presentation Gala Dinner in the Renaissance Harbour View Hotel in the evening of 2 August.

A number of VIPs, including **Professor Tang Houzhi**, Senior Adviser of the CCPIT Mediation Centre and the China International Economic and Trade Arbitration Commission (CIETAC), **Mr João Ribeiro**, Head of the United Nations Commission on International Trade Law Regional Centre for Asia and the Pacific (UNCITRAL-RCAP), **Mr Gary Chen**, Executive Director and Joint General Manager of New World Development Company Limited together with his company's representatives, and **Professor Geraint Howells**, Dean of CityU's School of Law, attended the dinner.



Professor Howells gave a welcome remark to all participants. He told the participants that it was his 4<sup>th</sup> day in the office as Dean of School of Law of CityU, and it was also his first public appearance as Dean. He urged students "to take mooting as a tool for

learning the law and the skills associated with it such as research, writing and presentation. During the preparation of the moot you would have also learned to work in a team, develop patience and tolerance. The process of Mooting also boosts your confidence."

He thanked all the co-organizers (CIETAC, Columbia Law School and UNCITRAL-RCAP) for their collaboration in this moot. In addition, for a successful moot, it was very important to have quality judges. He thanked all the judges who participated in this moot for their valuable time and contribution. In addition, he thanked New World Development Company Limited for sponsoring this Awards Presentation Gala Dinner and providing the venue and the delicious food for all participants.



Mr Gary Chen, the representative of New World Development Company Limited for hosting the Awards Presentation Gala Dinner, gave a remark to participants and he was awarded a souvenir by the School of Law.

On the occasion of award presentation ceremony, Mr João Ribeiro informed the participants about the current work of UNCITRAL relating to enforcement of mediation agreement. He believed that ADR Moot is a good way to teach students ADR skills and also to highlight the works of UNCITRAL relating to ADR. He hoped that the UNCITRAL Conciliation Rules will be used in the next edition of the ADR Moot.



Professor Tang Houzhi, while presenting the award of the Best Mediator, which is named after him, said "like in ADR process in which everybody wins, in the ADR Moot also everybody is the winner."

At the end, **Dr Rajesh Sharma**, Director of the Moot, gave a closing speech and said "some mooters are going with awards in tangible form and others are going with award in intangible forms—such as knowledge they have learnt, skills which they have mastered and above all the friendship which they have earned". He reminded all the teams, guests and judges that the ADR Moot would be held every year from the last Sunday of July to the first Saturday of August and the next year dates will be 26 July 2015–1 August 2015.



It has been the 5<sup>th</sup> year since the Law School organized the International ADR Mooting Competition jointly with CIETAC, Columbia Law School. UNCITRAL-RCAP has become a co-organizer since 2013. The competition involves students competing in both arbitral and mediation proceedings. This unique competition also allows one student in each moot (not involving their home university) an opportunity to act as arbitrator and mediator.



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

### ***Closing Ceremony of the 9<sup>th</sup> Advanced Programme for Chinese Senior Judges***

"The 9<sup>th</sup> Advanced Programme of Chinese Senior Judges" organized by School of Law and Centre for Judicial Education and Research, City University of Hong Kong was completed successfully on 6 June 2014. The Closing Ceremony was held at the Connie Fan Multi-media Conference Room in City University of Hong Kong on the same day. Officiating guests included **Professor Way Kuo**, President and University Distinguished Professor, City University of Hong Kong; **Dr Li Guangxiang**, Deputy 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; **Mr Ambrose Lam S K**, President, The Law Society of Hong Kong; **Mr Andrew Mak**, Council Member of Hong Kong Bar Association & Chairman of Special Committee on Greater China Affairs, Hong Kong Bar Association; **Mr George Tam Siu Ping**, Member of International Advisory Board of School of Law, City University of Hong Kong & Assistant Supervisor, Wah Yan College; **Professor Lin Feng**, Acting Dean, School of Law, City University of Hong Kong; **Professor Wang Guiguo**, Director of Centre for Judicial Education and Research & Chair Professor of Chinese and Comparative Law, School of Law, City University of Hong Kong.

In his welcoming remarks, Professor Wang Guiguo expressed his hope that the programme will contribute to the judicial reform in Mainland China, which cannot be accomplished by a person or an organization alone. For this he expressed gratitude to CityU, the Central Government of China, and the Hong Kong community for

their ongoing support and recognition. He hoped the programme will be further improved in the future. In addition, he invited the classmates to come back to CityU whenever they have time. CityU always welcomes them!

Professor Way Kuo welcomed all of the judges on behalf of CityU. On the surface the judges are here to study, but in fact we also learn from them by exchanging ideas. The judges brought their ideas to the teachers and the teachers brought knowledge to them. He was very pleased with the three Chinese Judges programmes (Doctoral degree, Master degree, and the Advanced Programme) which started six years ago. Although the advanced programme lasts for two weeks only, the participating judges are the alumni of CityU. He hoped all of us can work together.

Mr Ambrose Lam pointed out that globalization has brought significant changes to the legal profession, whether to practitioners providing legal services to customers, persons making adjudication in courts, and the legal educators cultivating future lawyers. They must understand the far-reaching effects of globalization to ensure they progress with the times in terms of the foundation and knowledge of the law, so that they can provide solutions to cross-border legal problems. It is very encouraging that CityU is willing to devote resources to the advanced programme in the past few years. The advanced programme provided an opportunity for legal practitioners between Hong Kong and Mainland China to exchange their knowledge and experience. The Law Society of Hong Kong hoped these channels will continue to expand.

Mr Andrew Mak expressed his hope that the judges could have a glimpse of the operation of Hong Kong lawyers during their stay in Hong Kong. He hoped the judges could promote this mode to Mainland China, especially concepts related to common law. It would be most desirable if these concepts could be integrated into the rule of law in the country. Finally, he wished the judges to make significant contributions to rule of law in China in the future.



Judge Xie Baohong, Director of the Office of Higher People's Court of Chongqing Province and representative of the 9<sup>th</sup> Advanced Programme for Chinese Senior Judges, said that he was honored to be able to participate in the advanced programme. He expressed heartfelt thanks to CityU for arranging this trip, allowing them to have a macroscopic view of the Hong Kong legal system and operation in a short time. He also thanked the professors whose teaching enabled them to have a more in-depth understanding of Hong Kong's Basic Law and legal reform. He was also thankful for the meticulous arrangements of the University. Finally, he was proud of becoming an alumnus of CityU.

In his vote of thanks, Professor Lin Feng expressed that the advanced programme really relies on the generous support of a number of organizations. They have provided tremendous support to various courses at the Law School and showed great hospitality by receiving the judges and participating in warm conversations. He expressed heartfelt gratitude to these organizations. Finally, he encouraged the judges to continue to enforce the rule of law. He also hoped the Hong Kong experience could leave good memories for everyone.

### ***A delegation from Legislative Affairs Office of Qinghai Provincial Government visited CityU's School of Law***



A delegation from the Legislative Affairs Office of Qinghai Provincial Government visited CityU's School of Law on 24 September 2014. **Professor Lin Feng**, Associate Dean of School of Law & Director of Centre for Chinese and Comparative Law, and **Dr Chen Lei**, Associate Professor of School of Law, received the delegation.

At the beginning of the reception, Professor Lin and Dr Chen briefly introduced the background and development of City University of Hong Kong as well as the School of Law. In order to broaden the scope of interaction, the delegation was invited to raise any law-related enquiries. Professor Lin shared the similarities and differences of the judicial systems of Mainland China and Hong Kong while Dr Chen shared the observation on the recent trend of law education overseas together with its impact.

Not only was the delegation interested in the differences of the judicial systems of Mainland China and Hong Kong as well as the recent trend of law education overseas, they were also interested in the programmes offered by School of Law. Professor Lin and Dr Chen provided features of various programmes offered by School of Law including programmes' diversity, learning & teaching, admission requirements & statistics, cultural differences between local and non-local students as well as the employment status of

Mainland graduates. It was also emphasized that our law students were given valuable learning opportunities, for instance, legal placement, Internal & International mooting competitions and optional route of dissertation.



**Hong Kong Centre for  
Maritime and Transportation Law**  
香港海事及運輸法研究中心

### ***The International Conference on the Hong Kong Maritime Law Forum, 7-8 November 2014***



On 7 and 8 November 2014, the Hong Kong Centre for Maritime and Transportation Law, School of Law, City University of Hong Kong, held the first Conference since its establishment in 2010.

This two-day International Conference on the Hong Kong Maritime Law Forum aimed to (1) expand and promote the literature in both the regional and international areas on the issue of sustainable maritime transportation system and its accomplishments in HK, (2) construct a platform for face-to-face communication between academia and the industry, (3) equip the HK maritime authorities with strong support and foundation for policy-and rule-making with regard to shipping economy, and (4) provide a valuable opportunity for our law students to be involved in research activities.



It is our honor to have six officiating guests in attending the Opening Ceremony, they were: **Professor Geraint Howells**, Dean & Chair Professor of Commercial Law of City University of Hong Kong; **Mr Liu Chunhua**, Deputy Director-General of Department of Law at Liaison Office of the Central People's Government in the HKSAR; **Mr Justice Ng**, Admiralty Judge of the High Court; **Hon. Frankie Yick Chi-Ming**, Member of Legislative Council as well as **Professor Gu Minkang**, Director of the Hong Kong Centre for Maritime and Transportation Law.



More than 50 attendees participated in this two-day Conference and sixteen world-renowned guest speakers consisting of 11 overseas and

## RESEARCH CENTRES

5 local speakers were invited to conduct presentation on their papers. The presentation addresses topics including, but not limited to the followings:



- Professor Anselmo Reyes, Hong Kong Maritime Law Association, Hong Kong  
*Recent Decisions of the Hong Kong Admiralty Court*
- Professor Shan Hongjun, Law School, Dalian Maritime University, China  
*Civil Liability for Vessel–Source Oil Pollution: The Law and Practices in Mainland China*
- Professor Zhao Jinsong, International Shipping Law School, East China University of Political Science and Law, China  
*Hong Kong’s Role in Construction of Shanghai International Shipping Hub*

- Professor Michael F. Sturley, School of Law, University of Texas (Austin), US  
*Unit Limitation under the Rotterdam Rules and Prior Transport Law Conventions: The Tail That Wags The Dog*
- Professor Baris Soyer, Institute of International Shipping and Trade Law, School of Law, Swansea University, UK  
*Claims from Passenger Carried by Sea–Is the Athens Convention (2002) a good model for Asian countries to follow?*
- Professor Mikis Tsimplis, Institute of Maritime Law, University of Southampton, UK  
*The implementation of the Nairobi Wreck Removal Convention 2007*

To conclude, the International Conference on the Hong Kong Maritime Law Forum was a great success and it served as a common platform for both academia and industry to share wisdom and insight.

## NEW FACULTY



**Dr Stephenson Chow** joined the School of Law on 15 August 2014. He obtained his PhD degree from University of Nottingham, UK, where he also obtained an LLM in Human Rights Law with a distinction. His research interests include Public International Law, International Human Rights Law and Human Rights in China. Prior to joining CityU School of Law, Stephenson has worked as teaching and research assistants at the University of Nottingham and for human rights non–governmental organisations including Amnesty International. He is an attorney–in–law qualified in the State of New York, US. His recent publications include “Culture as Collective Memories: An Emerging Concept of Culture in International Law and Discourse on Cultural Rights” in *Human Rights Law Review* (forthcoming).

**Mr Knut Fournier** joined the law school in August 2014 as a Graduate Teaching Assistant. He previously worked as a monitoring trustee in competition law in London, Beijing and Brussels, and for the Judiciary branch of the US Federal Government. He is finishing his PhD on Hong Kong competition law at the University of Leiden in the Netherlands, and he previously obtained his LLM from King's College, London. His recent publications include “The Qantas/Emirates Decision–How the Competition Commission of Singapore Used the Net Economic Benefits Exclusion to Regulate the Air Passenger Market”, in the *Singapore Academy of Law Journal*.



## NEW FACULTY



**Dr Antonios Kouroutakis** teaches Constitutional law and Human Rights while his research focuses on the autonomy status of Hong Kong. He obtained a DPhil from University of Oxford (Worcester College) in 2014, and he worked with Professor Paul Craig on the impact of temporary legislation on the separation of powers and the rule of law. He graduated from Democritus University School of Law in 2004 and took the Athens Bar Exam in 2006. The following academic year he attended the LLM program at UCLA Law School where he was awarded a Dean's Tuition Fellowship merit grant. He also practiced in Athens for 2 years specializing in the areas of administrative law and criminal law. His recent publications include "Judges and policy making authority in the United States and the European Union" in *Vienna Journal on International Constitutional Law* (June 2014) and 'The Provisional Constitution of the Federal Republic of Somalia: Process, Architecture and Perspectives' in *Cambridge Journal of International and Comparative Law* (November 2014).

**Dr Yu-Hsin Lin's** research focuses on corporate governance, director independence and securities litigation. She approaches these topics from empirical and interdisciplinary perspectives. Dr Lin's scholarship has been published in international journals, including *New York University Journal of Law & Business*, *San Diego International Law Journal*, and *George Mason Journal of International Commercial Law* etc. Dr Lin holds a J.S.D. degree from Stanford Law School and had been a visiting scholar at Harvard Law School. Prior to joining City University of Hong Kong, she was an assistant professor at National Chengchi University, College of Law in Taiwan. Before her academic career, she was a practicing lawyer specializing in business and securities transactions.



**Dr Andra le Roux-Kemp** joined the School of Law as an Assistant Professor in August 2014. Prior, she was an Ema2sa scholar at the Institute of Social and Cultural Anthropology (Medical Anthropology Arbeitskreis) at the Freie Universität Berlin, Germany. She obtained her BA, LLB and LLD degrees from Stellenbosch University (South Africa), and a Certificate in Medicine and Law (CML) from the University of South Africa (UNISA).

Her primary research interest is in Medical-and Health Law, as well as Criminal Justice, particularly Forensic Law. Her research approach in these areas can be described as trans-disciplinary; focusing on the interstices that exist between these and other fields of scientific inquiry, challenging discipline-specific approaches, and transcending disciplinary boundaries to capture complexity and to create new intellectual spaces for analysis.

Some of her career highlights include: developing the first LLM module in Forensic Law in South Africa, co-founding the first Innocence Project on the African continent, and winning the 2013 Young Scholars Symposium for Law and Science at the European Centre for Law, Science and New Technologies (ECLT) based at Pavia University in Italy.

Dr Andra le Roux-Kemp is also trained as a classical pianist and holds two degrees in Musicology. She is looking forward to exploring and becoming involved in the music scene of Hong Kong.

**Dr Zhao Liang** joined City University of Hong Kong in September 2014. He obtained his LLB at Dalian Maritime University, LLM at Southampton University and PhD at The University of Hong Kong. Before joining the School of Law, Dr Zhao has taught maritime law and commercial contract law in Faculty of Business at Hong Kong Polytechnic University since 2011. He was a Visiting Scholar of the United Nations Commission on International Trade Law (UNCITRAL) in 2008. His research interests include carriage of goods by sea, marine insurance, business law, contract law and Chinese law. In his spare time he enjoys swimming, badminton and reading.



## STAFF ACHIEVEMENTS

### Mr John Burke

'Postcards From the Edge: Proposed DIY Devolutionary Changes to PLT in Hong Kong' Presented at Adelaide APLEC Conference (November 2013)

'The Impact of "Multiple-item Feedback" on Advocacy Training in the PCLL

Co-presented by Mark Kielsingard. Educating Advocates: Teaching Advocacy Skills (May 2014) May 20–22, 2014. Stetson University College of Law.

### Dr Chen Lei

Chen, Lei. (Oct 2014). Whether Adverse Possession in Hong Kong? A Comparative and Statistical Study. *The Conveyancer and Property Lawyer*. 2014 issue 5 (with Gordon Sng). 413–429

Chen, Lei. (Jun 2014). The Legal and Institutional Analysis of Land Expropriation in China. Fu Hualing & John Gillespie (eds), *Resolving Land Disputes in East Asia*. (pp. 59–85). Cambridge. Cambridge University Press.

Understanding Property Transitions: The Emergence of Rural Land Markets in China, General Research Fund (GRF), Research Grant Committee (RGC), Hong Kong Government, Amount: HKD \$495,000, Jan 2014–Jun 2017, Lei CHEN (PI).

### Dr Surya Deva

#### Publications

'Development, Sovereign Support to Finance and Human Rights: Lessons from India' in Juan Pablo Bohoslavsky and Jernej Letnar Čeranič (eds.), *Making Sovereign Financing and Human Rights Work* (Oxford: Hart Publishing, 2014) pp. 289–302.

'The Indian Constitution in the 21<sup>st</sup> Century: The Continuing Quest for Empowerment, Good Governance and Sustainability' in Albert Chen (ed.), *Constitutionalism in Asia in the Early Twenty-First Century* (Cambridge: Cambridge University Press, 2014) pp. 343–366.

#### Appointments

Editor-in-Chief, *Business and Human Rights Journal* (Cambridge University Press) January 2015–.

Elected Member, Executive Committee, International Association of Constitution Law, July 2014–.

### Dr Mark Kielsingard

Publication of: "Humanitarian Appeals in Deportation Proceedings and Narrowing the Scope of Judicial Review in Canada, New Zealand and the United States" lead article in *Hamline Journal of Public Law and Policy*, co-authored with Guy Charlton and Timothy Fadgen. (August 2014)

Invited guest speaker at "Target Law" an NGO organized to help Hong Kong secondary school students prepare for entering Law School (September 2014).

Awarded the *Strategic Research Grant* for one year and HK\$100,000 to study Mandatory Chemical Castration: Law and Human Rights (October 2014).

Panel Chairperson at conference "Universal Suffrage for the Election of the Chief Executive: 2017 and Beyond" hosted by City University of Hong Kong (September 2014).

Gave one of three scheduled lectures before the International Criminal Tribunal in Cambodia in the *ECCC Legacy Lecture Series* in collaboration with the International Criminal Tribunal and the Raul Wallenberg Institute (November 2014).

### Dr Daniel Pascoe

Dr Daniel Pascoe has been accepted to attend Harvard Law School's Institute for Global Law and Policy Workshop in Doha, Qatar, from 2–11 January 2015. The workshop website is <http://www.harvardiglp.org/iglp-the-workshop/>

### Professor Wang Guiguo

"Consent in Investor–State Arbitration: A Critical Analysis", *Chinese Journal of International Law*, 2014, pp. 335–361.

"Issues of Compensation for Non–Expropriatory Breaches in International Investment Law", *Manchester Journal of International Economic Law*, Volume 11, Issue 2, 2014, pp. 156–181.





*The Editorial Board would like to thank Louis Liu, Agnes Kwok as well as members of staff who helped in the preparation of the Newsletter.  
Mr Peter CHAN (Editor in Chief), Mr Michael BECKETT, Dr LI Xiao*