

# SCHOOL OF LAW NEWSLETTER

# **School of Law City University of Hong Kong**

CityU School of Law is a premier law school with a history of excellence and the vision to become one of the great law schools in the Asia-Pacific region. The mission of the School is to provide students with an excellent education and to contribute to the advancement of knowledge. Through cooperation with other law schools and professional organizations, the School aims to foster an environment in which both students and staff develop and use their legal knowledge, professional skills and expertise for the benefit of Hong Kong and the region.

## **Our Programmes on offer:**

### **Undergraduate and Taught Postgraduate Programmes**

Bachelor of Laws (LLB)

Juris Doctor (JD)

Postgraduate Certificate in Laws (PCLL)

Master of Laws (LLM)

Master of Laws in Arbitration and Dispute Resolution (LLMArbDR)

### **Professional Doctorate Programme**

Doctor of Juridical Science (JSD)

### **Research Degree Programmes**

Doctor of Philosophy (PhD)

Master of Philosophy (MPhil)



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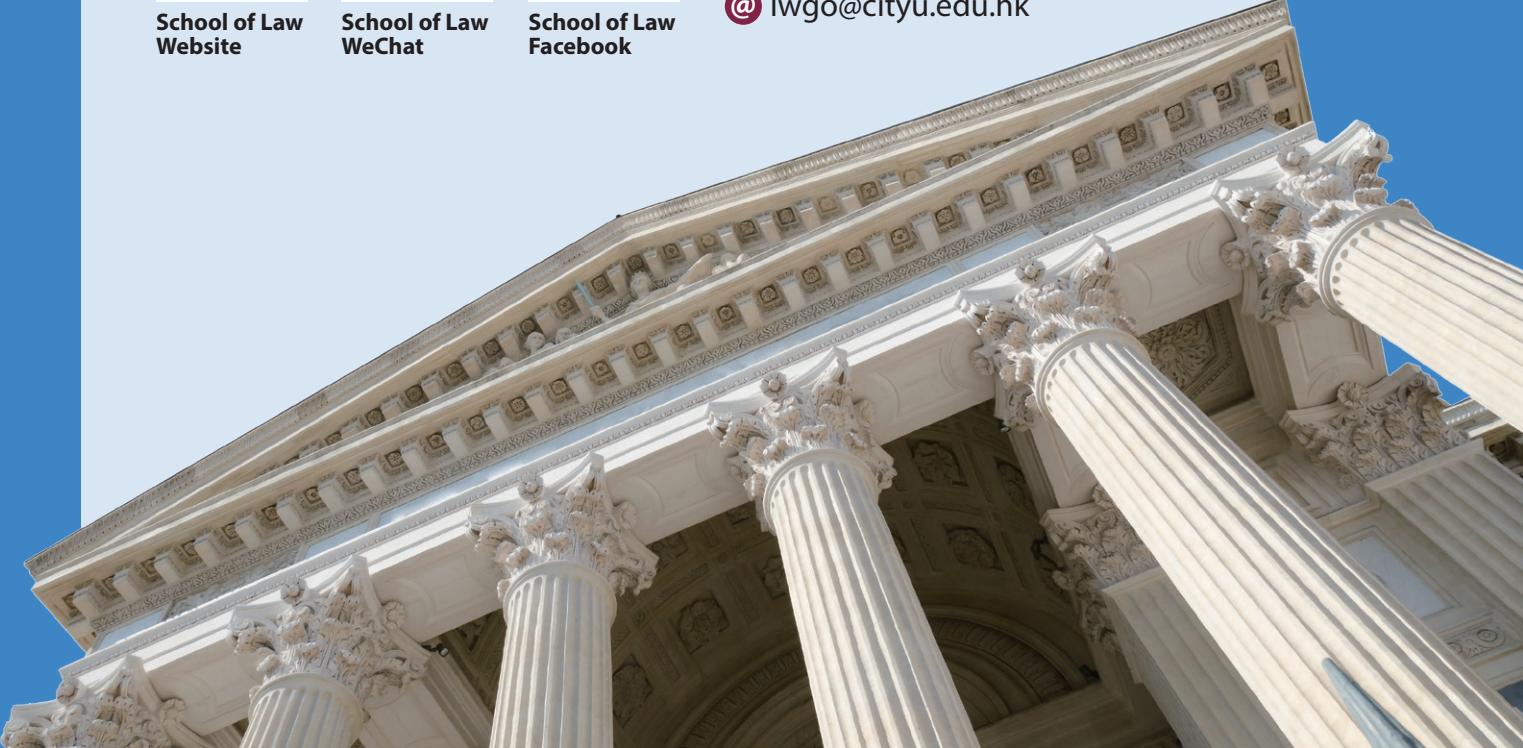


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# Interviewing Professor TAN Cheng-Han, New Dean of CityU Law School

## **Vision and Blueprint for CityU Law School**

*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?*

Simply put, to become one of the great law schools in the world. To achieve this goal we must be leaders in research and education. Towards this end, I want the law school to become more interdisciplinary in her teaching and research as law cannot be understood in a vacuum. I would also like our teaching to expose students appropriately to how law operates in society as this type of contextualization is important in legal education.

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

The School clearly cares about the education she provides to students. Amongst good law schools today, this is an unusual trait. Many good law schools focus so much on research that teaching has become a poor cousin. I'm struck by how committed my colleagues at the School are towards their teaching. At the same time, they manage to maintain an impressive research output.

In the near term, our students will find the learning environment even more exciting. To give some examples, we are offering new law modules that reflect today's needs; there will be more interdisciplinary modules that will both provide students with a deeper

understanding of law and also give them the knowledge base they need to be effective collaborators with other professionals in the workplace; students can expect more dual degree options; and there will also be new and interesting student exchange opportunities.

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

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

Academic faculty are already research active and the output has been very impressive. In future, I hope to see faculty collaborate more with colleagues from other disciplines. Already there are plans for a University-level Centre that will bring together colleagues from a number of disciplines within the humanities and social sciences in which the law school will play an important role. I also see my law colleagues collaborating more with other leading law scholars outside Hong Kong through the partnerships that we are presently fostering.

*How do you see the relationship between teaching and research at our School, and how would your staffing arrangement balance the two?*

Let me state categorically that both are important. While research is the principal benchmark by which the reputation of academic institutions is determined, teaching represents our duty to our students and the wider society that we are part of. As such, I expect my colleagues to regard both as equally important. If this means slightly less research

output each year, so be it. Having said this, the relationship between teaching and research is, in my view, mutually reinforcing and a law school with strengths in both is one that is built on strong foundations.

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

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

From what I have observed, the School has very strong links with the profession, many of whom work with academic colleagues to improve the quality of modules. I've been particularly struck by the continued engagement of alumni who want to give back and I'm working with them to provide the student body with better support on career counselling and employability.

## **Collaborations**

*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?*

In today's world it is important to be a 'networked' law school, i.e. to have a strong web of links so that we become an indispensable partner in teaching and research collaboration across institutions. This is also practical because the law is so vast and complex these days that collaboration is essential to create impact. The process of network building has begun

and we have recently joined the Private Law Consortium which comprises a number of top law schools that will gather regularly for academic conferences. We have also just joined THEMIS which is a network of top universities that have come together to create a new standard in business law education in response to the increasing demand for legal professionals with international knowledge and expertise. We expect to soon become a member of another leading consortium of law schools. Other strategic initiatives with leading law schools are also in the pipeline.

### Personal Impressions

*What impresses you most since you assumed office at the School?*

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

I have been very touched by the warmth shown to me by my colleagues and students. I can safely say that everyone has been kind and welcoming. This speaks to a collegial atmosphere where students are also cared for.

I have also found it very easy to settle in Hong Kong. As a developed city, I did not expect it to be difficult but the ease of the move still surprised me. In fact, I feel very comfortable being in Hong Kong despite what is happening. Initially, I thought that I might only be here for 3 years as my family will not be with me but I would now be open to staying longer!



# CityU Law School ranked 25<sup>th</sup> in 2020 Times Higher Education Law Rankings

The City University of Hong Kong School of Law is proud to announce that in the latest Times Higher Education (THE) Law Rankings, it is ranked joint 25th in the world. This is an improvement of 20 places from last year. For a full overview of the results, visit the THE subject rankings page: <https://bit.ly/2XLr8qd>

The screenshot shows the Times Higher Education (THE) website for the 2020 World University Rankings by subject, specifically for law. The header includes the THE logo, navigation links for PROFESSIONAL, JOBS, EVENTS, RANKINGS, STUDENT, and ABOUT US, and social media sharing icons. The main title is "World University Rankings 2020 by subject: law". Below the title, a sub-header states: "The 2020 Times Higher Education World University Rankings table for law uses the same trusted and rigorous performance indicators as our overall World University Rankings, but the weightings have been recalibrated to suit the individual field." A note indicates that the table includes 190 universities, up from 187 last year. A "Read more..." link is present. On the right, there is a partnership logo with Elsevier and a dropdown menu set to "2020". A pink button says "How to get your uni ranked". The main content area features a search bar with "Show me universities best for overall in any country / region" and a specific search for "City University of Hong Kong". Below this is a table with columns for RANKING, SCORES, Rank, Name Country/Region, No. of FTE Students, No. of students per staff, International Students, and Female:Male Ratio. The City University of Hong Kong entry is highlighted with a pink border and shows a rank of =25, Hong Kong location, 9,587 FTE students, 11.0 students per staff, 45% international students, and a 59:41 female:male ratio. An "Explore" button is next to the entry. At the bottom of the table, it says "1 to 1 of 1 - Page 1 of 1 (filtered from 190 total entries)" and "Show 25 entries".

# CityU Law School Joins THEMIS Network

The School of Law of City University of Hong Kong has recently joined the THEMIS network. THEMIS represents a network of top ranked European Universities which have come together to create a new standard in business law in response to an ever-increasing demand for law professionals with international know-how and expertise.

THEMIS network includes Università Bocconi (Milan, Italy), Esade (Barcelona, Spain), Freie Universität (Berlin, Germany), Université Paris Est Créteil Val de Marne (Paris, France), Maastricht Law School (Maastricht, The Netherlands), Universität St. Gallen (Switzerland) and WU (Vienna University of Economics and Business) (Austria).



# The Second Climate Change Moot Court Competition

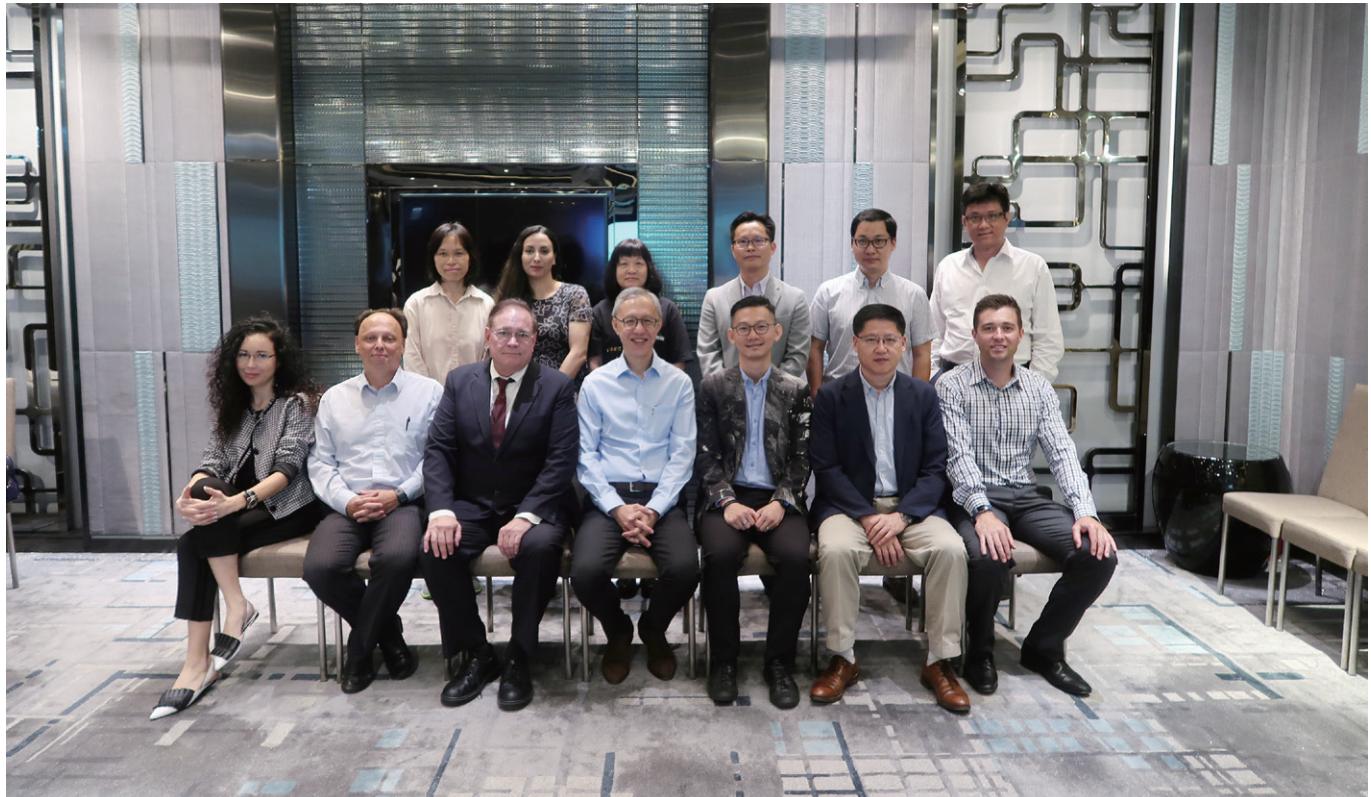
The Second Climate Change Moot Court competition was held at the School of Law, City University of Hong Kong (CityU) on 2 November 2019. It was organized by the Hong Kong America Center (HKAC) in which 12 teams, representing all of Hong Kong's universities took part.

Proposals across a wide range of environmental protection concerns, for example, air quality, water quality, green ways, land use and the protection of green and blue space, green building codes and retrofitting strategies, legal consequences to polluters, and principles for green urban and regional planning, were advocated by the teams and participants.

Congratulates to Mr. Carlos K. L. Li for receiving a well-deserved individual prize.

The School of Law would like to thank Prof. Low Fatt Kin Kelvin (Professor, School of Law, CityU), Dr. Guan Wenwei (Associate Professor, School of Law, CityU), Dr. Fozia Nazir Lone (Associate Professor, School of Law, CityU), Mr. Peter K F Cheung SBS, Prof. Ruth Gordon ( Professor, Villanova University Law School), Prof. Howard Sanborn (Professor, Virginia Military Institute), Dr. Jędrzej Górska (Ph.D candidate, Department of Asian and International Studies, CityU) and Dr. Xu Qian (Postdoctoral Fellow, Faculty of Law, The University of Hong Kong) for sitting as judges. The Third Climate Change Moot Court competition will be held by the School of Law, CityU and HKAC on March 28, 2020.





# Research Retreat 2019

The Research Retreat 2019 took place at Royal Plaza Hotel on 26 September 2019. This year, we invited Dr Kevin DOWNING (Director, Institutional Research Office, City University of Hong Kong) to present on “CityU in QS and THE Subject Rankings (School of Law)”. The Research Retreat kicked off with a welcome speech by Prof TAN Cheng-Han (Dean, School of Law, City University of Hong Kong). He gave a brief talk on strategies to succeed in legal research.

Dr DING Chunyan (Associate Professor, School of Law) gave a talk to shed light on a strategic approach for research grant capture. Dr Mark KIELSGARD (Associate Professor, School of Law) encouraged staff to refine their proposal and probe deeper in their research in order to get a better score in the Research Assessment Exercise.

Dr Surya DEVA (Associate Professor, School of Law) and Dr Daniel PASCOE (Assistant Professor, School of Law) presented their draft papers on “Threats to Hong Kong’s

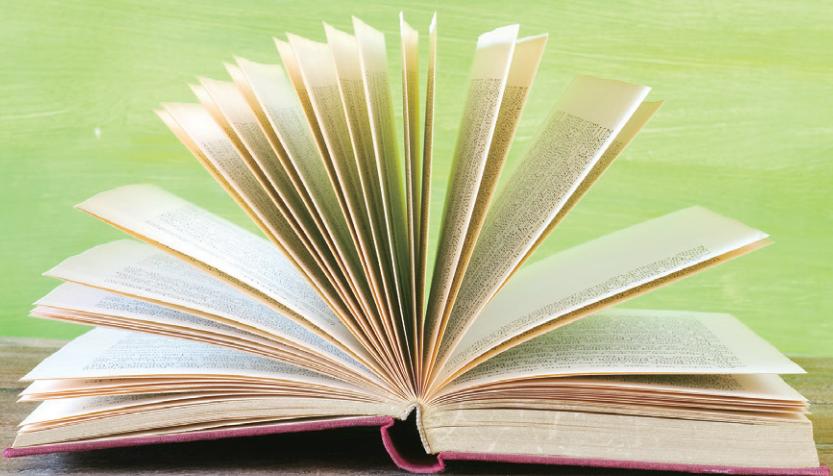
Autonomy from the NPCSC: Could the Basic Structure Doctrine Provide the Shield?” and “Deadly Justice Without Mercy in East Asia?” respectively. Staff advanced their opinions and were in the midst of lively discussions after the presentations.

At the end of the retreat, Prof TAN honoured Prof LOW Fatt Kin Kelvin (Professor, School of Law) as the winner of the Outstanding Research Award 2019 at the School of Law, CityU. Meanwhile, the award of Outstanding Research Award 2019 (Junior Faculty) goes to Dr LIN Yu-Hsin (Assistant Professor, School of Law).

The day ended with closing remarks by Dr KIELSGARD. He expressed appreciation for the constructive comments from colleagues, welcomed colleagues to discuss with him if they need support, and encouraged them to take advantage of what the School can offer to add value to their research.

# 2019 Hong Kong Law Fair

The 2019 Hong Kong Law Fair was successfully held on 7 September 2019 at the Hong Kong Convention and Exhibition Centre, Wanchai. CityU Law School joined the fair together with other local law schools, legal institutions, as well as major international and local law firms. An information booth was set up to display the detailed information of the respective programmes offered by our School. Our staff and student volunteers introduced programme information and addressed queries raised by participants.





# CityU hosted a conference on “Cyber Security: Internet of Things or Internet of Threats?”

World-renowned experts on the intersection of law and cyber security shared their knowledge and insights on internet threats and shed light on the potential influence of the internet of things on the future of the legal industry at a conference conducted by the School of Law, City University of Hong Kong (CityU) on 29 August 2019.

The conference, entitled “Cyber Security: Internet of Things or Internet of Threats?”, was co-organized by the School of Law, CityU and CityU Law Review, a student-edited, peer-reviewed academic law journal published by the CityU Law School. The objective of this conference was to raise scholars’ and students’ awareness of LegalTech issues and to encourage them to submit papers regarding cyber security to the CityU Law Review to publish.

The conference was kicked off by the welcome speech of Prof Geraint HOWELLS (Chair Professor of Commercial Law, School of Law). Prof HOWELLS introduced the background and the aims of the conference. He also thanked all the participants for their support of the conference. Following the welcoming remarks, Dr Julia TOMASSETTI (Coordinator and Assistant Professor, School of Law) thanked the organizers, participants, and attendees, and wished this important conference a great success.

The conference was moderated by Dr HE Tianxiang (Assistant Professor, School of Law), and the invited speakers for the conference were Professor Michael LOSAVIO (Assistant Professor, Department of Criminal Justice, University of Louisville), who presented on the topic, ‘Ethical-Legal-Technical Challenges for Small Business with the Internet of Things Ledger Technology & Smart Contracts’; Dr Lennon Yao-chung CHANG (Senior Lecturer and HDR Coordinator, Criminology Programme, School of Social Sciences, Monash University), who spoke on the theme entitled, ‘Everything is Hackable: Cyber Security in the Age of IoT’; and Dr Max PARASOL (Senior Fellow (Adjunct), Faculty of Law, Monash University), who examined another ‘hot topic’, ‘What are the Motivations behind “Network Sovereignty” in China?’.

The conference ended with the closing remarks of Dr HE who thanked all the conference speakers for their contributions to the conference. He also encouraged the speakers and participants to submit papers to CityU Law Review. The conference was fruitful and thought-provoking, and the atmosphere throughout the whole conference was interactive. The insightful views of all the speakers who are experts in the field of law and cyber security served as an important foundation for further research on internet issues.



# Student Orientation 2019: Welcome to CityU Law School

More than 450 new students from LLB, JD, PCLL, LLM, and LLMArbDR programmes attended the CityU Law School's orientation on 27 August 2019. The orientation included a series of activities meant to introduce new students to the University's resources, facilities, and opportunities, and to help them get prepared for their new start.

Prof Geraint HOWELLS, Dean of the Law School, warmly welcomed the new students to the Law School family in the orientation. In his speech, he advised the students to take advantage of opportunities that the School provides. To LLB and JD students, he strongly recommended them to take part in the G-LEAP programme, legal placement, and international mooting competitions. "Make lasting friendships. Enjoy your study. Develop your skills, soft networking skills included. Keep your options open. Gain international exposure and look out for opportunities." Prof. Howells hoped that students not only study law, but also engage with the law and a wide range of activities.

Prof TAN Cheng Han, S.C., Incoming Dean of the Law School, also welcomed the new students and thanked Dean Howells for raising the reputation of the school over the last five years. Under his deanship, he noted, our Law School has become highly ranked in Asia. He said that he looked forward to moving our Law School further upwards in the coming future.

Later on, the LLB, JD, and PCLL programme directors also welcomed the new students and set out their expectations. The LLB Programme Director and Associate Director, Prof Kelvin LOW and Ms Anna LUI, encouraged the

freshmen to read a lot and widely. The JD Programme Director and Associate Director, Dr Mark KIELSGARD and Ms Sara TSUI, reminded the new students to ask teachers questions if they do not understand course material. The PCLL Programme Director and Associate Director, Ms. Theresa Low and Dr. Peter Chan, advised the newcomers to enjoy their studies and manage time well.

After the luncheon were the introductions on international mooting and advocacy, the CityU Law Review, the law library, professional development, and e-learning. Mr Kay CHAN, the Chairman of the Alumni Association of CityU School of Law, was invited as a guest speaker to share his experiences in legal practice with the students.

The Orientation for LLM and LLMArbDR students was held in the evening. Dean Prof Geraint HOWELLS and incoming Dean Prof TAN Cheng Han, S.C. welcomed the newly admitted students. Dean Howells also introduced the history of the programmes, including the LLM programme for incumbent Chinese judges, and the collaboration with University Paris 1 and the University of Fribourg. The LLM and LLMArbDR students met their programme directors afterwards.

The Student Orientation was a great success. Students became familiar with their new environment and gained information useful to their studies at CityU. Welcome all new students again to CityU School of Law! Your fascinating CityU journey has now begun.

# Frameworks for Shared Indus/Transboundary Waters: A Multidisciplinary Dialogue

On 26 and 27 July 2019, the School of Law of the City University of Hong Kong organized a two-day conference entitled “Frameworks for Shared Indus/Transboundary Waters: A Multidisciplinary Dialogue”.

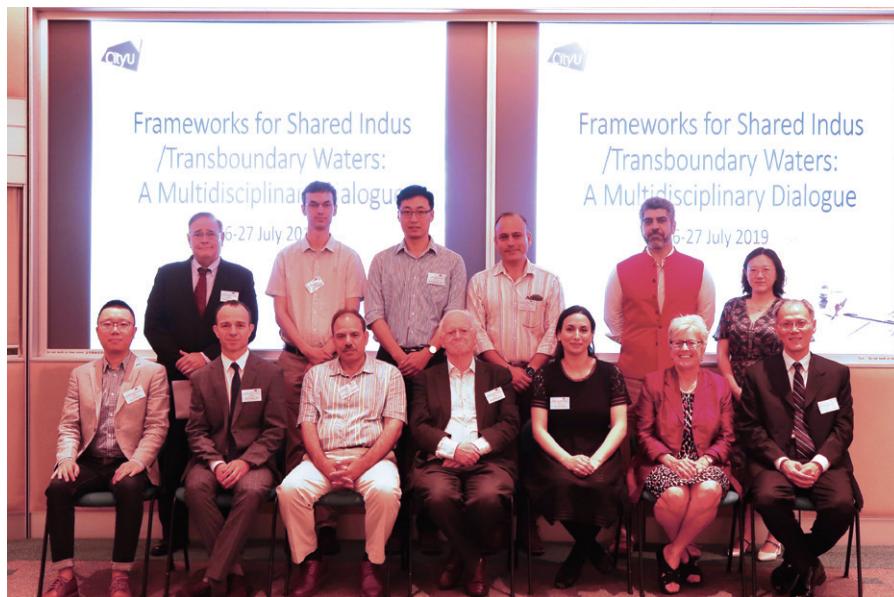
This Conference aims to bring together key stakeholders – academics, practitioners and policy makers – to discuss current issues concerning the Indus Waters Treaty (IWT) and the role of China as the upper riparian. These include: i) highlight the sub-national scale subjectivities relating to the IWT—especially of the contested region of Jammu & Kashmir; ii) take a multidisciplinary approach to understanding and perhaps mapping the future development of the IWT in the international context while considering its legal, technocratic, climatological, geographical, economic and sociopolitical aspects; and iii) take cognizance of national interests (of China, India, and Pakistan) against regional interests, and discuss competing approaches towards transboundary water cooperation.

The conference began with welcoming remarks given by Prof LIN Feng (Acting Dean, School of Law). Prof Lin extended a warm welcome to all of our conference participants and wished this important conference a great success. Following the welcoming remarks, Dr Daanish MUSTAFA (Reader of Human Geography, King’s College London) thanked organizing the conference and Dr Fozia Nazir LONE (Coordinator and Associate Professor, School of Law) explained the background and objectives of this conference.

Eleven guest speakers conducted presentations addressing a wide range of topics relating to the Indus Waters Treaty and transboundary water sharing in Asia. The Conference

consisted of four panels, each followed by discussion. The topics of the presentations are as follows (according to the order of presentation).

- Revisiting the Regulation of the Indus – The 1960 Treaty and Beyond  
Prof Philippe CULLET (Professor of Environmental Law, School of Law, SOAS University of London and Senior Visiting Fellow, Centre for Policy Research, New Delhi)
- Indus Water Treaty: Addressing Emerging and Common Concerns through Cooperation  
Prof Shakil Ahmad ROMSHOO (Professor and Head, Department of Earth Sciences, School of Earth & Environmental Sciences, University of Kashmir, India)
- Climate Change and Governance Challenges in the Indus Basin in Pakistan  
Mr Ahmad Rafay ALAM (Environmental Lawyer and Activist, Pakistan)
- Scalar water politics in transboundary river basins: what role for international water law? The case of the China’s role in the Mekong river basin  
Dr Oliver HENSEGERTH (Senior Lecturer, Department of Social Sciences, Northumbria University New Castle, UK)
- Geopolitical Imaginations of the Lancang-Mekong Cooperation Mechanisms  
Dr Raymond Yu WANG (Associate Professor, School of Government, Sun Yat-sen University, China)



- Assessing the Role of Legal Documents in Transboundary Collaboration: A Comparative Analysis of the Water Supply Projects in Hong Kong and Singapore

Mr Chenlin ZHAO (PhD Candidate, Department of Public Policy, City University of Hong Kong, Hong Kong)

- Some Perspectives on China's Approaches to International Law and Dispute Settlement

Prof Anthony CARTY (Professor of International Law, School of Law, Beijing Institute of Technology, China)

- The Duty to Cooperate in the International Law governing Transboundary Waters – with a focus on China's 'soft-path'

Prof Patricia WOUTERS (Professor, School of Law, Xiamen University; Founding Director of the China International Water Law programme, Xiamen Law School; Founding Director of the Centre for Water Law, Policy and Science, under the auspices of UNESCO, University of Dundee, Scotland)

- Climate Change and the Right to Escape from a Transboundary River Agreement

Dr Fan ZHANG (Lecturer of Public International Law, Wuhan University China Institute of Boundary and Ocean Studies, China)

- Producing the Indus Basin? Examining the politico legal building blocks

Dr Daanish MUSTAFA (Reader of Human Geography, Department of Geography, School of Global Affairs, King's College London, UK)

- IWT and Himalayan Water Security - Perspectives on Potential Areas of Chinese Cooperation

Dr Fozia Nazir LONE (Associate Professor, School of Law, City University of Hong Kong)

Through discussion and debate, the Conference's atmosphere was full of enthusiasm. While the speakers delivered excellent and insightful presentations, the audience actively participated in the discussion sessions, giving critical comments and putting forward challenging questions to speakers. The Conference enhances the leading role of the CityU Law School as a major local and global actor in the field of legal education and research.

# A Delegation from East China University of Political Science and Law Visited CityU Law School

Led by Professor CHEN Jingying, the Deputy President of East China University of Political Science and Law, the delegation of the East China University of Political Science and Law visited the School of Law on 6 June 2019. The members of the delegation of East China University of Political Science and Law included:

Professor LI Weifang, Dean, School of International Law, Professor HONG Dongying, Dean, Graduate School of Education and Professor MA Le, Deputy Director of International Exchange Centre & Hong Kong Macau and Taiwan Affairs Office.

The delegation held a meeting with the representatives of CityU. Participants from CityU included: Dr CHEN Lei, Associate Dean of School of Law, Dr David CHENG, Director of Global Engagement Office and Ms Judy CHAN, Executive Officer of Global Engagement Office.

The atmosphere of meeting was inspiring and interactive. At the end of the meeting, Professor CHEN Jingying and Dr David CHENG exchanged souvenirs and took a group photo.





# Public Lecture on Transnational Corporations and International Law

The School of Law of CityU was honoured to have Mr HU Bin (Deputy Director-General, Department of Treaty and Law, Ministry of Foreign Affairs, P.R.China) to give a lecture titled “Transnational Corporations and International Law” on 3 April 2019. The lecture room was full with nearly a hundred participants.

A welcoming speech was given by Professor LIN Feng (Associate Dean, School of Law) in which he thanked Mr Hu for coming to CityU to deliver the seminar.

Mr Hu emphasized that the realization of human rights over trade and investment has been hanging in the balance, with “Zero text” and “ISDS” issued by the United Nations (UN) and the “Long-Arm Sanction” enforced by United States (USA) as the three reasons. In the wake of ratifications

from the UN and USA, the international community warned that such implementation would be in breach of international law, international humanitarian law and the norms and principles contributing to peaceful relations among countries. As most countries undergo a lengthy struggle, sanctions were imposed by the European Union (EU) over USA there and then and the International Court of Justice (ICJ) shortly afterwards. While this might be a big stride in constraining the USA, one question remained: would America’s legal overreach wind up diminishing American power?

After Mr Hu’s lecture, the participants had an animated discussion with Mr Hu. Professor Lin presented a souvenir to him as a token of appreciation for his insightful lecture on behalf of the School of Law.

# The 24th Goff Arbitration Lecture by Mr Neil Kaplan: “Isn’t 700 Years Long Enough? – Time to Think Again about Costs”

The CityU School of Law hosted the 24th Goff Arbitration Lecture on 2 April 2019 at the Hong Kong International Arbitration Centre (HKIAC). This year, we are honoured to have Mr Neil KAPLAN CBE QC SBS, a preeminent international arbitrator, who also delivered the 6th Goff Arbitration Lecture back in 1995, as the speaker to give a lecture again. This year's lecture focused on the question of costs in arbitration. Renowned legal practitioners such as Matthew Gearing QC, Chairperson of HKIAC and Rimsky Yuen Kwok-keung, GBM, SC, JP participated among about 100 attendants.

The lecture was kicked off by the speech of Dr Christopher TO (Adjunct Professor and LLMArbDR Programme Director of CityU School of Law), who introduced the speaker, welcomed all the participants and thanked them for their support for the lecture.

Mr Kaplan's lecture is titled “Isn’t 700 Years Long Enough? – Time to Think Again about Costs”. The crucial question he addressed in the lecture is why the English cost shifting rule is being around for 700 years in England. He explained that the cost shifting rule, that is, “costs follow the event”, requests the losing party to compensate the winner for its costs. According to him, law often lags behind social change, so we should not necessarily be bound by the age of the law, but to examine it in light of current circumstances.

He then traced the historical background of the cost shifting rule and examined changes occurred to justify a reconsideration of the rule. Some of the factors he mentioned included the fact that society is becoming more complex which in turn impacts on the complexity of disputes; the areas

law intervenes in have increased numerously; arbitration becomes the third method of resolving disputes through entities in different jurisdictions; the fees for arbitration cases have been increased sharply, etc. He said that all these factors added to the cost and complexity of arbitration.

In the lecture, he also compared the American rule, that is, each party bears its own costs, with the English rule; reviewed various criticisms with regard to the English rule in empirical studies and gave some suggestions on how we can do better.

After the lecture, the participants raised interesting questions and interacted with Mr Kaplan in the Q & A session moderated by Dr Christopher To. Finally, Prof Geraint Howells (Dean of School of Law, CityU and Chair Professor, Commercial Law) gave a vote of thanks and presented a gift to Mr Kaplan in thanking him for delivering an insightful lecture.

## Goff Arbitration Lecture:

The Goff Lecture was instituted in 1990 by the City University of Hong Kong to celebrate the commencement of our Master of Arts in Arbitration and Dispute Resolution. The first lecture was delivered by Lord Goff of Chieveley, Lord of Appeal, who then consented to the series bearing his name. The Goff Lecture provides an excellent opportunity for discussion and exchange of views among practitioners and academics in the arbitration field. Over the years, the Goff Arbitration Lecture has gathered 23 eminent scholars to share their views on arbitration.



## About the Speaker:

Neil Kaplan CBE QC SBS has been a full-time practising arbitrator since 1995. During this period he has been involved in several hundred arbitrations as co-arbitrator, sole arbitrator or chairman in England and Hong Kong, but also in the USA, Canada, France, Germany, Croatia, Austria, Philippines, China, Laos, Japan, the Netherlands, Malaysia, Australia, Denmark, Sweden and South Africa.

Called to the Bar of England and Wales in 1965, Neil Kaplan has practiced as a barrister, Principal Crown Counsel at the Hong Kong Attorney General's Chambers, and served as a Judge of the Supreme Court of Hong Kong in charge of the Construction and Arbitration List. He is also past Chairman of the HKIAC and past President of the Chartered Institute of Arbitrators. He is a Governing Board Member of the International Council of Commercial Arbitration (ICCA) and a panelist of several arbitral institutions including China International Economic and Trade Arbitration Commission (CIETAC).

# Centre for Chinese and Comparative Law (RCCL)

## RCCL Retreat

On 7 November 2019, the Centre for Chinese and Comparative Law (RCCL) held a Retreat to review on the Centre's recent development and to discuss its future development. Participants of the Retreat include RCCL's core members and associate members, as well as the Dean of School of Law Prof TAN Cheng Han and two incoming RCCL members who will join our Law School in January 2020, namely Prof LIU Qiao and Prof WANG Jiangyu.

The Retreat started with RCCL Director Dr CHEN Lei's briefing of all participants on the mission, structure and recent achievements of RCCL, including the research projects it undertook, the academic activities it held, as well as the Centre's research grant capture, publicity channels, and Visiting Fellow Programme. During the introduction, Dr Chen emphasized the need for RCCL to further enhance its mission in its future development, especially in encouraging interdisciplinary scholarship, forging international research partnership, and professionally engaging with the local community.

After that, our Dean Prof Tan was invited to talk about his strategic plan for RCCL's future development. He pointed out that, as China continues to rise as a leading world power, our Law School — which puts strong emphasis on Chinese law — is destined to be a top law school in the world, hence he considered RCCL plays an extremely

crucial role in the future development of our Law School. Besides, Dean Tan also mentioned the importance of network-building (especially in terms of institutional collaboration) and interdisciplinary research to RCCL, and he thought that RCCL should play a role in influencing the development of law (and the rule of law) in Greater China.

The third presenter in the Retreat was incoming member Prof Wang Jiangyu. Sharing similar views with Dr. Chen and Prof Tan, Prof Wang elaborated his view on how should RCCL enhance its research collaboration and interdisciplinary research. He pointed out that RCCL should serve four functions, namely research, policy analysis, capacity building and networking. He also gave examples of projects and programmes that could help in achieving these functions.

After the three professors' presentations, all other participants were invited to give their comments on the presentations and their views on the way forward for RCCL.

To showcase one aspect of RCCL's achievements, the final part of the Retreat was the presentations by our two postdoctoral fellows, namely Dr DU Ruyi and Dr Sébastien DE REY, on their recent research.

The Retreat was concluded by Dr Chen who thanked all participants for joining the Retreat as well as their valuable comments and suggestions which were definitely crucial to the future development of RCCL.



RCCL Director Dr Chen Lei introduced the recent achievements of RCCL

# Hong Kong Commercial and Maritime Law Centre (HKCML)

## Confronting Modernity's Challenges to Law and Regulation

On 7 and 8 January 2019, the School of Law of CityU of the School of Law of Singapore Management University jointly organized a one and a half days conference entitled "Confronting Modernity's Challenges to Law and Regulation". This is the return leg of a collaboration between the Singapore Management University and CityU in the Asian Commercial Law Conference series.

This Conference aims to bring together key stakeholders – academics, practitioners and policy makers – to discuss current issues presented by technological advances. These include: (i) challenges presented by artificial intelligence to copyright authorship and consumer protection; (ii) challenges to labour rights presented by the platform/sharing economy and increasing automation; (iii) privacy concerns with the rise of big data; (iv) tensions in achieving a balance in the delineation of rights and obligations between banker and customer; and (v) the evolving state of art relating to the regulation of transnational corporations.

The conference began with welcoming remarks given by Prof Geraint HOWELLS (Dean & Chair Professor of Commercial Law, School of Law). Professor Howells extended a warm welcome to all of our conference participants and wished this important conference a great success. Following the welcoming remarks, Prof Alexander LOKE explained the background and objective of this conference and Assoc Prof LEE Pey Woan from Singapore Management University thanked organising the conference.

Sixteen papers addressing the following topics were presented in the conference:

- Big Data and the Law;
- Artificial Intelligence and Copyright;
- Corporate and Securities Law;



- Artificial Intelligence and the Consumer;
- Banking and Finance; and
- the Platform Economy, Automation and Labour Rights.

Throughout the whole conference, the atmosphere was inspiring and interactive: While the presenters delivered insightful presentations, audience members also enthusiastically joined the discussion by critiquing the ideas presented and posing thought-provoking questions to our presenters.

This one and a half days conference ended with Assoc Prof. Lee Pey Woan drawing out the overarching themes that connect the different panels, and summarizing the efficacy and limits of legal responses to the challenges posed by modernity.

# Centre for Judicial Education and Research (CJER)

## The 15th Advanced Programme for Chinese Senior Judges

City University of Hong Kong has collaborated with the Supreme People's Court of the People's Republic of China and its National Judges College since 2009. Together they have organized a number of programmes for Chinese senior judges and have educated elites in the field. The Opening Ceremony for the 7th Doctor of Juridical Science Programme for Chinese Senior Judges, the 10th Master of Laws Programme for Chinese Judges and the 15th Advanced Programme for Chinese Senior Judges was successfully held on 9 October 2019 at Joseph Lee Hall (LT-3505), Li Dak Sum Yip Yio Chin Academic Building.

Prominent experts in the law field in Hong Kong and mainland China have attended the ceremony. The officiating guests included Ms FENG Wen-li, Vice President, National Judges College; Mr LIU Chun-hua, Director-General, Department of Law, Liaison Office of the Central People's Government in the HKSAR; Mr WANG Chen, Deputy Director, Department of Treaty and Law, Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR; Mr WONG Wai-chung, Wesley, SC, JP, Solicitor General, Department of Justice, Hong Kong; Mr C M CHAN, Vice President, The Law Society of Hong Kong; Mr Stephen WONG Kai-yi, Commissioner, Privacy Commissioner for Personal Data, Hong Kong; Mr GUO Jian-an, Chairman of the Board, China Legal Service (H.K.) Ltd.; Professor TAN Cheng-Han, Dean and Chair Professor of Commercial Law, School of Law, City University of Hong Kong, and Professor LIN Feng, Director, Centre for Judicial Education and Research, City University of Hong Kong cum Associate Dean, School of Law, City University of Hong Kong.

In her welcoming speech, Ms FENG Wen-li, mentioned that the Chinese judges programmes have opened a window between the legal fields in mainland China and in Hong Kong that allows both parties to communicate and exchange ideas.

Mr LIU Chun-hua hoped to encourage students with three points. Firstly, to demonstrate the rule of law by using rationality and wisdom in adjudicating legal issues in mainland China and Hong Kong under the principle of "one country, two systems". Secondly, to actively promote and facilitate exchange and cooperation between China and Hong Kong, so as to learn from each other with an international perspective. Thirdly, to cherish any learning opportunity by imposing self-discipline in order to make greater contributions to the rule of law in the two places.

Mr CM Chan expressed that the judges programmes have established a very important platform for judicial communication between mainland China and Hong Kong. He also hoped that these courses could continue to be carried out, in order to promote close cooperation between the two places and to contribute to the prosperity of the societies.

Mr Stephen WONG Kai-yi believed that although there are many irreplaceable advantages in the legal system in Hong Kong, the turmoil in the past few months has also reflected its inadequacies. He asked students to shoulder the responsibility of developing a harmonious society, to safeguard the rights of the people, and to help sustain Hong Kong's special status as the legal capital.

Professor TAN Cheng-Han thanked all the individuals and institutions that have helped us with the Chinese judges programmes over the years. He also pointed out that these programmes represent



the School of Law's commitment to work with the Chinese judiciary to facilitate the development of world-class judges who can come up with fair and practical solutions to difficult legal and social issues. In the end, he wished all the participants a fruitful learning journey.

The 22 Chinese senior judge participants came from 17 provinces, municipalities, and autonomous regions; they have attended various meetings and lectures during the period of 8-19 October 2019.

Through these judicial exchanges, the senior judge participants conducted in-depth discussions with the Hong Kong legal community thus further advanced their knowledge in common law and the differences between the two legal systems. CJER has specially arranged four lectures on Civil Justice and Criminal Justice for the delegation of senior judges.

Besides Prof LIN Feng's lecture on the core and hot issues of Hong Kong Basic Law, we have also invited Justice Wally YEUNG Chun-kuen, Chief Judge of the High Court (Atg.); Mr Karl SUEN, Government Counsel; Mr Wesley WONG, SC, Solicitor General; Mr William TAM, SC, Deputy Director of Public Prosecutions (IV), and Mr NG Wing-kit, Public Prosecutor to conduct lectures on their fields of expertise.

During the two-week Programme, the participants have learnt about the Legislative and Judicial systems in Hong Kong through various visits, including visits to the China Legal Service (Hong Kong) Ltd., the Ombudsmen, the Hong Kong Customs and Excise Department, the High Court, the Court of Final Appeal, the Department of Justice, the Legislative Council, the ICAC, the Office of the Privacy Commissioner for Personal Data, the Office

of the Commissioner of the Ministry of Foreign Affairs of the PRC in the HKSAR, the Correctional Service Department, and the Law Society of Hong Kong.

It is our honor to have Mr ZHUANG Zhong-xi, Consultant, China Legal Service (Hong Kong) Ltd., Justice CHU Fun-ling, Justice of Appeal of the Court of Appeal of the High Court, Mr LEUNG Kwan-yuen, President of the Legislative Council, Dr ZHOU Lu-lu, Director-General, Department of Treaty and Law, Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR, Mr ZHAO Jian-kai, Deputy Commissioner, Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR, and Mr C.M. CHAN, Vice-President of the Law Society of Hong Kong, to meet and exchange views and ideas with the delegation of Chinese senior judges.

The 15th Advanced Programme for Chinese Senior Judges was successfully concluded on 18 October 2019. Participants of the programme enthusiastically joined the seminar held in the School of Law. The Chinese senior judges have concluded what they have learnt from the programme, as well as voiced their opinions and suggestions. The participant of this programme, Judge FAN Deng-feng, Deputy Director of Hunan Changsha Intermediate People's Court cum Divisional Chief, Intellectual Property Tribunal, Hunan Changsha Intermediate People's Court, expressed that joining this programme has expanded his knowledge on the implementation of Basic Law in Hong Kong. He also quoted from the Confucian Book of Rites, as he reminded students to "study extensively, inquire prudently, reflect carefully, and practice earnestly".

# Human Rights Law and Policy Forum (HRLF)

## Actualizing Capacity in Chinese-Speaking Asia: On the Challenges and Good Practices to Implementing Article 12 of the UNCRPD

From the treatment they receive to voting at elections, persons with psychosocial and intellectual disabilities are often deprived of their right to make their own decisions in different aspects of social life. Formally recognising their capacity in law and, as such, honouring their autonomy, will, and preferences in accordance with Article 12 of the United Nations Convention on the Rights of Persons with Disability (UNCRPD) is thus an important and pressing task.

On 30 March 2019, the Human Rights Law and Policy Forum of the School of Law of City University of Hong Kong, together with Inclusive Asia, Chosen Power and Equity & Justice Initiative, held a Conference on ‘Actualizing Capacity in Chinese-Speaking Asia: On the Challenges and Good Practices to Implementing Article 12 of the UNCRPD’, bringing together legal practitioners from Asia’s Chinese-speaking societies and leading international experts in the area with the aim of exploring the challenges and best practices to effectively implement Article 12 of the CRPD. The conference attracted more than 130 participants.

The Conference commenced with a welcoming speech given by Dr Stephenson CHOW (Assistant

Professor, School of Law, CityU) and Ms Chine CHAN (Inclusive Asia), who, after thanking all guests, highlighted the importance of Article 12 of UNCRPD.

The introduction was followed by the keynote speech delivered by Tina MINKOWITZ, Esq. (Center for the Human Rights of Users and Survivors of Psychiatry), one of the forty drafters of the CRPD, on the emergence of the absolute prohibition of forced interventions and substitute decision-making, two important paradigms now firmly rooted in DPO advocacy. She addressed how these paradigms were first brought into light during the drafting and negotiations of the CRPD and their subsequent development in CRPD jurisprudence.

Ms Sharon PRIMOR (The Israel Human Rights Center for People with Disabilities) gave a presentation on how civil society struggled to eliminate human rights violations in Israel’s psychiatric system, sharing her experience on the civil societies’ campaign in 2016 to abolish restraints and seclusions in psychiatric hospitals in Israel.

Dr Oliver LEWIS (Doughty Street Chambers) explained how law can be used to advance the rights of people with mental health issues or intellectual disabilities, sharing his experience as Executive Director of Validity, where he oversaw strategic litigation at the European Court of Human Rights and advocacy before the UN treaty bodies.

Dr Michael BACH (Institute for Research and Development on Inclusion and Society) spoke about ‘Implementing Article 12 in Practice, Programs, Policy and Law: Some Lessons from Experience’ outlining three main questions that he wanted the audience to think about, namely: (1) What does ‘support’ for legal capacity mean?; (2) What ‘theory’ of legal capacity should drive our strategy for change?; and (3) How do we make change happen?.

A ‘Street Law Demonstration’ was performed by Chosen Power (People First Hong Kong) after the lunch break.

The second part of the Conference consists of panel discussions. The first panel discussion focused on ‘Asian Values and the Rights of People with Psychosocial Disabilities’ which was joined by Ms. Emmy CHARISSA (People with Psychosocial Disability of Singapore) and Ms Raz Adibah ROSIAN (Mental Illness Awareness and Support Association) as discussants. Then followed a panel discussion on ‘Reflections on the Implementation of Article 12 of UNCRPD in Hong Kong, Taiwan and Mainland China’ with Ms HUANG Xuetao (Equity and Justice Initiative), Dr Yibee HUANG (Covenants Watch) and Ms Sophie CHEUNG (Disabilities CV).

The conference ended with a closing remark by Dr Simon NG (University of Hong Kong) and Dr Stephenson CHOW who thanked all the guest speakers and attendees for their contributions to the discussion.



# Hong Kong Maritime Law Scholarship 2019/20 Certificate Presentation

The Hong Kong Maritime Law Scholarship 2019/20 Certificate Presentation was held on 18 December 2019. The scholarship recipients of 2019/20 cohort were Deng Zihui and Ting Wing Lam.

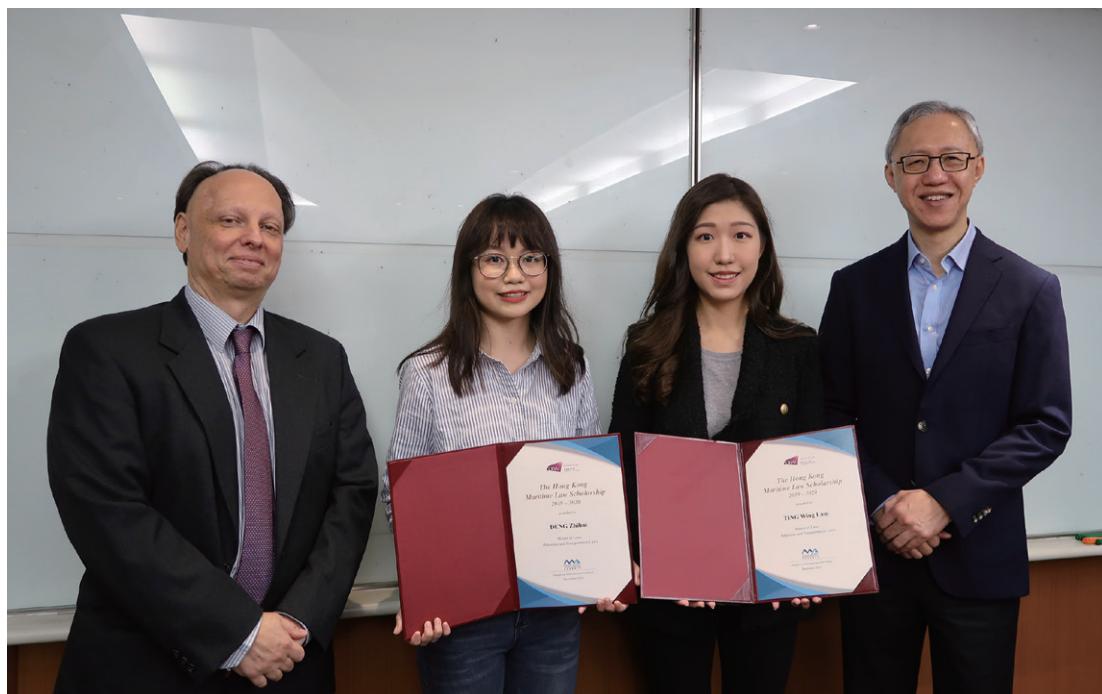
The presentation was attended by Professor Tan Cheng Han, Dean of the School of Law and Professor Michael Tsimplis, Fellow of Hong Kong Commercial and Maritime Law Centre and Professor of the School of Law.

Professor Tan welcomed all on behalf of the School and congratulated Ms Deng and Ms Ting on receiving the Scholarship.

Professor Tsimplis hoped the awardees would enjoy the classes and keep active in the maritime industry upon completion of the programme.

Ms Deng Zihui thanked School of Law and the Steering Committee for awarding the scholarship. She indicated that she would study hard in Master of Laws in Maritime and Transportation Law and was eager to engage in the Hong Kong maritime field in the future.

Ms Ting Wing Lam expressed that she enjoyed her part-time classes and revealed that the programme was practical for her current paralegal job in the shipping industry.



# HKICS Corporate Governance Paper Competition and Presentation Awards 2019

The Hong Kong Institute of Chartered Secretaries (HKICS) Corporate Governance Paper Competition and Presentation Awards 2019 was successfully held at City University of Hong Kong (CityU) on Saturday, 21 September 2019. This Corporate Governance Paper Competition has been organized by HKICS since 2006 in order to raise the awareness of the importance of good governance for undergraduates of local universities. The theme for this year's is "How is good governance of Non-Governmental Organisations (NGOs) similar to, and different from, good corporate governance of public companies".

Twenty-one teams of undergraduates have submitted their papers. The six finalist teams were selected for presentation on the Saturday to compete for the Best Presentation Award. Of the six teams, two teams came from our CityU law students. The male group (with one former LLB student, CHAN Pak Hay (who is currently our PCLL student) and one HKBU student) was awarded the Champion for Paper Writing, while the female group (with two LLB students, KWONG Jasmine Nicole and LEUNG Yu Yan Ruby) was awarded the Second Runner-up for Paper Presentation. They have done well in the competition and the School is very proud of their achievements.



# Outstanding Research Awards 2019

The Outstanding Research Awards winner for this year is Prof LOW Fatt Kin Kelvin (Professor, School of Law, City University of Hong Kong). Prof Low's paper, titled "Pause the Blockchain Legal Revolution", critically evaluates the popular claims surrounding the potential of blockchain technologies to disrupt the legal system by separating hype from fact. A preprint of this paper is now available on SSRN:

[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3439918](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3439918).

Meanwhile, the award of Outstanding Research Awards 2019 (Junior Faculty) goes to Dr LIN Yu-Hsin (Assistant Professor, School of Law, City University of Hong Kong).

By analyzing a unique dataset of 498 randomly sampled and hand-coded charters of public firms in China, Hong Kong, and Taiwan, Dr Lin's paper, titled "An Empirical Study of Corporate Default Rules and Menus in China, Hong Kong, and Taiwan", sheds new light on the corporate law and economics theories of default rules and menus which originally developed in the American context. Here's the link to Dr Lin's paper: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2805870](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2805870).

The School of Law would like to congratulate Prof Low and Dr Lin on their accomplishments, which we hold in high regard. We trust that the continued efforts and hard work of our academics would pay off sooner or later.



# Selected Publications

## David BIRCHALL

‘Any Act, Any Harm, To Anyone: The Transformative Potential of “Human Rights Impacts” Under the UN Guiding Principles on Business and Human Rights’, *University of Oxford Human Rights Hub Journal* 1(2) (July 2019) (<http://ohrh.law.ox.ac.uk/wordpress/wp-content/uploads/2019/07/U-of-OxHRH-J-Any-Act-Any-Harm-To-Anyone-1.pdf>)

## HE Tianxiang

Xie, Q. & He, T. (2019), “On the Open Approach to the Copyright Fair Use Regime – Focusing on the Introduction of the ‘Intermediate Level’ General Clause,” *Intellectual Property*, no.5 (2019), pp. 58-69 (謝晴川, 何天翔：“論著作權合理使用制度的開放化路徑——以‘中間層次’一般條款的引入為中心,”《知識產權》, 2019年第5期, 第58-69頁).

## Eugene LIM

“More than Fifty Shades of Grey: Single Colors, Position Marks, and the Self-Containment Criterion” (2019) 109 *The Trademark Reporter* 779.

## Daniel PASCOE

“The District Courts: Sentencing Decisions as Evolving Legal Culture?”, *The Politics of Court Reform: Judicial Change and the Legal Culture in Indonesia*, Melissa Crouch (ed), Cambridge University Press 2019, pp. 59-83.

*Last Chance for Life: Clemency in Southeast Asian Death Penalty Cases* (Monograph, Oxford University Press, March 2019).

## Michael TSIMPLIS

“Arrest, Detention and Seizure of Ships: Availability for Environmental Claims”, *The Arrest Conventions: International Enforcement of Maritime Claims*, Myburgh, P. (ed.). Great Britain: Hart Publishing, published on 25 Jul 2019, pp. 175-198.

Tsimplis, M. & Dbouk, W., “Performance-based regulation and the development of international regulatory uniformity in offshore oil and gas operations”, *Managing the Risk of Offshore Oil and Gas Accidents: The International Legal Dimension*, Handl, G. & Svendsen, K. (eds.), UK: Edward Elgar Publishing Limited, July 2019, pp. 18-51 (New Horizons in Environmental and Energy Law).

# Selected Presentations

## **David BIRCHALL**

“Corporate Power Over Human Rights: An Analytical Framework”, at the Global Business and Human Rights Scholars Association Annual Conference, organized by the University of Essex, Colchester, UK, on 12-13 September 2019.

## **Jack BURKE**

“Social Engineering or Societal Reform? Alternatives to Parental Corporal Punishment”, at 2019 Crimsa International Biennial Conference: History and Future of Criminology in Africa and the Global South, organized by Criminological Society of Africa, Farm Hollands Drift, South Africa, on 27-30 August 2019.

## **HE Tianxiang**

“Data Transferability in Mainland China”, at the 11th IP Seminar in Hong Kong: Best Practices in Turbulent Times, organized by CUHK Faculty of Law, United States-China Intellectual Property Institute (USCIPI) and Asia Innovation and IP Society (AIIPS), Hong Kong, on 2-3 August 2019.

“The Sentimental Fools and The Fictitious Authors: Rethinking the Copyright Issues of AI-generated Contents in China”, at 新科技与法律前沿问题国际论坛 (New Technology and Law Frontier International Forum), organized by Law School, Hangzhou Normal University, Hangzhou, Zhejiang, P. R. China, on 29 June 2019.

## **Eugene LIM**

“Brands as Cultural Symbols in Virtual Realities: Challenging the Paradigms of Commerce in the Virtual Platform Economy”, at Legal Implications of the Platform Economy Workshop II, jointly organized by the Chinese University of Hong Kong Faculty of Law, the University of Hong Kong Faculty of Law and the City University of Hong Kong School of Law, Hong Kong, on 16 September 2019.

## **Daniel PASCOE**

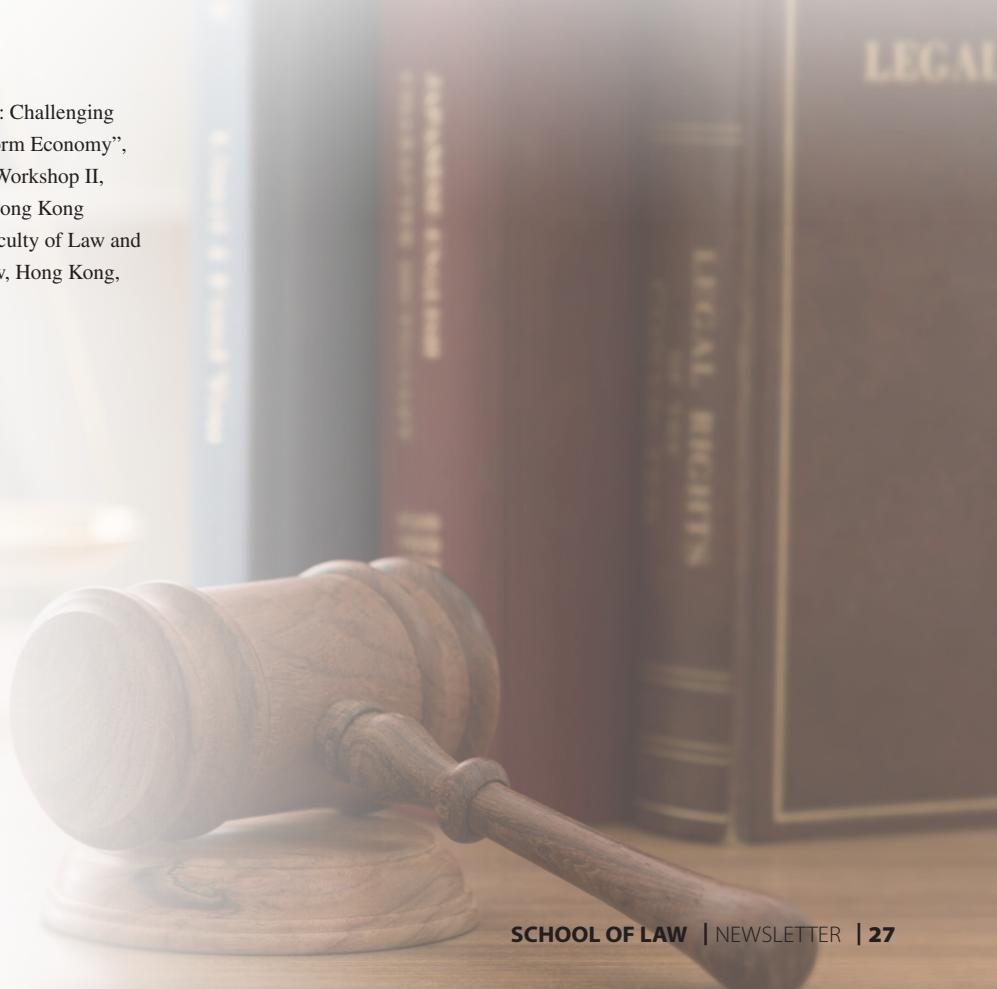
Daniel Pascoe (with Andrew Novak), “Recent Constitutional Trends in Clemency”, at 2019 ICON-S Conference: Public Law in Times of Change?, jointly organized by ICON-S International Society of Public Law and Facultad de Derecho, Pontifica Universidad Catolica de Chile, Santiago, Chile, on 1-3 July 2019.

Daniel Pascoe (with Andrew Novak), “Best Practices in Executive Clemency Regulation”, at 2019 ICON-S Conference: Public Law in Times of Change?, jointly organized by ICON-S International Society of Public Law and Facultad de Derecho, Pontifica Universidad Catolica de Chile, Santiago, Chile, on 1-3 July 2019.

## **Julia TOMASSETTI**

Invited panel participant: “The Future of Labour Law in the EU” (Skype), at Labour 2030 II International Congress: Work Innovation—Are we Ready?, jointly organized by Law Academy, CIELO Laboral Network and Portuguese Young Labour Lawyers Association, Porto, Portugal, on 19-20 September 2019.

Keynote address on “Technology: Issues and Strategies for ICTS Workers and Unions”, at UNI ICTS World Conference, organized by UNI Global Union, Kuala Lumpur, Malaysia, on 26-28 August 2019.



The Editorial Board would like to thank Ms Agnes Kwok and Ms Judy Xu, as well as members of staff who helped in the preparation of the Newsletter.

Dr Peter Chan (Editor-in-Chief), Ms Laveena Mahtani, Dr He Tianxiang