



Centre for
Chinese and Comparative Law

香港城市大學
City University of Hong Kong

CCCL NEWSLETTER

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MESSAGE FROM THE DIRECTOR

Welcome to the second issue of the CCCL Newsletter. It covers events, news and publications of the Centre and its members from January to March 2021. As you can see from our performance record in this newsletter, the CCCL continues to organize impactful academic events on cutting-edge legal issues which are directly relevant to this part of the world. The international symposium on Sino-Indian border disputes brought together a group of distinguished scholars from Hong Kong, Taiwan, mainland China, India, Singapore, the United Kingdom and the United States to thoroughly discuss the territorial disputes between China and India which almost led to a war last year. Meanwhile, our members are still shining in their respective fields of research and secured a major, record-breaking research grant, obtained a “Best Paper” mention by an internationally distinguished academic publisher, had work cited by a leading court, and made contribution to legal development in Hong Kong with recommendations adopted in a legislative proposal in Hong Kong.

Building upon the solid foundation paved by my predecessors, the CCCL is steadily marching towards making Hong Kong in general and CityU

Law in particular the undisputable centre of gravity for Chinese and comparative legal studies. To keep the momentum going, we sincerely thank and are counting on the continued support of our constituencies including the University, the School of Law, our core and associate members, as well as, other stakeholders.



Professor Wang Jiangyu
Director, Centre for Chinese and Comparative Law (CCCL)

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HIGHLIGHTS OF MEMBERS' ACHIEVEMENTS (JAN – MAR 2021)

Professor Wan Wai Yee Obtains HK\$3,114,629 Collaborative Research Fund from Research Grant Council

With the onset of the COVID-19 pandemic, the number of insolvency filings by otherwise economically viable firms globally is expected to rise significantly. The collapse of small and medium size enterprises (SMEs) will have a serious economic impact in Hong Kong.

Legislative reforms are proposed to allow for provisional supervision and corporate rescue to facilitate restructuring. However, even with the proposed reforms, the restructuring framework in Hong Kong remains very much creditor-driven and does not have the features of a debtor-driven regime that are adopted in several advanced jurisdictions, such as the United Kingdom (UK), in the European Union and Singapore.

While Hong Kong's insolvency regime has served it well in the past financial crises, there is no assurance that it would continue to work to deal with likely large numbers of insolvency or litigation filings. In particular, for the SMEs, they face urgent problems relating to arrears of rental payments. In the absence of legislation, the existing laws will not provide relief to these SMEs hit by the pandemic.

In this project, Prof. Wan's research team evaluate how effective the current insolvency and restructuring laws are in rescuing otherwise economically viable businesses and whether the proposed reforms would serve as an effective second line of defence. Focusing on the SMEs, they evaluate whether Hong Kong should adopt legislation based on a universal standstill on performance of certain kinds of contractual obligations, found in the UK and Singapore. Finally, they assess how responses to COVID-19 will shape the insolvency and restructuring laws of Hong Kong in the longer run.

Prof. Wan's research team's approach is theoretical, empirical and comparative. Legislative interference with vested legal rights may provide relief but also comes with costs, including potentially undermining Hong Kong's standing as an international financial centre. The COVID-19 crisis also raises the broader question as to the future of its creditor-driven insolvency

laws. They collect empirical data on the impact of the pandemic on contractual relations faced by Hong Kong businesses (particularly the SMEs) and the availability of financing options to enterprises. They analyse the data to show the limitations of the legislative framework. They further collect empirical data on schemes of arrangement, which are key restructuring tools in Hong Kong, assess their effectiveness against international benchmarks and whether introducing debtor-driven features will lead to increasing overall costs of debt. The project promises high impact for the academic and policy communities in Hong Kong and the region.



CCCL Core Member Prof. Wan Wai Yee

Dr. Lauren Yu-Hsin Lin's Work Cited by the Court of Chancery of Delaware

CCCL Associate Director Dr. Lauren Yu-Hsin Lin's work has recently been cited by the Court of Chancery of Delaware in *In re CBS Corporation Stockholder Class Action and Derivative Litigation* (Consolidated C.A. No. 2020-0111-JRS).



CCCL Associate Director
Dr. Lauren Yu-Hsin Lin

(Photo: South China Morning Post)

The lawsuit arises from the CBS's \$30 billion acquisition of Viacom in December 2019. Shareholders alleged that the directors breached their fiduciary duty in approving the deal to appease the controller who controls 80% of the voting rights through dual-class share structure. Dr. Lin's paper "Controlling Controlling-Minority Shareholders: Corporate Governance and Leveraged Corporate Control" published at *Columbia Business Law Review* discusses the policy and governance issues in relation to dual-class share structure.

Recommendations by Professor Liu Qiao and Professor Wang Jiangyu Adopted in a LegCo Legislative Proposal on the Application of CISG in Hong Kong

Research conducted by Professor Liu Qiao and Professor Wang Jiangyu has been extensively relied upon by the Department of Justice (DoJ) of the HKSAR in its official proposal submitted to the Legislative Council (LegCo) with a view to drafting and enacting a legislation to allow Hong Kong to join the United Nations Convention on International Sale of Goods (CISG), which currently only permits sovereign states to be contracting parties.



CCCL Director Prof. Wang Jiangyu (right) and CCCL Associate Director Prof. Liu Qiao (left)

The two professors submitted a report with detailed legal and policy analysis and recommendations in response to the DoJ's call for public consultation to solicit views on application of the CISG in Hong Kong in light of the "One Country, Two Systems" system. The DoJ's legislative proposal adopted a range of the analyses and recommendations made in the submission. It is expected that the proposed Ordinance, which incorporates the thrust of arguments in the Liu-Wang report, will be enacted in due course. This demonstrates that the two CityU colleagues' research has contributed significantly to the legal development in Hong

Kong, particularly with respect to solidifying Hong Kong's position as an international business and legal hub. The DoJ's proposal to LegCo is available at <<https://www.legco.gov.hk/yr20-21/english/panels/ajls/papers/ajls20210322cb4-648-3-e.pdf>>.

CCCL Director Professor Wang Jiangyu's Article Selected as Oxford University Press' Best Comparative Law Paper of 2020

Professor Wang Jiangyu's article, "Dispute Settlement in the Belt and Road Initiative: Progress, Issues, and Future Research Agenda", was selected as one of the ten best papers in the "Comparative Law" collection of the Best of 2020 Law Journals from Oxford University Press. The paper was the introductory piece to a special issue entitled "Dispute Settlement in the Belt and Road Initiative" published in *The Chinese Journal of Comparative Law*, Volume 8, Issue 1 (2020). Oxford University Press' annual "Best of Law" collection selects the articles which have made the most impact in the field of law over the course of past year, curated from across the entire law journals portfolio of Oxford University Press. The 2020 collection provides a selection of the most read articles from the OUP law journals published throughout 2020, which are categorized by thematic groups to cover different areas of law including arbitration and dispute settlement, comparative law, environmental law, finance & commercial law, human rights law, intellectual property & technology, and international law, among others. OUP's best papers in comparative law in 2020 is available at <<https://academic.oup.com/journals/pages/best-of-law-2020/comparative-law>>.



Oxford University Press'
Best Comparative Law Paper of 2020

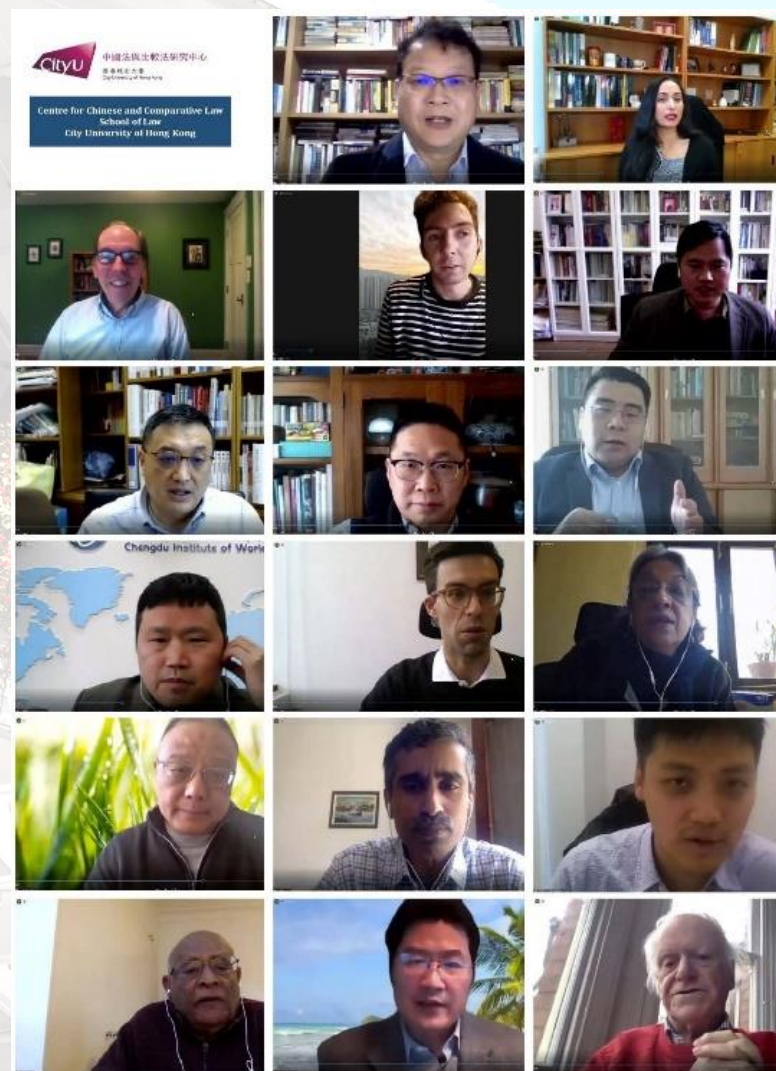
MAJOR PAST EVENT (JAN – MAR 2021)

Symposium

International Online Symposium on Sino-Indian Border Disputes: A Dialogue between International Law and International Relations (4 March 2021)

On 4 March 2021, the Centre for Chinese and Comparative Law (CCCL) of the School of Law of City University of Hong Kong (CityU SLW) in collaboration with its sister research centre — the Public Law and Human Rights Forum (CPLR) of CityU SLW — organized an online symposium to convene a group of 17 scholars and experts from China, India, Hong Kong, Singapore, Taiwan, UK and US to discuss issues relating to the Sino-Indian border disputes from the perspectives of international law and international relations, with the aim of providing a forum for robust and balanced academic discussions and producing high impact scholarship in this field. Issues discussed during this Symposium included: the development of Sino-Indian relations and SIBD from geographical, historical, political and international law perspectives; the relevance and impacts of Britain's colonialism and the "Tibetan Issue" on Sino-Indian relations and SIBD; arguments relating to the geopolitics of Sino-Indian relations and SIBD; the causes and impacts of the great power competition between China and India in the Third World; the limits of

international law and other non-legal factors which have been hindering the solution of the SIBD; and the possible new approaches to solving the SIBD issue in the long run.



Speakers and moderators of the SIBD Symposium

NEWS OF CCCL MEMBERS (JAN – MAR 2021)

March 2021

- ♦ Professor Julien Chaisse quoted in The Financial Express on the urgent need for better health infrastructure and efficient accessibility to healthcare services (23 Mar 2021)
- ♦ Recommendations by Professor Liu Qiao and Professor Wang Jiangyu adopted in a LegCo legislative proposal on the application of CISG in Hong Kong (22 Mar 2021)
- ♦ Professor Wang Jiangyu quoted in Canada's The Globe & Mail on the trials of two Canadian citizens in China (22 Mar 2021)

- ♦ Professor Wang Jiangyu spoke at the regional panel of the 2021 Annual Meeting of American Society of International Law (18 Mar 2021)
- ♦ Professor Wang Jiangyu quoted in South China Morning Post on Beijing's legislative focus on maritime law (11 Mar 2021)
- ♦ Professor Wang Jiangyu quoted in Singapore's Lianhe Zaobao on China's legislative plan on laws with extraterritorial effect (9 Mar 2021)
- ♦ Professor Wang Jiangyu quoted in Singapore's Lianhe Zaobao on international responses to Hong Kong's electoral reform (7 Mar 2021)
- ♦ Professor Wang Jiangyu spoke on geopolitics and human rights at a United Nations Conference (5 Mar 2021)

- ♦ Professor Julien Chaisse quoted in Asian Business Law Journal on his research on digital assets being awarded the Tenth Smit-Lowenfeld Prize by the International Arbitration Club of New York (5 Mar 2021)
- ♦ CCCL Director Professor Wang Jiangyu's article selected as Oxford University Press' Best Comparative Law Paper of 2020 (3 Mar 2021)
- ♦ Professor Julien Chaisse quoted in International Financial Law Review on EU-China Comprehensive Agreement on Investment (2 Mar 2021)
- ♦ Professor Wang Jiangyu quoted in South China Morning Post on China's needs for talents in international law (1 Mar 2021)

February 2021

- ♦ Professor Wang Jiangyu quoted in BBC News (中文) on the legal and international relations aspects of the Meng Wanzhou Case (27 Feb 2021)
- ♦ Professor Wang Jiangyu quoted in South China Morning Post on the Meng Wanzhou Case in Hong Kong (26 Feb 2021)
- ♦ Professor Julien Chaisse quoted in South China Morning Post on China's main annual political meetings known as the Two Sessions (25 Feb 2021)
- ♦ Professor Wang Jiangyu quoted in Singapore's Lianhe Zaobao on the Meng Wanzhou Case and Canada's declaration on arbitrary detentions (17 Feb 2021)
- ♦ Professor Julien Chaisse quoted in The Journal de Montreal on increasing calls around the world to lift patents on COVID 19 vaccines (10 Feb 2021)

- ♦ Professor Wang Jiangyu quoted in Singtao Daily on US-China relation in the Biden era (6 Feb 2021)
- ♦ Dr. Lauren Yu-Hsin Lin's work cited by the Court of Chancery of Delaware (3 Feb 2021)

January 2021

- ♦ Professor Wang Jiangyu quoted in BBC News (中文) on the Meng Wanzhou Case and its impact on Biden's China Policy (27 Jan 2021)
- ♦ Professor Wang Jiangyu quoted in Singapore's Lianhe Zaobao on the prospects of China's accession to the CPTPP (17 Jan 2021)
- ♦ CityU School of Law Dean Prof. Tan Cheng Han and CCCL Director Prof. Wang Jiangyu interviewed by HK01 on the role of Hong Kong law schools in legal research and education reform in Hong Kong (15 Jan 2021)
- ♦ Professor Wang Jiangyu quoted in The Economist on China's blocking statute (14 Jan 2021)
- ♦ Professor Wan Wai Yee obtains HK\$3,114,629 Collaborative Research Fund from Research Grant Council (13 Jan 2021)
- ♦ Professor Wang Jiangyu quoted in the South China Morning Post on China's increasing interest in international law (12 Jan 2021)
- ♦ Professor Wang Jiangyu quoted in the South China Morning Post on the rule of law in China under Xi Jinping (12 Jan 2021)
- ♦ Professor Julien Chaisse interviewed in Vietnam Tuổi Trẻ daily newspaper on economic trajectory of Vietnam which might surpass Malaysia and the Philippines in terms of both GDP and GDP per capita (1 Jan 2021)
- ♦ Professor Wang Jiangyu quoted in Singapore's Lianhe Zaobao on China's "Wolf Warrior" Diplomacy (1 Jan 2021)

PUBLICATIONS (JAN – MAR 2021)

CCCL Members' Publications

Julien CHAISSE

- ♦ Julien Chaisse, Yulia Levashova and Ilia Rachkov (eds), *The Interaction Between International Investment Law and Special Economic Zones (SEZs)* (Special Issue:

Transnational Dispute Management 5 (2020), 515 p (released in 2021).

- ♦ Julien Chaisse, "Plea of illegality: Investment arbitration", in Hélène Ruiz Fabri (ed), *Max Planck Encyclopedia of International Procedural Law* (Oxford University Press, 2021).

- ♦ Julien Chaisse and Jamieson Kirkwood, "One Stone, Two Birds: Can China Leverage WTO Accession to Build the BRI?" (2021) 55(2) *Journal of World Trade* 287-308.
- ♦ Julien Chaisse and Xu Qian, "Conservative Innovation: The Ambiguities of the China International Commercial Court" (2021) 115(1) *American Journal of International Law Unbound* 17-22.
- ♦ Julien Chaisse, Fernando Dias Simoes and Danny Friedmann, *Wine Law and Policy — From National Terroirs to a Global Market* (Brill, 2021), 807 p.

Peter C.H. CHAN

- ♦ Peter C.H. Chan and Huina Xiao, "A Typology of Judicial Liability for Error in Chinese Courts" (2021) 51(1) *Hong Kong Law Journal* 309-338.
- ♦ Kwai Ng and Peter C.H. Chan, "'What Gets Measured Gets Done': Metric Fixation and China's Experiment of Quantified Judging" (March 2021) *Asian Journal of Law and Society* (online version).
- ♦ Peter C.H. Chan and C.H. (Remco) van Rhee (eds), *Civil Case Management in the 21st Century: Court Structures Still Matter* (Springer, 2021), 204 p.
- ♦ Peter C.H. Chan and C.H. (Remco) van Rhee, "Introduction", in Peter C.H. Chan and C.H. (Remco) van Rhee (eds), *Civil Case Management in the 21st Century: Court Structures Still Matter* (Springer, 2021) 1-9.
- ♦ Peter C.H. Chan, "Comparing the Civil Courts of Mainland China, Taiwan, Hong Kong and Macau from a Case Management Perspective", in Peter C.H. Chan and C.H. (Remco) van Rhee (eds), *Civil Case Management in the 21st Century: Court Structures Still Matter* (Springer, 2021) 13-34.

Thomas CROFTS

- ♦ Nicola Wake, Raymond Arthur, Thomas CROFTS and Sara Lambert, "Legislative Approaches to Recognising the Vulnerability of Young People and Preventing Their Criminalisation" (2021) *Public Law* 145-162.

Mandy Meng FANG

- ♦ Mandy Meng Fang, "Local Content Policies and the WTO Regime: Addressing Contentions and

Trade-offs", in Damilola S. Olawuyi (ed), *Local Content, Sustainable Development and Treaty Implementation in Global Energy Markets* (Cambridge University Press, 2021) 41-62.

- ♦ Weihuan Zhou and Mandy Meng Fang, "Rethinking WTO Rules on Chinese Industrial Subsidies and Approaches for Future Reform", *Website of Institute for International Trade* (16 February 2021)
<<https://iit.adelaide.edu.au/news/list/2021/02/16/rethinking-wto-rules-on-chinese-industrial-subsidies-and-approaches-for-future>>.

Tianxiang HE

- ♦ Tianxiang He, "Copyright Exceptions Reform and AI Data Analysis in China: A Modest Proposal", in Jyh-An Lee, Reto Hilty and Kung-Chung Liu (eds), *Artificial Intelligence & Intellectual Property* (Oxford University Press, 2021).
- ♦ Tianxiang He, "Copyright, Freedom of Speech, and the Insult to the National Anthem" (2021) 51(1) *Hong Kong Law Journal* 53-84.

Qiao LIU

- ♦ Liu Qiao, "The Chinese Guiding Case System through the Lens of a CISG Case" (2021) 51(1) *Hong Kong Law Journal* 385-407.
- ♦ Liu Qiao, "Unintended Acceptance of Repudiatory Breach and Loss of Bargain Damages" (2021) 37 *Journal of Contract Law* 49-63.

Elena SHERSTOBOEVA

- ♦ Elena Sherstoboeva, "Legal review of Resolution No. 578 of Belarus, on governing accreditation rules and procedures for foreign journalists in Belarus", *Organization for Security and Co-operation in Europe* (January 2021)
<<https://www.osce.org/files/f/documents/d/0/481264.pdf>>.

Cheng Han TAN

- ♦ Tan Cheng Han and Jiangyu Wang, "Government and Business", in Victor Ramraj

(ed), *Covid-19 in Asia: Law and Policy Contexts* (Oxford University Press, 2021) 365-378.

- ♦ Cheng-Han Tan, "Implied Terms in Undisclosed Agency" (2021) 84(3) *Modern Law Review* 532-552.

Jiangyu WANG

- ♦ Tan Cheng Han and Jiangyu Wang, "Government and Business", in Victor Ramraj

(ed), *Covid-19 in Asia: Law and Policy Contexts* (Oxford University Press, 2021) 365-378.

Shucheng WANG

- ♦ Shucheng Wang, "Hong Kong's Civil Disobedience under China's Authoritarianism" (2021) 35(1) *Emory International Law Review* 21-61.

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ABOUT CCCL

The Centre for Chinese and Comparative Law (CCCL) was established in 1994 as an interdisciplinary research institute in affiliation with the School of Law of City University of Hong Kong (CityU Law). As one of the world's oldest research centres on Chinese and comparative legal studies as a discipline, it is devoted to research in both fundamental and cutting-edge issues in the relevant areas. The Centre benefits greatly not only from the institutional support of CityU Law but also from a sizable group of academics in the School of Law who specialize either in a particular area of Chinese law or general Chinese legal studies, as well as, are experts in comparative law. The Centre is blessed by its location in Hong Kong which has a legal system based on English common law and a long-standing rule of law tradition. As an international business and financial hub under the "One Country, Two Systems", Hong Kong has also served as an international legal hub in facilitating rule-based commercial transactions and trans-border dispute settlement, in many cases involving mainland China, and provides the best forum in the world for interactions between Chinese laws and foreign laws. As both CityU and its School of Law are increasingly recognized as world-class educational and research institutions, the Centre is now in an ideal position to be the centre of gravity for Chinese and comparative legal studies in the region and the world.

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Associate Director

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