

# **OBLIGATIONS VII**

## **DRAFT CONFERENCE PROGRAMME**

**15-18 JULY 2014**

**CHENG YU TUNG TOWER  
THE UNIVERSITY OF HONG KONG**

<b>TUESDAY 15 JULY (Day 1)</b>	
5.00-6.00	<b>Registration</b> <i>(Venue: Main Entrance, Moot Court, 2/F, Cheng Yu Tung Tower)</i>
6.00-7.00	<b>Opening Plenary Session</b> <i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i> <i>Welcome Remarks by Michael Hor</i> Chair: Justice William Gummow <ul style="list-style-type: none"><li>Justice Robert Ribeiro, 'Convergence and Divergence: Defamation on the Internet'</li></ul>
7.00-8.30	<b>Welcoming Reception</b> <i>(Venue: Foyer, 1/F, Cheng Yu Tung Tower)</i>

<b>WEDNESDAY 16 JULY</b> <b>(Day 2)</b>	
8.30-9.00	<b>Registration</b> <i>(Venue: Main Entrance, Moot Court, 2/F, Cheng Yu Tung Tower)</i>
9.00-10.00	<b>Plenary Session A</b> <i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i> Chair: Michael Tilbury <ul style="list-style-type: none"> <li>Andrew Burrows, 'The Influence of Comparative Law on the English Law of Obligations'</li> </ul>
10.00-10.30	Morning Tea <i>(Venue: Foyer, 1/F, Cheng Yu Tung Tower)</i>
10.30-12.00	<b>Parallel Session 1</b> <b>1A</b> <i>(Venue: Academic Conference Centre, 11/F, Cheng Yu Tung Tower)</i> Chair: Peter Cane <ul style="list-style-type: none"> <li>Paula Giliker, 'A Common Law of Tort? Is there a European Rift in the Common Law Family?'</li> <li>Louise Belanger-Hardy, 'Mental Harm Following Negligent Acts: A New Dialogue between Quebec's Civil Law and Canada's Common Law?'</li> <li>Desmond Ryan, 'The "Constitutional Tort" in Ireland: Another Perspective on the Convergence Debate Regarding Tort Law and Human Rights'</li> </ul> <b>1B</b> <i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i> Chair: Jeannie Paterson <ul style="list-style-type: none"> <li>Catharine MacMillan, 'An Historical Perspective of the Convergences and Divergences in the Common Law of Contract'</li> <li>Anselmo Reyes, 'The Development of the Hindu Law on Debt by Common and Civil Lawyers in Nineteenth Century Madras and Pondicherry'</li> <li>Martin Hogg, 'Convergence and Divergence in the Use of Fundamental Terms and Concepts in Obligations law'</li> </ul> <b>1C</b> <i>(Venue: A724-5, 7/F, Cheung Yu Tung Tower)</i> Chair: Rebecca Lee <ul style="list-style-type: none"> <li>Kelvin Low, 'Whither Prescriptive Fiduciary Duties?'</li> <li>Erika Chamberlain, 'Revisiting Canada's Approach to Fiduciary Relationships'</li> <li>Tobias Barkley, 'Is the Trustee-Beneficiary Relationship Necessarily Fiduciary?'</li> </ul>
12.00-12.10	Break

12.10-1.10	<p><b>Parallel Session 2</b></p> <p><b>2A</b></p> <p><i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Paula Giliker</p> <ul style="list-style-type: none"><li>• Birke Häcker, 'Divergence and Convergence in the Common Law – Lessons from the Ius Commune'</li><li>• Peter Jaffey, 'The Distinction Between Policy and Principle and its Relation to Convergence and Divergence'</li></ul> <p><b>2B</b></p> <p><i>(Venue: Academic Conference Centre, 11/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Catherine Valcke</p> <ul style="list-style-type: none"><li>• Andrew Gold, 'Contracts and Sovereignty'</li><li>• Aditi Bagchi, 'Contract in a Liberal State'</li></ul> <p><b>2C</b></p> <p><i>(Venue: A724-5, 7/F, Cheung Yu Tung Tower)</i></p> <p>Chair: Nick McBride</p> <ul style="list-style-type: none"><li>• Kit Barker and Jenny Steele, 'Drifting Towards Proportionate Liability: Ethics and Pragmatics'</li><li>• Neil Foster, 'Lost in the Woodlands? Convergence and Divergence in the Law of Non-delegable Duties between Australia and the United Kingdom'</li></ul>
1.10-2.20	<p>Lunch</p> <p><i>(Venue: LG07-10, LG Floor, Central Podium Level, Centennial Campus)</i></p>
2.20-3.50	<p><b>Parallel Session 3</b></p> <p><b>3A</b></p> <p><i>(Venue: Academic Conference Centre, 11/F, Cheng Yu Tung Tower)</i></p> <p>Chair: TT Arvind</p> <ul style="list-style-type: none"><li>• Nick McBride, 'Private Law at the Crossroads: Is There a Right Way Forward?'</li><li>• Allan Beever, 'How to Have a Common Private Law: the Presuppositions of Legal Conversation'</li><li>• Prince Saprai, 'Should Contract Law Converge in Europe?'</li></ul> <p><b>3B</b></p> <p><i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Neil Foster</p> <ul style="list-style-type: none"><li>• Jason Neyers, 'Divergence and Convergence in the Tort of Public Nuisance'</li><li>• Mark Wilde, 'Railway Sparks: A Chapter In The Development Of Strict Liability'</li><li>• Kelvin Hiu Fai Kwok, 'Towards an Economic Approach to the General Economic Torts'</li></ul>

	<p><b>3C</b></p> <p><i>(Venue: A724-5, 7/F, Cheung Yu Tung Tower)</i></p> <p>Chair: Normann Witzleb</p> <ul style="list-style-type: none"> <li>• Simone Degeling and Kit Barker, 'Private Law and Grave Historical Injustice: The Role of the Common Law'</li> <li>• Anthony Sebok and Vicki Waye, 'Litigation Finance and Theories of Private Law'</li> <li>• Anna Koo, 'In Search of Reasonably Competent Mediators at Common Law'</li> </ul>
3.50-4.00	Break
4.00-5.00	<p><b>Parallel Session 4</b></p> <p><b>4A</b></p> <p><i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Duncan Sheehan</p> <ul style="list-style-type: none"> <li>• Zoë Sinel, 'The Methods and Madness of Unjust Enrichment'</li> <li>• Frederick Wilmot-Smith, 'Should the Payee Pay?'</li> </ul> <p><b>4B</b></p> <p><i>(Venue: A724-5, 7/F, Cheung Yu Tung Tower)</i></p> <p>Chair: Lee Mason</p> <ul style="list-style-type: none"> <li>• Catherine Valcke, '<i>United Rentals v RAM Holdings</i> as Transplant Failure: Strategic Ambiguity, Good Faith and the Forthright Negotiator Principle in US Contract Law'</li> <li>• Qiao Liu and Qi Zhou, 'Contract Law in Chinese Courts'</li> </ul> <p><b>4C</b></p> <p><i>(Venue: Academic Conference Centre, 11/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Prue Vines</p> <ul style="list-style-type: none"> <li>• Andrew Robertson, 'Proximity: Divergence and Unity'</li> <li>• Ian Malkin, 'The Regrettable Way in which "Personal Responsibility" has been Employed as an Underlying Criterion to Determine Australian Negligence Law Claims'</li> </ul>
5.00-5.30	<p>Afternoon Tea</p> <p><i>(Venue: Foyer, 1/F, Cheng Yu Tung Tower)</i></p>
5.30-6.30	<p><b>Plenary Session B</b></p> <p><i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Michael Tilbury</p> <ul style="list-style-type: none"> <li>• Andrew Burrows, Dame Sian Elias, Sir Anthony Mason, Anselmo Reyes and Stephen Smith — Panel Discussion of 'Divergence and Convergence: The Privy Council, the Common Law of England and the Common Laws of Canada, Australia and New Zealand' by Paul Finn</li> </ul>
7:15-9:15	<p><b>Cruise Dinner (Optional)</b></p> <p><i>(Transport service available at 6.45 at LG1/F, Cheng Yu Tung Tower)</i></p>

THURSDAY 17 (Day 3)	
8.30-9.00	<b>Registration</b> <i>(Venue: Main Entrance, Moot Court, 2/F, Cheng Yu Tung Tower)</i>
9.00-10.00	<b>Plenary Session A</b> <i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i> Chair: Lusina Ho <ul style="list-style-type: none"> <li>Sir Anthony Mason, 'A Judicial Perspective on the Development of Common Law Doctrine in the Light of Statutory Developments'</li> </ul>
10.00-10.30	Morning Tea <i>(Venue: Foyer, 1/F, Cheng Yu Tung Tower)</i>
10.30-12.00	<b>Parallel Session 1</b> <b>1A</b> <i>(Venue: Academic Conference Centre, 11/F, Cheng Yu Tung Tower)</i> Chair: Charlie Webb <ul style="list-style-type: none"> <li>Steve Hedley, 'Obligations: (Local) Politics or (Universal) Reason?'</li> <li>Dan Priel, 'Conceptions of Authority, Common Law Divergences, and the Future of a Common Law World'</li> <li>TT Arvind, 'Obligations, Governance and Society: Bringing the State Back in'</li> </ul> <b>1B</b> <i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i> Chair: Ian Malkin <ul style="list-style-type: none"> <li>Eric Descheemaeker, 'Mapping Defamation Defences'</li> <li>Normann Witzleb, 'Protecting the Privacy of Children from Media Exposure'</li> <li>Christine Beuermann, 'The Continuing Evolution of the Torts of Trespass to the Person'</li> </ul> <b>1C</b> <i>(Venue: A724-5, 7/F, Cheung Yu Tung Tower)</i> Chair: Jason Neyers <ul style="list-style-type: none"> <li>James Lee, 'On Purpose in the Common Law of Obligations'</li> <li>Phillip Morgan, 'Judgment Proofing of Non-Profits and Voluntary Sector Organisations from Liability in Tort'</li> <li>Gregory C Keating, 'The Idea of Enterprise Liability'</li> </ul>
12.00-12.10	Break
12.10-1.10	<b>Parallel Session 2</b> <b>2A</b> <i>(Venue: Academic Conference Centre, 11/F, Cheng Yu Tung Tower)</i>

	<p>Chair: James Lee</p> <ul style="list-style-type: none"><li>• Prue Vines, 'Using the Wider Common Law as a Baseline to Defend Subversion by Statute? The Case of the Professional Negligence "Defence" in NSW'</li><li>• Elise Bant, 'Statute and Common Law: interaction and influence in light of the principle of coherence'</li></ul> <p><b>2B</b></p> <p><i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i></p> <p>Chair: David McLauchlan</p> <ul style="list-style-type: none"><li>• Robyn Carroll, 'Contracts, agreed remedies and free speech'</li><li>• Katy Barnett, "'Great Expectations": Divergences between Australian and English law on Expectation Damages in Contract'</li></ul> <p><b>2C</b></p> <p><i>(Venue: A724-5, 7/F, Cheung Yu Tung Tower)</i></p> <p>Chair: Graham Virgo</p> <ul style="list-style-type: none"><li>• Duncan Sheehan, 'Unjust Factors, Absence of Juristic Reason and the Nature of Intention'</li><li>• Eli Ball, 'Yes, there Is an Australian Law of Unjust Enrichment'</li></ul>
1.10-2.20	<p>Lunch</p> <p><i>(Venue: LG07-10, LG Floor, Central Podium Level, Centennial Campus)</i></p>
2.20-3.50	<p><b>Parallel Session 3</b></p> <p><b>3A</b></p> <p><i>(Venue: Academic Conference Centre, 11/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Erika Chamberlain</p> <ul style="list-style-type: none"><li>• Peter Cane, 'The Tort Liability of Public Authorities: A Comparative Analysis'</li><li>• Niamh Connolly, 'We'll Meet Again: Convergence in the Private Law Treatment of Public Bodies'</li><li>• Margaret Hall, 'Filling the Gap: Public Authority Negligence and Misfeasance in Public Office (Responding to Vancouver's Missing Women Disaster)'</li></ul> <p><b>3B</b></p> <p><i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Mindy Chen-Wishart</p> <ul style="list-style-type: none"><li>• Kelry Loi, 'Contractual Estoppel: Divergence or Incoherence?'</li><li>• John Mee, 'Proprietary Estoppel and Promises'</li><li>• David McLauchlan, 'Construction and Implication: In Defence of Belize Telecom'</li></ul> <p><b>3C</b></p> <p><i>(Venue: A724-5, 7/F, Cheung Yu Tung Tower)</i></p> <p>Chair: Elise Bant</p> <ul style="list-style-type: none"><li>• Lusina Ho &amp; Rebecca Lee, 'Stripping the Gains of Wrongful Fiduciaries: Let a</li></ul>

	<p>Hundred Flowers Bloom?’</p> <ul style="list-style-type: none"> <li>• Pauline Ridge, ‘Equitable Recipient Liability’</li> <li>• Tatiana Cutts, ‘There is no Law of Tracing and This is why it Matters’</li> </ul>
3.50-4.00	Break
4.00-5.00	<p><b>Parallel Session 4</b></p> <p><b>4A</b></p> <p><i>(Venue: A724-5, 7/F, Cheung Yu Tung Tower)</i></p> <p>Chair: Jeff Berryman</p> <ul style="list-style-type: none"> <li>• Goh Yihan, ‘A Conscious Effort To Develop A “Different” Common Law of Obligations: A Possible Endeavour?’</li> <li>• Man Yip, ‘The Presumptions of Resulting Trust and Advancement under Singapore Law’</li> </ul> <p><b>4B</b></p> <p><i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Stephen Smith</p> <ul style="list-style-type: none"> <li>• Doug Rendleman, ‘Commercial Bribery: A Unified Approach?’</li> <li>• Michael Tilbury, ‘Pragmatism, Principle and Coherence: The Beginning of a Common Law of Exemplary Damages?’</li> </ul> <p><b>4C</b></p> <p><i>(Venue: Academic Conference Centre, 11/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Andrew Robertson</p> <ul style="list-style-type: none"> <li>• James Goudkamp and John Murphy, ‘The Failure of Universal Theories of Tort Law’</li> <li>• Panel Discussion on Universal Tort Theories — Peter Cane, Steve Hedley, Jason Neyers, Dan Priel</li> </ul>
5.00-5.30	<p>Afternoon Tea</p> <p><i>(Venue: Foyer, 1/F, Cheng Yu Tung Tower)</i></p>
5.30-6.30	<p><b>Plenary Session B</b></p> <p><i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Michael Hor</p> <ul style="list-style-type: none"> <li>• Sarah Worthington, ‘Common Law Bedrocks: Is Party Autonomy Fundamental?’</li> </ul>
7.15-9.30	<p><b>Conference Dinner</b></p> <p><i>(Venue: Bankers Club, 43/F, Gloucester Tower, The Landmark, Central, Hong Kong)</i></p>

<b>Friday 18 JULY</b> <b>(Day 4)</b>	
8.30-9.00	<b>Registration</b> <i>(Venue: Main Entrance, Moot Court, 2/F, Cheng Yu Tung Tower)</i>
9.00-10.00	<b>Plenary Session A</b> <i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i> Chair: Johannes Chan Dame Sian Elias, 'Public Acts and Private Obligations'
10.00-10.30	Morning Tea <i>(Venue: Foyer, 1/F, Cheng Yu Tung Tower)</i>
10.30-12.00	<b>Parallel Session 1</b> <b>1A</b> <i>(Venue: Academic Conference Centre, 11/F, Cheng Yu Tung Tower)</i> Chair: Matt Dyson <ul style="list-style-type: none"> <li>• Matt Dyson, 'Common Law Patterns of Development Compared'</li> <li>• Panel Discussion on 'Unravelling Tort and Crime' — Matt Dyson, Paul Davies, James Goudkamp, Sarah Green, Nick McBride, Jenny Steele and Graham Virgo</li> </ul> <b>1B</b> <i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i> Chair: Sirko Harder <ul style="list-style-type: none"> <li>• John Randall, 'Contractual Termination Clauses – A Commonwealth Divided?'</li> <li>• Jeannie Paterson, 'Four Duties of Good Faith and Loyalty to the Contract: Divergence and Convergence in English, Australian and Singaporean Law'</li> <li>• Andrew Hutchison and Alistair Price, 'Judicial Review of Exercises of Contractual Power: South Africa's Divergence from the Common Law Tradition'</li> </ul> <b>1C</b> <i>(Venue: A724-5, 7/F, Cheung Yu Tung Tower)</i> Chair: John Mee <ul style="list-style-type: none"> <li>• Nick Hopkins and Sarah Nield, 'Rethinking Home Obligations'</li> <li>• Magdalena Raczynska, 'Enforceability of Contracts to Create a Proprietary Interest: A "Common Law Approach"?'</li> </ul>
12.00-12.10	Break
12.10-1.10	<b>Parallel Session 2</b> <b>2A</b> <i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i> Chair: Katy Barnett <ul style="list-style-type: none"> <li>• Mindy Chen-Wishart, 'Legal Transplant of Undue Influence: Lost in Translation or a</li> </ul>



	<p>Working Misunderstanding'</p> <ul style="list-style-type: none"><li>• Robyn Honey, 'Divergence in the Law of Undue Influence: Vacillation or Variance?'</li></ul> <p><b>2B</b></p> <p><i>(Venue: A724-5, 7/F, Cheung Yu Tung Tower)</i></p> <p>Chair: Simone Degeling</p> <ul style="list-style-type: none"><li>• Weeliem Seah, 'Ties that Bind: Normativity, Autonomy and Mistake in Unjust Enrichment'</li><li>• Alvin W-L See, "Recovery of Non-Gratuitously Conferred Benefit Under Section 70 of the Indian Contract Act 1872'</li></ul> <p><b>2C</b></p> <p><i>(Venue: Academic Conference Centre, 11/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Kit Barker</p> <ul style="list-style-type: none"><li>• Sarah Green and Paul Davies, 'Pure Economic Loss in Negligence: Duty, Doctrine and Dogma'</li><li>• Simon Douglas, 'New Approaches to Economic Loss'</li></ul>
1.10-2.20	<p>Lunch</p> <p><i>(Venue: Grove Sandwiches, LG Floor, The Jockey Club Tower, Centennial Campus)</i></p>
2.20-3.20	<p><b>Parallel Session 3</b></p> <p><b>3A</b></p> <p><i>(Venue: Academic Conference Centre, 11/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Robyn Carroll</p> <ul style="list-style-type: none"><li>• Graham Virgo, 'Whose Conscience? Unconscionability in the Common Law of Obligations'</li><li>• Stephen Smith, 'Form and Substance in Equitable Remedies'</li></ul> <p><b>3B</b></p> <p><i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Catharine MacMillan</p> <ul style="list-style-type: none"><li>• Charlie Webb, 'The Morality of Consideration'</li><li>• Lee Mason, 'Legislating for Third Party Contractual Rights: Two Potentially Problematic Provisions'</li></ul>
3.20-3.30	<p>Break</p>
3.30-4.30	<p><b>Parallel Session 4</b></p> <p><b>4A</b></p> <p><i>(Venue: Moot Court, 2/F, Cheng Yu Tung Tower)</i></p> <p>Chair: Birke Häcker</p> <ul style="list-style-type: none"><li>• Jeff Berryman, 'Intersections of Canadian Common Law Doctrine and the New Multiculturalism'</li></ul>

	<ul style="list-style-type: none"><li>• Puja Kapai, 'Understanding the Behaviour of Legal Transplants in Asian Contexts: A Cross-Jurisdictional Analysis'</li></ul> <b>4B</b> (Venue: 11/F, Conference Room, Cheng Yu Tung Tower) Chair: Doug Rendleman <ul style="list-style-type: none"><li>• Eliza Mik, 'Subject to Review? Consideration, Liquidated Damages and the Penalty Jurisdiction'</li><li>• Sirko Harder, 'The Scope of the Rule against Contractual Penalties: A New Divergence'</li></ul>
4.30-5.00	Afternoon Tea (Venue:11/F, Roof Garden, Cheng Yu Tung Tower)
5.00-6.00	<b>Plenary Session B</b> (Venue: 11/F, Conference Room, Cheng Yu Tung Tower) Chair: Andrew Robertson <ul style="list-style-type: none"><li>• Robert Stevens, 'Rights Restricting Remedies'</li></ul>
6.00-7.00	Informal Drinks (Venue: 11/F, Roof Garden, Cheng Yu Tung Tower)