

Secured Transactions Law in Asia

On 26 & 27 July 2018, the Centre for Banking & Finance Law (CBFL) and the EW Barker Centre for Law & Business (EWBCLB) of the National University of Singapore (NUS) co-hosted a symposium with the Commercial Law Centre (CLC), Harris Manchester College, University of Oxford, entitled 'Secured Transactions Law in Asia' at the NUS Faculty of Law (Bukit Timah Campus). This was convened by CBFL's Director, Associate Professor Dora Neo, and CLC's Director, Professor Louise Gullifer. The symposium examined secured transactions law reform in Asia with in-depth studies of selected Asian jurisdictions and discussed the broader context of law reform in other jurisdictions internationally. It also considered general issues such as the connection between secured transactions and insolvency.



Dean Simon Chesterman with the convenors, Associate Professor Dora Neo and Professor Louise Gullifer
From left to right: *Assoc Prof Dora Neo (NUS, Convenor), Prof Simon Chesterman (NUS, Dean), Prof Louise Gullifer (University of Oxford, Convenor)*



Participants of the 'Secured Transactions Law in Asia' Symposium

Top row (from left to right): *Dr Wang Lebing (University of International Business and Economics), Prof Ignacio Tirado (Universidad Autónoma of Madrid), Prof Kwon Youngjoon (Seoul National University), Prof Anthony Duggan (University of Toronto), Mr Ibrahim Assegaf (Assegaf Hamzah & Partners), Mr Madhukar Umarji (Indian Banks Association), Dr Orkun Akseli (Durham University), Mr Aria Suyudi (World Bank Group), Dr Marek Dubovec (National Law Center for Inter-American Free Trade), Prof Andrew Jen-Guang Lin (National Taiwan University)*

Bottom row (from left to right): *Prof Charles Mooney (University of Pennsylvania), Prof Teresa Rodríguez de las Heras Ballell (Universidad Carlos III de Madrid), Assoc Prof Dora Neo (NUS, Convenor), Prof Louise Gullifer (University of Oxford, Convenor), Ms Elaine MacEachern (World Bank Group), Prof Megumi Hara (Gakushuin University), Ms Huyen Pham (World Bank Group), Ms Parawee Kasitnon (Thammasat University), Mr Chester Abellera (Asian Development Bank)*







Secured Transactions Law in Asia



26 & 27 July 2018, Thursday & Friday
Faculty of Law, National University of Singapore

Overview of the Symposium

The ability to obtain financing is crucial for successful business enterprise that fuels economic growth. Clear and coherent legal rules that balance the interests of the various parties are needed to facilitate the grant of credit and the taking of security. Whilst an increasing number of countries have taken steps to modernise their law, the law of secured transactions remains under-explored in Asia. This symposium will bring together Asian and international experts to understand and assess the state of secured transactions law in Asia by in-depth studies of selected Asian jurisdictions, examination of the law reform experience in developed jurisdictions and internationally, and discussion of general issues such as the connection between secured transactions and insolvency.

Convened by:

Associate Professor Dora Neo, National University of Singapore
Professor Louise Gullifer, University of Oxford

Jointly organised by:

Centre for Banking & Finance Law, Faculty of Law, National University of Singapore
EW Barker Centre for Law & Business, Faculty of Law, National University of Singapore
Commercial Law Centre, Harris Manchester College, University of Oxford

Participation is by invitation only

For more information, please contact Ms Germaine Tan at cbfl@nus.edu.sg

PROGRAMME

DAY 1

26 July 2018, Thursday

0845

Registration

0900 – 0920

Welcome & Introduction

Professor Simon Chesterman
Dean, Faculty of Law, National University of Singapore

Associate Professor Dora Neo
Convenor, National University of Singapore

0920 – 1000

Keynote Address

Chair: Professor Louise Gullifer
Convenor, University of Oxford

'How exportable is the Article 9 system?'

Professor Charles Mooney, University of Pennsylvania, USA

Morning session

Chair: Professor Louise Gullifer

1000 – 1040

Secured transactions law reform in civil jurisdictions

Professor Teresa Rodríguez de las Heras Ballell, University Carlos III of Madrid, Spain

1040 – 1100

Coffee break

1100 – 1300

Thailand

Ms Parawee Kasitnon, Thammasat University, Thailand

Vietnam

Ms Huyen Pham, World Bank Group, Vietnam

Indonesia

Mr Ibrahim Assegaf, Assegaf Hamzah & Partners, Indonesia and Mr Aria Suyudi, World Bank Group, Indonesia

Commentator: Professor Ignacio Tirado, Autonomous University of Madrid, Spain

1300 – 1400

Lunch

BTC Staff Lounge, Block B

Afternoon session

Chair: Associate Professor Dora Neo

1400 – 1600

Taiwan

Professor Andrew Jen-Guang Lin, National Taiwan University, Taiwan

Japan

Professor Megumi Hara, Gakushuin University, Japan

South Korea

Professor Young-joon Kwon, Seoul National University

Commentator: Professor Charles Mooney, University of Pennsylvania, USA

1600 – 1620

Coffee break

1620 – 1740

China

Dr Wang Lebing, University of International Business and Economics, Beijing, PRC

Philippines

Mr Chester Abellera, Asian Development Bank, Philippines

Commentator: Professor Teresa Rodríguez de las Heras Ballell, University Carlos III of Madrid, Spain

1740

End of Day 1

DAY 2

27 July 2018, Friday

Morning session 1

Chair: Professor Tony Duggan

- 0930 – 1010 ***Overview of secured transactions law reform in Asia***
Ms Elaine MacEachern, World Bank Group, Thailand
- 1010 – 1050 ***Secured transactions law reform in common law jurisdictions (Brunei as example)***
Professor Louise Gullifer, University of Oxford, UK

1050 – 1110 **Coffee Break**

Morning session 2

Chair: Professor Louise Gullifer

- 1110 – 1310 ***Singapore***
Associate Professor Dora Neo, National University of Singapore, Singapore
- India***
Mr Madhukar Umarji, Former Executive Director, Reserve Bank of India, India
- Pakistan & Bangladesh***
Dr Marek Dubovec, NatLaw, USA
- Commentator: Professor Tony Duggan, University of Toronto, Canada*

1310 – 1410 **Lunch**
BTC Staff Lounge, Block B

Afternoon session

Chair: Professor Charles Mooney

- 1410 – 1450 ***Reform in developed jurisdictions (Canada as example)***
Professor Tony Duggan, University of Toronto, Canada
- 1450 – 1530 ***Comparison of International instruments***
Dr Orkun Akseli, University of Durham, UK
- 1530 – 1610 ***The connection between secured transactions and insolvency in modern and unreformed insolvency regimes***
Professor Ignacio Tirado, Autonomous University of Madrid, Spain

Conclusion

- 1610 – 1615 **Close of symposium**
Associate Professor Dora Neo

BIOGRAPHIES

(in order of family name)

Convenors



Louise Gullifer is Professor of Commercial Law at the University of Oxford and a fellow of Harris Manchester College, Oxford. She holds one of the temporary chairs of the Business and Law Research Centre, International Commercial Law, at Radboud University, Nijmegen. She is the director of the Commercial Law Centre at Harris Manchester College and executive director of the Secured Transaction Law Reform Project, as well as the Oxford academic lead of the Cape Town Convention Academic Project, and one of the UK delegates to both UNCITRAL (working group VI) and Unidroit. She has co-authored a number of books on commercial law and debt financing, including *Goode and Gullifer on Legal Problems of Credit and Security*, *The Law of Security and Title Financing*, *The Law of Personal Property* and *Corporate Finance Law: Principles and Policy*.



Dora Neo is an Associate Professor and the founding Director of the Centre for Banking & Finance Law at the Faculty of Law, National University of Singapore (NUS). She convenes the 'Credit and Security' module at NUS Law and co-teaches the elective on 'Security and Insolvency Law' for the faculty's International Business Law LLM programme at the East China University of Political Science and Law in Shanghai. She has served on various law reform committees in Singapore, and contributed to discussions on topics such as pawnbroking, hire purchase, aircraft financing and financial collateral. She is a graduate of Oxford and Harvard Universities, and was called to the Bar in England and in Singapore.

Speakers



Chester Abellera is with the Asian Development Bank, working on the preparation and conduct of the ADB Annual and Board Meetings, and implementing the Philippine Country Partnership Strategy through the Philippine loan program. He previously worked in the International Finance Corporation as legal counsel for the Philippine secured transactions reform project, while advising the Vietnamese Finance Ministry as an ADB Public Finance Specialist in preparing the agenda for 2017 APEC Finance Ministers' Process meetings. He also worked as economist at Philippine Department of Finance's International Finance Group, and as economist/legal advisor at the Global CCS Institute in Australia. A lawyer and economist, Chester has worked across public, private, not-for-profit, and multilateral development banks, in developing and developed economies. He holds master's Degrees in International and Development Economics, and in Diplomacy from the Australian National University, and bachelor's degrees in Psychology and of laws from the University of the Philippines.



Orkun Akseli is an Associate Professor of Commercial Law at Durham University Law School. He is also the Director of Research Funding at Durham Law School and the Co-Director of Durham Institute for Commercial and Corporate Law. He has published extensively on the modernisation and harmonisation of secured transactions law. Some of his publications include *International and Comparative Secured Transactions Law* (Hart 2017, with Spyridon V. Bazinas); *Secured Transactions Law Reform: Principles, Policies and Practice* (Hart 2016, with Louise Gullifer); *Availability of Credit and Secured Transactions in a Time of Crisis* (CUP 2013); *International Secured Transactions Law: Facilitation of Credit and International Conventions and Instruments* (Routledge 2011). He studied law in Turkey, USA and the UK. He is a member of the International Academy of Comparative Law and the Chartered Institute of Arbitrators. He has a limited arbitration practice and is a member of Turkish Bar.



Ibrahim Assegaf is a partner at Assegaf Hamzah & Partner. Heading the banking finance practice group, he has represented international and Indonesian financial institution in bilateral, syndication, project finance as well as structured finance matters. He is also a lecturer at Indonesia Jentera School of Law, Jakarta. Ibrahim has been involved in several law reform studies and initiatives on contract, secured transactions and insolvency laws.



Marek Dubovec earned a law degree from Slovakia in 2003, the Master's degree (LL.M.) in International Trade Law in 2004, and the Doctor of Juridical Science degree (S.J.D.) in 2009 both from the James E. Rogers College of Law, University of Arizona. Since 2004, he has been working at NatLaw in Tucson (Arizona) where he is now the Executive Director. Marek has been involved in a number of secured transactions reform projects in Africa, Asia, the Middle East, and Latin America. He teaches UCC Article 9 Secured Transactions and International Commercial Transactions at the James E. Rogers College of Law. He has been assisting Unidroit with the development of the MAC Protocol to the Cape Town Convention, and has regularly represented NatLaw at UNCITRAL's Working Group VI since 2010. Marek has written books and articles on secured transactions and related areas.



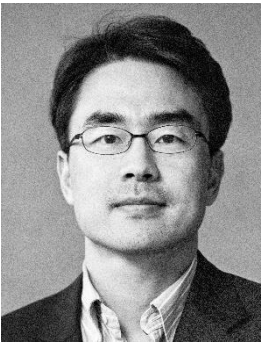
Tony Duggan holds the Hon. Frank H. Iacobucci Chair in the Faculty of Law at the University of Toronto and is a Professorial Fellow at the Melbourne Law School and a senior research fellow at the Commercial Law Centre and Harris Manchester College, Oxford University. He was Associate Dean of the University of Toronto Faculty of Law from 2002-2004. His main teaching and research interests are secured transactions (PPSA), bankruptcy and insolvency law and equity and trusts. He won the Mewett Teaching Award at the University of Toronto in 2009-2010, 2010-2011 and 2013-2014. Recent PPSA-related books include: *Australian Personal Property Securities Law* (2nd ed., Lexis Nexis Australia, 2015) (with David Brown) and *Anthony Duggan, Secured Transactions in Personal Property: Cases, Text and Materials* (7th ed. 2018, Emond Montgomery, Toronto). Professor Duggan is Editor-in-Chief of the *Canadian Business Law Journal*, is a member of the American Law Institute and is a past President of the International Academy of Commercial and Consumer Law.



Megumi Hara is professor at the Law School of Gakushuin University, Tokyo, where she teaches secured transaction law, contract law, and trust law. She also is appointed by the Ministry of Justice as researcher on the project to reform the property law and its registration. She has published numerous articles in the field of secured transaction as well as other topics concerning civil law. Recently, she served as delegate of Japan at the UNIDROIT Committee of Governmental Experts for the preparation of a draft Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Agricultural, Construction and Mining Equipment (the “MAC Protocol”), where she was also the member of the drafting committee. She has also participated in the deliberations of Working Group VI on security interests for UNCITRAL either as delegate of Japan or as an observer.



Parawee Kasitinon is a law lecturer at the Faculty of Law, Thammasat University, Thailand. She has broad-based interests in private and secured transactions law. She has been the recipient of a full scholarship from the Royal Thai Government to pursue her legal education at the University of Pennsylvania Law School, USA. She completed the LL.M. Program in 2014 and is now an S.J.D. candidate. Her stellar academic record also includes a Master of Laws Degree (LL.M.) in private law from Thammasat University and Bachelor of Laws Degree (LL.B., 1st class honors) from Chulalongkorn University in Thailand.



Youngjoon Kwon is a Professor of Law at Seoul National University. He earned his LL.B., LL.M., and Ph. D from Seoul National University, and LL.M. from Harvard Law School. He did his research at Max-Planck Institute, Duke Law School, University of Tokyo as a visiting scholar and taught at Harvard Law School as a visiting professor. He does his research in the field of private law, mainly on contract, tort, property, and secured transaction. He also writes on intellectual property law, privacy, and personal data protection. He previously worked as a Judge advocate in the Navy, a Judge in various courts where he sat as either an associate judge or as a presiding judge dealing with civil and criminal cases. He was also the director for international affairs in the Supreme Court of Korea. He has also been a delegate to the UNCITRAL Working Group VI (Secured Transaction) since 2010.



Andrew Jen-Guang Lin, Professor of Law, National Taiwan University; LL.B., Soochow University 1987; LL.M. in International Banking Law Studies, Boston University 1991; LL.M., Duke University 1992; S.J.D., Duke University 1997. He also serve as a director at the Securities and Futures Investors Protection Center (2003~2011, 2018~); public interest director of the Securities Investment Trust and Consulting Association of the Republic of China (2016~); director of the Financial and Economic Law Committee of Taiwan Law Society (2002~2012); director of the Commercial Law Committee of Taiwan Law Society (2017~); member of the Petitions and Appeals Committee of the Financial Supervisory Commission (June 2008~). Professor Lin, together with two other professors, participated in a research project on the reform of Taiwan’s Personal Property Secured Transaction Act sponsored by the Financial Supervisory Commission in 2015. His current researches interests are related to corporate law reform, syndicated loan, director disqualified regime, securities class actions.



Elaine Maceachern is currently a Global Product Specialist for WBG's financial infrastructure secured lending product based in Bangkok, Thailand. Elaine works with WBG clients and team in the Asia and Africa regions extensively and contributes regularly to the ongoing Financial Inclusion development agenda of ASEAN and APEC Financial Infrastructure working groups, as well as the G20 Joint Action Plan on SME Financing. Elaine has over twenty years of public and private sector experience in legislative and institutional reform projects, specifically in policy development and public registry implementations. Elaine was a former Registrar of both Land Titles (immoveable) and Personal Property (moveable) in Nova Scotia, Canada. She has participated in the design, development and implementation of secured transaction reform projects and registry systems in Canada, Russian, Caribbean, Asia and Africa regions under Common, Civil and Islamic law regimes. She has extensive experience in legislative and institutional reform projects involving various alternative operational and governance models.



Charles Mooney J.D., Harvard Law School. Partner/shareholder, Crowe & Dunlevy (1972-81); partner, Shearman & Sterling (1981-86); Penn Law (1986-present). Reporter, Study Committee and Drafting Committee, Revision of UCC Article 9 (1990-2000). Member UNIDROIT Study Group, U.S. Delegate, Cape Town Convention (CTC) on International Interests in Mobile Equipment and Aircraft Protocol (1993-2001). U.S. Delegate, UNIDROIT Geneva Securities Convention, co-author, UNIDROIT Legislative Guide for Intermediated Securities (2005-2009; 2015-17). Member UNIDROIT Study Group, U.S. Delegate, draft UNIDROIT Draft Mining, Agricultural and Construction Equipment Protocol to the CTC. International Insolvency Institute (III) Delegate, UNCITRAL Working Group VI (security interests) (2011-present). Member, U.S. S.E.C. Advisory Committee on Market Transactions (1988-91). Fellow and former director of the American College of Bankruptcy. Member, Director, Vice-president, and member of the Executive Committee of the International Insolvency Institute (III).



Huyen Pham is based in Vietnam. She has great working experience with both public and private sectors in Asia countries, including Vietnam, Lao PDR, Cambodia, Myanmar and India. Joining International Finance Corporation, a member of WBG in 2005, Huyen Pham has worked extensively on financial infrastructure regulatory and policy. She has strong knowledge on Credit Information, Secured Transactions, Alternative Dispute Resolutions, Insolvency and Bankruptcy, Payments System, Capital Market, Micro-finance, and Program Portfolio Management. Huyen Pham is a frequent speaker at various international and domestic conferences. Prior joining WBG, she had eight years working experience for UNDP and DANIDA on Vietnam's legal and regulatory reform projects, providing capacity building for the National Assembly, the Supreme People's Court, the Supreme People's Procuracy and the Ministry of Justice. Huyen Pham is the Lawyer and holds LLM and MBA degrees.



Teresa Rodríguez de las Heras Ballell Associate Professor of Commercial Law at University Carlos III of Madrid. 2017-2018 Chair of Excellence at Oxford University (Uc3m-Santander Program), affiliated to Harris Manchester College. Previously, James J. Coleman Sr. Distinguished Visiting Professor of Law at Tulane Law School, Visiting Fellow at Harris Manchester College, Oxford University, Fellow at Stanford Law School TTLF and Marie Curie Fellow at ZERP of University of Bremen, among others visiting professorships and fellowships - such as Columbia Law School, University of Washington, University of Tokyo or University College of London. Arbitrator at Madrid Court of Arbitration, member of Spanish Advertising Standards Tribunal (Autocontrol), member of UNIDROIT Study Group on MAC Protocol to the Cape Town Convention on international security interests, member of the Aviation Working Group's Spanish Contact Group, member of the Rail Working Group, Spanish Delegate before UNIDROIT for MAC Protocol, representative of ASADIP/CEDEP at UNCITRAL Working Group VI on Security Interests.



Aria Suyudi is senior researcher for Centre for Indonesian Law and Policy Studies, he has been providing advice to government of Indonesia on various reforms initiatives such as judicial reform, secured transaction law, insolvency, since 2000. He also is lecturer at Indonesia Jentera School of Law, Jakarta.



Ignacio Tirado teaches Commercial, Corporate and Insolvency Law at the Universidad Autónoma of Madrid (Spain). Ignacio is Senior Legal Consultant at the World Bank's Financial Sector Practice and Consultant on insolvency--related matters to the IMF's Legal Department. A qualified lawyer, Ignacio was Of Counsel of the Business Restructuring and Insolvency Practice of Hogan Lovells, LLP (Madrid Office, then Lovells LLP), until he joined the World Bank. Ignacio is a Member of the Executive Committee and a Director of the International Insolvency Institute, where he is also co-Chair of the Academic Committee. He is the Vice--Chair of the pan--European think tank Conference of European Restructuring and Insolvency Law. He has represented the World Bank in UNCITRAL's Working Group V (insolvency) and Spain and the III in Working Group VI (secured transactions). A founding member of the Academic Board of the European Banking Institute, Ignacio is International Fellow of the American College of Bankruptcy.



Madhukar R Umarji was Chief Advisor – Legal of the Indian Banks' Association for the last twelve years and has rich experience in banking and other financial sector related laws. A post-graduate in Law from Bombay University, Mr. Umarji was Legal Adviser of Banks, and a Central Banker as Executive Director, Reserve Bank of India. He has been actively involved in the process of financial and banking sector reforms in India undertaken by the Ministry of Finance and has represented the banking industry on various Committees. He was also member of the Bankruptcy Law Reforms Committee. He was involved with the UNCITRAL in preparation of Legislative Guide on Model Law for Secured Transactions, as a delegate from India and also UNIDROIT in preparation of Model Law on Lease of Movable. Seventh Edition of his book on SARFAESI Act has been published in July, 2017.



Lebing Wang is the Assistant Dean of the University of International Business and Economics, School of Law. He is also the visiting professor of University of Bologna and University of Palermo in Italy. His research focuses on the law on secured transaction and commercial law. He has published eight articles on the regulation of financial derivatives, pledge on account receivables, covered bond and securitization, pledge on intermediated securities and so on. He is now undertaking as the government expert of China in the draft of "The Protocol to The Cape Town Convention on Matters Specific to Agricultural, Construction and Mining Equipment". He is also undertaking a national project, in cooperation with the newly established Ministry of Justice, to collect and study the domestic laws in the "B&R" countries, so as to facilitate the trade and investment by Chinese companies in these countries.