



Webinar Series: New Developments in Advanced Legal Education

Singapore Management University (SMU) School of Law is delighted to invite Fudan University Law School to the Webinar series of “New Developments in Advanced Legal Education”. The second Webinar of the series will be on topics of dispute resolution.

Date & Time: 30 October 2020, 3pm – 5pm

Darius Chan (Associate Professor of Law, SMU)

Ascertaining the Governing Law of the Arbitration Agreement: A comparison of 3 recent decisions from the English, Singapore and Chinese courts

In the absence of a choice of law by parties, how should a national court ascertain the governing law of an arbitration agreement to assess its validity? Under the common law, the debate has typically fluctuated between applying the law governing the main contract, or the law of the seat of arbitration. At the same time, some have also argued that the New York Convention contains a principle of validation, i.e. the arbitration agreement should be governed by the law that would uphold its validity. In Singapore, this issue came to head in *BNA v BNB* [2019] SGCA 84, where the arbitration clause stipulated for SIAC arbitration in Shanghai. The Singapore Court of Appeal reversed the High Court’s ruling that Singapore law governed the arbitration agreement. In England, the English Supreme Court in *Enka Insaat Ve Sanayi AS v OOO “Insurance Company Chubb”* [2020] UKSC 38 very recently weighed in by reversing the English Court of Appeal, but with a split decision. The same parties in the case of BNA subsequently resurfaced before the Shanghai No. 1 Intermediate People’s Court, where the court made several important pronouncements on whether arbitrations seated in China can be validly administered by a foreign arbitral institution. This presentation will take participants on a journey through these cases.

Congyan Cai (Professor of Law, Fudan University)

Transnational Judicial Dialogue in the Rise of China: How Chinese Judiciary Enhances the Belt and Road Initiative (BRI)

Transnational judicial dialogue, which was firstly debated by Anne-Marie Slaughter as a theoretical agenda, represents an important dimension of a State’s engagement with other States in globalization. Based on the established judicial philosophy of being highly sensitive to national development strategy, Chinese judiciary devotes itself to the implementation of the Belt and Road Initiative (BRI), China’s new strategy of engaging the globalization and achieving the ambition of rising as a leading power. Transnational judicial dialogue is an important means of Chinese judiciary to enhance the BRI, which involves over one hundred

countries with diverse politics, economy and legal systems. It improves other BRI countries' understanding of the administration of justice in China and exhibits Chinese "judicial wisdom", thereby enhancing judicial cooperation between China and other BRI countries. It also helps other BRI countries better understand China's national development and foreign policies, including the BRI. Chinese transnational judicial dialogue has its own characteristics which especially refers to providing face-to-face "training" or "yanxiu" for foreign judges.

Dorcas Quek Anderson (Assistant Professor of Law, SMU)

The enforcement of cross-border mediation settlement agreements

Singapore and China, together with 44 other states, were the early signatories to the UN Convention on International Settlement Agreements Resulting from Mediation (the Singapore Convention), which recently took effect on 12 September 2020. This lecture provides an overview of the convention and its future role in the development of international dispute resolution. It also discusses the implications of the convention on mediation standards, and on domestic courts' enforcement of cross-border mediation settlement agreements.

Hao Xiong (Associate Professor of Law, Fudan University)

Religiosity and Conflict Handling Styles in China

The conflict is an important social phenomenon, and it can be defined and analyzed from different disciplines. When encountering a conflict, people can choose different strategies, including both the functional and dysfunctional ones, to interfere and interact with each other. In 1977, Kenneth W. Thomas cooperated with Ralph H. Kilmann, and developed a valid and effective instrument with the aim of being to assess these conflict-handling styles of individuals. This instrument is later known as Thomas-Kilmann-Instrument (TKI), which is commonly used in different areas as a conflict management and assessment tool to help people to measure their conflicting behavior models and tendencies when getting engaged in a conflict. Based on the data collected from the internet, mainly focusing on the young middle class living in urban China, this presentation evaluates the conflict-handling styles of five officially admitted religions in PRC, including Buddhism, Daoism, Islam, Catholicism, and Protestantism. By comparing the five religion-affiliated people's data, we find that they are very similar in terms of the conflict-handling style. In this case, a structural explanation is presented from both cultural and political perspectives to construct an understanding of this phenomenon.

Moderators: Dr. Chen Li, Associate Dean, Fudan University Law School
Dr. Zhang Wei, Associate Dean, SMU School of Law