

Workshop - Resolving Land Disputes in East Asia

Asia Pacific Business Regulation Group, Department of Business Law and Taxation

Jointly hosted by the Centre for Comparative and Public Law, University of Hong Kong and the Asia Pacific Business Regulation Group, Department of Business Law and Taxation, Monash University

About the Workshop

A dominant trope in the law and development literature is that land law and registered property rights have the capacity to resolve housing and land disputes. Hernando de Soto, a leading exponent of this view, invokes the metaphor of a bell jar to explain the difference between registered and unregistered property rights. Those within the bell jar enjoy state protection for their registered property rights, while those outside the bell jar must fend for themselves.

Complicating this trope, a growing body of empirical studies in East Asia demonstrate limits to the capacity of land laws to define and enforce the boundaries of state power and individual and community property rights. They suggest that what we recognize as land laws—sets of rules, norms, and practices—do not so much control behaviour directly, as coordinate and interact with other regulatory orders. The studies also show that regulators and judges often struggle to use land laws to find practical solutions and binding outcomes for land disputes. One implication is that courts must engage with other regulators such as political parties, government agencies, as well as non-state/hybrid land tenure systems.

This workshop will investigate the role and limits of law in resolving land disputes in greater China (including Hong Kong and Taiwan) and Vietnam. Speakers will examine how courts (and other dispute resolution fora) use law and/or other regulatory sources to resolve disputes about ownership and access to land. Land taking cases are investigated from the perspective of conflicting understandings about land ownership and tenure rights. More particularly some of the speakers will investigate to what extent dispute resolution fora draw on guidance from outside the juridical framework to resolve disputes. Do land laws correspond to notions of fair and reasonable dealings with land found in non-state/hybrid land tenure systems? >>

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Would state recognition of non-state/hybrid tenure systems simply leave in place the power relationships that undermine attempts to create a unified national land tenure regime? Are there institutional processes that might reconcile different normative understandings about land ownership circulating in state and non-state/hybrid land tenure systems?

Location and Dates

Date: Saturday, 26 November, 2011

Venue: Convocation Room, 2/F Main Building, The University of Hong Kong

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