

# ASIAN JOURNAL OF COMPARATIVE LAW

VOLUME 11 • ISSUE 1 • JULY 2016 • ISSN 2194-6078



CAMBRIDGE  
UNIVERSITY PRESS

# *Asian Journal of Comparative Law*

The *Asian Journal of Comparative Law* (AsJCL) is the leading forum for research and discussion of the law and legal systems of Asia. It embraces work that is theoretical, empirical, socio-legal, doctrinal, or comparative that relates to one or more Asian legal systems, as well as work that compares one or more Asian legal systems with non-Asian systems. The Journal seeks articles which display an intimate knowledge of Asian legal systems, and thus provide a window into the way they work in practice. The AsJCL is an initiative of the Asian Law Institute (ALI), an association established by 13 leading law schools in Asia and with a rapidly expanding membership base across Asia and in other regions around the world.

**Subscriptions:** The *Asian Journal of Comparative Law* is published twice a year in July and December. The 2016 price for an online and print subscription for institutions (excluding VAT or sales tax) is \$384.00 in the USA, Canada, and Mexico and £240.00 in the UK and elsewhere. The 2016 price for an online-only subscription is \$319.00 in the USA, Canada, and Mexico and £200.00 in the UK and elsewhere. EU subscribers (outside the UK) who are not registered for VAT should add VAT at their country's rate. VAT registered subscribers should provide their VAT registration number. Prices include delivery by air when appropriate. Japanese prices for institutions are available from Kinokuniya Company Ltd, P.O. Box 55, Chitose, Tokyo 156, Japan. Orders, which must be accompanied by payment, may be sent to a bookseller, subscription agent, or direct to the publisher: Cambridge University Press, Journals Fulfillment Department, UPH, Shaftesbury Road, Cambridge CB2 8BS, UK email: [journals@cambridge.org](mailto:journals@cambridge.org); or in the USA, Canada, and Mexico: Cambridge University Press, Journals Fulfillment Department, 1 Liberty Plaza, Floor 20, New York, NY 10006, email: [subscriptions\\_newyork@cambridge.org](mailto:subscriptions_newyork@cambridge.org). Prices include delivery by air. Periodicals postage paid at New York, NY and at additional mailing offices.

**Permissions information:** All rights reserved. No part of this publication may be reproduced, in any form or by any means, electronic, photocopying, or otherwise, without permission in writing from Cambridge University Press. Policies, request forms, and contacts are available at: <http://journals.cambridge.org/action/rightsAndPermissions>. Permission to copy (for users in the USA) is available from Copyright Clearance Center <http://www.copyright.com>, email [info@copyright.com](mailto:info@copyright.com).

**Advertising:** Enquiries should be sent to the publisher at [ad\\_sales@cambridge.org](mailto:ad_sales@cambridge.org).

**Open Access:** Please visit Open Access Publishing at Cambridge ([cambridge.org/openaccess](http://cambridge.org/openaccess)) for information on our Open Access policies, compliance with major funding bodies, and guidelines on depositing your manuscript in an institutional repository.

*Asian Journal of Comparative Law* and all other Cambridge Journals can be found at <http://journals.cambridge.org>.

# *Asian Journal of Comparative Law (AsJCL)*

## **Editor-in-Chief**

Dan W PUCHNIAK  
National University of Singapore

## **Executive Editors**

Kevin YL TAN  
National University of Singapore

WANG Jiangyu  
National University of Singapore

## **Deputy Editor**

Jason R BONIN  
National University of Singapore

## **Book Review Editor**

Michael W DOWDLE  
National University of Singapore

## **Editors**

Rehan Aindri ABEYRATNE  
Jindal Global Law School  
BATBOLD Amarsanaa  
National University of Mongolia  
Gary F BELL  
National University of Singapore  
Wen-Chen CHANG  
National Taiwan University  
Yun-chien CHANG  
Academia Sinica  
Melissa CROUCH  
University of New South Wales  
Yetty Komalasari DEWI  
University of Indonesia  
Gen GOTO  
University of Tokyo  
Robin Hui HUANG  
Chinese University of Hong Kong  
Arif JAMAL  
National University of Singapore

Swati JHAVERI  
National University of Singapore  
Joongi KIM  
Yonsei Law School  
GUO Li  
Peking University  
Woo-young RHEE  
Seoul National University  
SAW Tiong Guan  
University of Malaya  
Narongdech SRUKHOSIT  
Chulalongkorn University  
Arun THIRUVENGADAM  
Azim Premji University  
Umakanth VAROTTIL  
National University of Singapore  
YAP Po Jen  
The University of Hong Kong  
George ZHENG  
Shanghai Jiaotong University

## **Assistant Editors**

LAM Pak Nian

Samantha S TANG

# *Asian Law Institute (ASLI)*

## **Board of Governors**

### **Chairperson**

Michael HOR  
Dean, Faculty of Law, The University of Hong Kong

### **Deputy Chairperson**

Topo SANTOSO  
Dean, Faculty of Law, University of Indonesia

## **Members**

Danilo CONCEPCION  
Dean, College of Law, University of the Philippines

Nantawat BORAMANAND  
Dean, Faculty of Law, Chulalongkorn University

XIA Fei  
Director, International Exchange Center,  
East China University of Political Science and Law

ZHANG Shouwen  
Dean, Peking University Law School

R Venkata RAO  
Vice-Chancellor, National Law School of  
India University

Norio TANAKA  
Dean, Faculty of Law, Kyushu University

Johan Shamsuddin Bin Hj SABARUDDIN  
Dean, Faculty of Law, University of Malaya

Hunud Abia KADOUF  
Dean, Ahmad Ibrahim Kulliyah of Laws,  
International Islamic University Malaysia

Hong Sik CHO  
Dean, School of Law, Seoul National University

Simon CHESTERMAN  
Dean, Faculty of Law, National University of  
Singapore

Sheng-Lin JAN  
Dean, College of Law, National Taiwan University

# Contents

## ARTICLES

- A Comparative Analysis of the Protection of Trade Names Under the English Tort of Passing Off and Section 18 of Thailand's Civil and Commercial Code  
*Surutchada REEKIE and Adam REEKIE* 1–25
- Private Ordering and the Chinese in Nineteenth Century Straits Settlements  
*TAN Cheng Han* 27–53
- Corporate Reorganization Reform in China: Findings from an Empirical Study in Zhejiang  
*Zinian ZHANG and Roman TOMASIC* 55–85
- Horizontal Discrimination and Article 15(2) of the Indian Constitution: A Transformative Approach  
*Gautam BHATIA* 87–109
- The ASEAN Human Rights System: A Critical Analysis  
*Hien BUI* 111–140
- Restitution of Non-Gratuitously Conferred Benefit in Malaysia: A Case for Sowing the Unjust Enrichment Seed  
*Alvin W-L SEE* 141–162
- Recent Work in Asian Constitutional Studies: A Review Essay  
*Andrew HARDING and Ngoc Son BUI* 163–183

## BOOK REVIEW

- Rights in Southeast Asia: Risk and the Regulatory Turn (Abingdon and New York: Routledge, 2014)  
*Edited by Mahdev MOHAN and Cynthia MOREL (Reviewed by Sumithra DHANARAJAN)* 185–188