

Private International Law and Comity

by
Mr. Clemence Yeung,
Barrister-at-Law



Mr. Yeung was called to the Bar in 1997. Prior to that he was admitted as a solicitor in England and Wales and in Hong Kong and practised as a solicitor in the litigation department of an international firm. He was a contributor to Halsbury's Laws of Hong Kong Volume 18(1) Maritime Law (Butterworths) and has authored a book on the law of unjust enrichment in Hong Kong.

Hong Kong being a maritime city and, since the last 25 years or about, a financial hub in Asia, cross-border disputes are a norm in her courts. The international dimensions have called on the Hong Kong Courts to consider a wider range of questions specific to transnational litigations. Should a party be restrained from pursuing an overseas legal action? Should foreign orders and judgments be given effect? Should the Courts act in aid of foreign proceedings? In judicial considerations of these and similar questions stemming from a wide spectrum of cross-border disputes, references to comity abound.

But what does the concept mean? Writing extra-judicially, Lawrence Collins J (as he then was) considered the employment of the concept of comity in the English and American case law and called for further efforts to be made to obtain a better understanding of the subject - "the vast amount of material cries out for some synthesis." (Lawrence Collins, "Comity in Modern Private International Law" in Fawcett J.J. (ed.), Reform and Development of Private International Law (Oxford University Press, 2002), p.110)

The present Course looks at Hong Kong cases (and some of the leading English cases) in which the concept of comity has been invoked, and explores what the concept entails and how it informs judicial determinations in commercial litigations.

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The cases in question cover the following areas:

- Cross-border insolvency
- Winding up of foreign companies
- Forum non conveniens
- Anti-suit injunction
- Judicial assistance to foreign proceedings
- Letter of request
- Service of proceedings out of the jurisdictions
- Enforcement of arbitral awards

The speaker will in particular trace the historical development of the concept of forum non conveniens and the anti-suit injunction in the English law case, two areas where the influence of considerations of comity has been especially prominent.

The Course will also provide an essential update on recent developments on the above areas.

Some of the more recent cases considered will include:

- Singularis Holdings Ltd v PricewaterhouseCoopers [2015] 2 WLR 971
- Stichting Shell Pensioenfonds v Krys [2015] BCC 205
- Re Estate of Kam Kwan Sing [2015] HKEC 2370 “the Yung Kee decisions”
- Rubin and another v Eurofinace SA [2013] 1 AC 236
- Star Reefers Pool Inc v JKC Group Co Ltd [2013] 1 CLC 294
- Compania Sud Americana de Vapores SA v Hin-Pro International Logistics Limited (in Receivership) [2015] 2 HKLRD 458
- Abela v Baadarani [2013] 1 WLR 2304
- A v B [2015] 3 HKLRD 586

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Code:	EVT000000115	Level:	Intermediate
Date:	20 June 2016 (Monday)	Language:	English
Time:	14:30 - 17:45 (Reception starts at 14:00)	Accreditation(s):	LSHK 3.0 CPD Points (LSHK Allocated Number: 20160736)
Venue:	Kornerstone Institute 15/F, Hip Shing Hong Centre 55 Des Voeux Road Central Central, Hong Kong	Request for Rerun:	Please Contact Us for Details



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