



Kobe SALAD Online 2021 Spring Program

Kobe University Seminars on Asian Law and Dispute Management Online 2021 Spring

Time Schedule [all the seminars will be delivered via Zoom]

- 【Seminar 1】 'Compliance' as Internal Control Activities **Feb 13 (Sat): 14:00~17:00 (JLT)**
- 【Seminar 2】 Seminar on International Commercial Arbitration **Feb 20 (Sat): 14:00~17:00 (JLT)**
- 【Seminar 3】 UK Private International Law in the Age of Post Brexit
Feb 27 (Sat): 17:00~18:30 (JLT)
- 【Seminar 4】 Towards Constructive Legal Studies: Legacy of Prof Oliver Williamson
Mar 6 (Sat): 14:00~17:00 (JLT)
- 【Seminar 5】 Kobe/SIMI Workshop on International Commercial Mediation
Mar 20/21 (Sat/Sun): 14:00~18:00 (JLT)

Registration

Please send the email to 'law-gmap-admin@edu.kobe-u.ac.jp' oncluding the following information:

Full name; Nationality; Email address; University name (and affiliated faculty/school/institution)

Attending [1] all of the seminars: or [2] only some seminars (number of the seminars to attend)

+ Zoom information will be sent directly to you via email.

Certificate of Regular attendance

This program is designed for the students in Asia who are interested in law, business and other related areas of social sciences. The Certificate of Regular Attendance will be given to the participants who attend more than four seminars in the above program.



【Seminar 1】 February 13 (Sat): 14:00~17:00 (JLT: Japan Local Time)

‘Compliance’ as Internal Control Activities

Mr. Yoshiki Uchida (President, MDP Business Advisory, Attorney (NY Bar))

In Japan, most people think that the word ‘Compliance’ means the compliance with law and regulations by the staff members of companies/organizations. The word was first introduced in Japan by the ‘Inspection Manual for Deposit-Taking Institutions’ issued 1999 by Financial Service Agency of the government. The basic idea of this manual derived from the COSO (Committee of Sponsoring Organization of Treadway Commission) Integrated Internal Control Framework 1992 issued in USA.

However, the idea of COSO framework was seriously distorted during the process of introduction into Japan. COSO, based on the report of wide study of malpractices concerning the financial information systems during 1985 to 1987, proposed a more fundamental and coherent framework for keeping corporations healthy. It proposed **‘[a] process effected by an entity’s board of directors, management, and other personnel, designed to provide a reasonable assurance regarding the achievement of objectives relating to: (1) operation efficiencies and effectiveness; (2) reliability of the reporting system; (3) compliance with laws and current regulations. (COSO, 1992)** Therefore, internal control means a process, which does not depend on occasional events, but must be systematically set. It also shall be integrated with all other business processes without overlapping them. It not only improves efficiency, but also reduces significantly the cost and facilitates the control extension to all the new procedures that may take action from time to time.’ (Provasi & Riva, The Updated COSO Report 2013, Journal of Modern Accounting and Auditing, Vol.11, No.10, 487, 2015)

However, in Japan, as the purpose of internal control is misunderstood by companies/organizations, the important developments in USA/EU as to the strengthened criminal liability of companies/directors based on internal control, as well as the rehabilitation program for the problematic companies from the viewpoint of compliance are not followed well. As a result, even the repeated compliance violations caused by Japanese companies at home and abroad were neither effectively sanctioned, nor provided with the proper rehabilitation programs.

In this seminar, Mr. Uchida, based on his extensive experience in Japan and USA, explains the recent development concerning Federal Sentencing Guideline Manual, Evaluation of Corporate Compliance Programs by DOJ, FCPA and so on. He will also discuss the ICT and AI related development in this area. For the lawyers/business persons in Asian jurisdictions, the precise understanding of internal control as well as compliance is not only necessary but also beneficial for keeping companies/organizations valuable for the people and for making them robust enough to face the tough demands requested by the globalization.

[Seminar 2] February 20 (Sat): 14:00~17:00 (JLT)

Seminar on International Commercial Arbitration

Coordinator: Dr. Lars Markert (Nishimura & Asahi)

Coordinator: Prof. Akira Saito (Kobe University School of Law)

This seminar is specially designed for the students who will take part in the Vis Japan Pre-moot. Vis Moot was started in Vienna for promoting International Commercial Arbitration and CISG together with other UNCITRAL Texts for the lawyers in the next generation. This event has also been successful as the forum for promoting the globalization of legal education, where the law students from various jurisdictions as well as the legal academics and international arbitration lawyers gather and exchange lively.

The problems of Vis Moot also attract the attention of the people who are interested in the new development of international business law in the world. Every year, the problem picks up very new and challenging issues in the practice of international arbitration. The problem this year boldly deals with such issues like the contracts related to the development of vaccines for Covid-19, consolidation of the parties in IP-related international arbitration proceeding and the use of remote hearing without the consent of all the parties. In this seminar, the international arbitration lawyers, based on their experience in practice, discuss these matters.

[Seminar 3] February 27 (Sat): 17:00~18:30 (JLT)

Seminar on UK Private International Law in the Age of Post Brexit

Speaker: Ms. Aude Fiorini (Dundee University School of Law, Scotland)

Brexit was a shocking event not only for the people in Europe but also in other places in the world. Especially, the development of EU private international law was regarded as the example of enormous success story of EU law, which steadily advanced the unification in most of the fields in this area. 'Judicial cooperation in civil matters' which is the new name given by EU seems to become the innovative concept for leading the future of private international law.

Among various regulations, Brussels I Regulation stays as the symbol of EU private international law. Based on it, the judgments of English courts moved freely all over EU. The financial sectors of European states were the heavy users of the efficient court system in London. Moreover, London courts have been widely selected by the parties in international business including Asia.

Ms Fiorini is the expert of this area, who knows private international law from both sides of EU and UK. Based on the updated information, she will explain the present situation of this critical issue.

【Seminar 4】 March 6 (Sat): 14:00~17:00 (JLT)

Towards Constructive Legal Studies: Legacy of Prof Oliver Williamson

Speaker: Mr. Jeff Leong (Jeff Leong, Poon & Wong)

Speaker: Prof. Akira Saito (Kobe University School of Law)

Professor Oliver Williamson, who had held the professorship in business administration, economics and law at the University of California, Berkeley passed away in May 2020. In the international symposium held in 2003 in Kobe, he suggested the CDAMS (Research Center of Legal Dynamics of Advanced Market Societies) the vision for constructive legal studies.. Based on his advice, both speakers developed the seminar program for the governance of transaction relationships and delivered it in the law schools and bar associations of various jurisdictions including China, India, Vietnam, Laos, Thai, Malaysia, Mongolia, as well as in Japan.

Commemorating his achievement as Nobel laureate, the speakers discuss further development of constructive legal education based on his analytical framework which uses 'transaction' as the unit of governance for most of the interactions among the people in a market society.

【Seminar 5】 March 20/21 (Sat/Sun): 14:00~18:00(JST)

Kobe/SIMI Workshop on International Commercial Mediation

Coordinator: Mr. Marcus Lim (Singapore International Mediation Institute)

For the management of dispute concerning international business, the use of mediation is becoming to be popular. Mediation itself is a traditional dispute resolution method widely used in Asia. However, to use it for business related disputes is a fairly recent phenomenon. It seems to have some strong relationship with the recent development of the framework of facilitative mediation lead by the Program on Negotiation by Harvard Law School. With the interdisciplinary approach, the achievement has been disseminated through the training program based on that.

Now there are quite a few providers which offer high quality training programs of facilitative mediation skills which is perfectly compatible with business disputes. Singapore International Mediation Institute is one of such providers. Located in the hub of dispute resolution for international business, SIMI plays a very important role for the promotion of facilitative mediation in Asia.

This two-day workshop is specially designed for the students in Asian jurisdiction to learn the basic skill of international commercial mediation.