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## THE STATE OF ILLEGALITY

### Synopsis

In 2016 the UK Supreme Court handed down judgment in *Patel v Mirza* which purported to resolve a long-standing controversy in that court about the correct approach to the interpretation of the defence of illegality. The Court adopted a restrictive interpretation of the defence, but one which turned on a discretionary analysis of the context by reference to a 'range of factors'. Whilst *Patel v Mirza* concerned a claim for restitution in the law of unjust enrichment, the decision is of relevance to all of private law. Subsequent cases, however suggest that the decision has not provided the certainty which was being sought. In Singapore, a decision of the Court of Appeal in *Ochroid Trading* in 2018 rejected the approach adopted by the UK Supreme Court, particularly consideration of the range of factors.

This lecture will examine both decisions and will consider the nature and significance of the different approaches adopted but also what these decisions reveal about judicial and legal method in both jurisdictions.

**Presentation Slides | Paper****Date**

6 August 2019, Tuesday

**Time**

5.00pm to 6.45pm

(Registration start at 4.30pm)

**Venue**

Mochtar Riady Auditorium, Level 5

Singapore Management University

Administration Building

81 Victoria Street

Singapore 188065



**Public CPD Points:** 1.5

**Practice Area:** Corporate / Commercial

**Training Category:** General

Participants who wish to obtain CPD Points are reminded that they must comply strictly with the Attendance Policy set out in the CPD Guidelines. For this activity, this includes signing in on arrival and signing out at the conclusion of the activity in the manner required by the organiser, and not being absent from the entire activity for more than 15 minutes. Participants who do not comply with the Attendance Policy will not be able to obtain CPD Points for attending the activity. Please refer to <http://www.sileCPDcentre.sg> for more information.

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## About the Jones Day Professorship of Commercial Law Lecture Series

The Jones Day Professorship of Commercial Law was established in 2012, made possible by the global law firm Jones Day, which generously endowed the largest ever contribution by any law firm, through the Jones Day Foundation. It will facilitate increased focus on the development of Commercial Law in Singapore, a market which is in continuous development and increasingly plays a global role as a hub for legal services to both regional and international clients in Asia.

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# JONES DAY

## PROFESSORSHIP OF LAW LECTURE 2019

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## About the Organisers

### Jones Day

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[www.jonesday.com](http://www.jonesday.com)

### Singapore Management University

A premier university in Asia, the Singapore Management University (SMU) is internationally recognised for its world-class research and distinguished teaching. Established in 2000, SMU's mission is to generate leading-edge research with global impact and produce broad-based, creative and entrepreneurial leaders for the knowledge-based economy.

Home to around 10,000 undergraduates and postgraduates, SMU comprises six schools: School of Accountancy, Lee Kong Chian School of Business, School of Economics, School of Information Systems, School of Law and School of



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SMU has an emphasis on generating rigorous, high-impact, and relevant multi-disciplinary research that addresses Asian issues of global relevance, SMU faculty collaborate with leading international researchers and universities from USA, Europe, China and India as well as with partners in the business community and public sector, through its research institutes, centres and labs. SMU's city campus is a state-of-the-art facility located in the heart of downtown Singapore, fostering strategic linkages with business, government and the wider community.

[www.smu.edu.sg](http://www.smu.edu.sg)

### **Centre for Cross-Border Commercial Law in Asia**

The Centre for Cross-Border Commercial Law in Asia (CEBCLA) facilitates research in all areas of commercial law especially in the Asian context. CEBCLA aims to be the leading Asian centre of research in commercial law which is informed by a variety of research methods including doctrinal, theoretical, empirical, historical and comparative perspectives. The goal is that CEBCLA will act as the meeting point and first port of call for scholars, leading practitioners, governments and policy makers pursuing rigorous, informed and significant research in commercial law in Asia.

<http://cebcla.smu.edu.sg>

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## Programme

4.30pm

### **Registration**

5.00pm

### **Welcome Speech**

Professor Goh Yihan

Dean of SMU School of Law

5.05pm

### **Introduction of Speaker**

Mr Simon Bellas

Partner, Jones Day

5.10pm

**Presentation by Guest Speaker: The State of Illegality**

Professor Graham Virgo, QC (Hon)  
University of Cambridge

6.10pm

**Panel Discussion**

Moderator – The Honourable Justice Valerie Thean, Supreme Court  
Professor Graham Virgo, QC (Hon), University of Cambridge  
Mr Simon Bellas, Partner, Jones Day

6.30pm

**Q&A Session**

The Honourable Justice Valerie Thean, Supreme Court  
Professor Graham Virgo, QC (Hon), University of Cambridge  
Mr Simon Bellas, Partner, Jones Day

6.45pm

**End of session**

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## Speaker



**Professor Graham Virgo, QC (Hon)**  
**University of Cambridge**

Professor Graham Virgo is Senior Pro-Vice-Chancellor for Education, and Professor of English Private Law in the Faculty of Law.

Professor Virgo is a Fellow of Downing College, where he was previously Senior Tutor and Director of Studies in Law. He was previously Deputy Chair of the Faculty of Law. He is a barrister and Academic Benchers of Lincoln's Inn. His main research interests are in the fields of the Law of Restitution, Equity and Trusts and the substantive Criminal Law.

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## Moderator and Panellist



### **The Honourable Justice Valerie Thean (Moderator)** **Supreme Court**

Justice Thean was awarded the President's Scholarship in 1988 and graduated with a Bachelor of Arts (First Class Honours) from Downing College, Cambridge University, in 1991. She subsequently obtained her Master of Laws from Harvard Law School, in 1995. Joining the Singapore Legal Service in 1992, she has had various postings which include being a Justices' Law Clerk, an Assistant Registrar at the Supreme Court, a District Judge, Senior State Counsel at the Attorney General's Chambers, Deputy Secretary of the Ministry of Law and Senior District Judge of the Family and



Juvenile Justice Division of the State Courts. First appointed to the High Court bench as a Judicial Commissioner and concurrently the Presiding Judge of the Family Justice Courts (FJC) in 2014, she was appointed a High Court Judge on 30 September 2017.



**Simon Bellas (Panellist)**

**Partner, Jones Day**

Simon Bellas is an international disputes authority whose practice is focused on large-scale construction projects, in particular, in the energy and resources and infrastructure sectors. He has particular experience in working with owners and with overseas, EPC contractors. Simon is a highly ranked arbitration and construction lawyer and has managed some of the largest international arbitrations and litigation in the Asia-Pacific region.

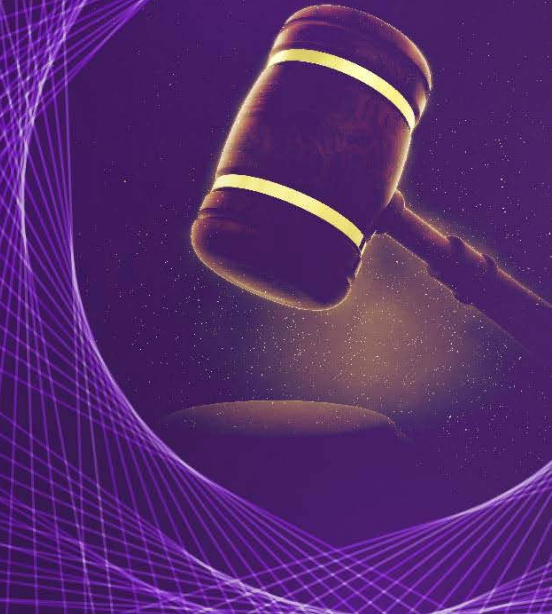
In addition to large-scale transnational disputes, Simon is regularly engaged during project execution as “project counsel” with a mandate of avoiding and minimising claims and disputes. With more than 15 years experience notably in LNG and mining, Simon is a leading industry professional and has an in-depth working knowledge of many of the technical engineering and commercial issues that underpin projects and the claims that commonly arise from them.

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## Registration

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### Contact Us

For enquiries, please contact **Adeline Teo** at [cebcla@smu.edu.sg](mailto:cebcla@smu.edu.sg)

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## Lecture Summary

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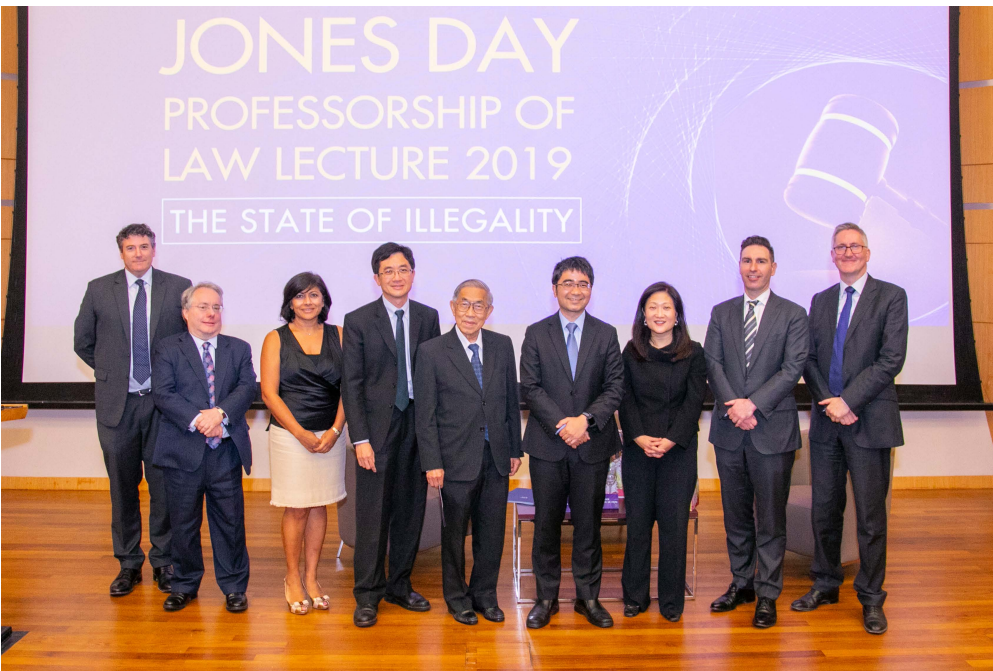
















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