Introduction to HKU Law Series (IX) Professor Scott Veitch

General Questions

How did you first become interested in pursuing a career in jurisprudence?

I enjoyed studying jurisprudence as an undergraduate. I stayed on in Edinburgh to pursue a PhD, and I had some fantastic teachers and great people around me. Eventually, I found that legal practice was not for me, so I stayed on and continued my studies.

How has your research interest developed over time?

It began in my PhD, which came out as a book (*Moral Conflict and Legal Reasoning*, Hart Publishing 1999). It is concerned with the idea of legal reasoning and moral conflict, and it developed over the years as my interests developed. My first job was in Australia, where I got to know more about the different effects of the British legal system and the ways in which it interacted with different kinds of society. So I got more interested in pursuing some broader, sociological approaches to the way in which law works. I suppose that's what kept my interest along the way. I think it's sad, but it's true that the world is often dominated by the sordid acts of violent men. So my interest has been to see what role law and legal institutions play in that. Over time, I just got curious about different aspects of the way in which law operates in practice.

Which of your works do you consider to be your most important contribution?

It's often said for writers that, like with children, you never have a favourite. I think it's also a bit of a cliché, but true, that the most important work you're doing is what you're doing now. It's for other people to assess what makes the work you've published important or otherwise.

I find it curious, though, that some of the work I've most enjoyed doing seems that almost nobody has read. I don't think there's any correlation between what you think is important and what other people think is important. I wrote a little piece in a book edited by Professor Marco Wan, *Reading the Legal Case: Cross-currents between Law and the Humanities* (Routledge 2012). It was an essay on Dr. Jekyll and Mr. Hyde called '*Binding precedent*'.

It was one of the most enjoyable pieces of research and writing I've ever done. I had a strand of a more intellectual project, which was on obligations and the binding nature of obligations. I found in that text something that I don't think other interpreters have found, and that was the language of 'binding and loosing', which was highly significant in it. I brought together my interest in that story and the problems it raises—good and evil, and so on—with some aspects of legal thought that trace back to Ancient Rome and forward to Kant. So there was a whole mix of things in there. I do love the story. So that was great fun.

Your works have a broad breadth—there is not only jurisprudence, but history, political economy, philosophy and much more. How did you become such an erudite scholar? Did you just read a lot?

Yes, well-spotted. I do read a lot, and I suppose when you have a particular issue or problem, when you start investigating it, you find that you can't just look at the legal aspect without understanding its historical genesis, the comparative way in which it developed, or how it interacts with different forms of power—political power, economic power, and so on. So, I think what I've done is try to be true to the subject. To investigate the subject is to be aware that all problems are multi-faceted.

How do interdisciplinary perspectives inform your research in jurisprudence? What difficulties did you encounter in integrating insights from different subjects?

I'm cautious about the term 'interdisciplinary'. I think a lot of people claim to be doing interdisciplinary work because others expect them to say that. In that sense, the term has seen more lip service than reality. Why? Because to do it really well, you have to become an expert in at least two disciplines while trying to combine them. One of the protective barriers of disciplines is that the academy makes it really tough to become an expert in one, let alone two or more.

In that sense, genuine interdisciplinarity is really hard. I think, for me, I haven't achieved that. I see my work less as interdisciplinarity and more as being well-informed. I'd like to be thought of as someone who's well-informed about a range of things rather than necessarily ticking the interdisciplinary box. I want to be true to the problem I might be explaining. That's what counts.

When you want to be well-informed about a particular problem, you realise that so many people have written so much about it, and all these different perspectives are really complex. It takes a lot of time to read the literature on one view and then another view, and so on. The main challenge is finding the time to inform oneself. There are other challenges related to technical aspects, but I think you can address those through careful reading.

Recent Works

You wrote about law and AI in your latest article '*The Perfect Storm: Artificial Intelligence, Financialisation, and Venture Legalism*' (Law and Critique, 2024). Can you elaborate more on the current limits of law in holding the power of AI accountable?

There are two main points to consider. First, a lot of work and investigation on artificial intelligence and digital governance starts with the question: how should law regulate this? My starting point is that law already regulates these areas. The law is all over digital governance and artificial intelligence, but it's not the kind of regulatory law. The doctrines primarily involved in making AI powerful are private law—contract, property, intellectual property, finance, financialization, and corporate law. These areas are all over this and serve the interests of their clients, which are largely commercial. In that sense, when we talk about regulating AI, it's already being done. Much of the power of private law ensures that the power of companies is not amenable to public law regulation.

That said, the second point is that there's something radically different about artificial intelligence: its second-order capacity to become autonomous. It's not just another tool or program to help work efficiently; it can start to reason for itself. Large language models developing agency introduce challenges for legal regulation, as existing concepts and responsibilities will struggle to keep up.

When you combine these two issues—the power of market players and the autonomy of digital technology—you have a perfect storm. This creates a situation where things are being created that can't be regulated. This is the venture legalism point; an *a-legality* that can't be understood as either legal *or* illegal; it's moving beyond current legal frameworks. That's the challenge we're facing.

You published the book '*Obligations: New Trajectories in Law*' in 2021 (Routledge). Why did you want to shift the focus from 'rights' to 'obligations'?

I think one of the reasons was that when I was reading particularly 17th-century material, I found that there was a much more prominent discourse of obligations. I wanted to track that, and I'm not the only person who has done this; Samuel Moyn has done some interesting work on this. What I wanted to try and show was that rights rely on obligations. In fact, rights rely on more obligations and styles of obligations than most rights accounts give credit to.

So, I wanted to investigate this historically and, to an extent, comparatively, because the reality is that rights are a relatively new invention of the West. The idea that we've always had rights is just wrong. We've had incredibly sophisticated systems that have been based not on rights, but on styles of obligation and status, and so on. Chinese legal history is a good example of that, and there are many others.

I wanted to find out and try to explain the role of obligations historically and in the contemporary world, in a way that hasn't been done. I hope to have succeeded to some extent.

How do you conceive the relationship between rights and obligations?

The standard view is that rights and obligations are correlated, especially in private law. That's right. But what you will find, and it was Jeremy Waldron who pointed this out, is that for one right, there are 'waves' of obligations, not just one. So, when one looks at it more sociologically and practically, even in terms of legal doctrines, one particular right – it could be a private law right or it could be a public law right – produces many more obligations.

For example, the right to demonstrate involves a lot of different kinds of obligations and different kinds of actors. What I found was that this goes back in private law to Roman Law. Peter Birks, in his book *The Roman Law of Obligations,* talked about 'packages of obligations'. The Roman legal system didn't have rights in the form that we think of rights today; instead, they had 'actions' and these multiple obligations.

So, one finds an interesting historical trajectory that goes subterranean and has been lost sight of in thinking about rights as the primary issue. Rights *are* primary issues. We have courts of *human rights* but not courts of human *obligations*. What difference would it make if we had that? It is interesting to think about that even just as a thought experiment.

Should we then analyse rights and obligations independently?

You have to do it independently, because at least for certain kinds of systems and cultures, you won't find rights there. In the contemporary world, you have to do it together because we are in the age of rights. You have to start with that. But what these rights depend upon are not only the obligations that one finds correlative in law, but all kinds of other obligations that are perhaps more sociological or sector-specific, existing within institutions that hold the real power of organising society, causing their rights to go out of view. One finds what I call this hybrid of obligation and obedience, whereby we are bound to do many things, even though we don't necessarily have any correlative rights with respect to them.

Your book has been praised by commentators as '*a short but powerful read*', highlighting your '*impressive capacity of condensation*'. How did you manage to convey the most ideas in the least possible words?

I think my ambition is probably to write a haiku in legal theory. That's what I want to achieve. There's an old story about someone writing a letter and apologising for writing a long one because they didn't have time to write a short one. Writing concisely takes more effort. Unfortunately, the academy nowadays gives more kudos to 'more': more is better. I kind of sit at odds with that because I think writing carefully and thoughtfully slows down production rates. In that sense, yes, I do pay a lot of attention to trying to explain complex, difficult, historical ideas in a reasonably concise manner. I'm not sure whether practice makes perfect, but practice makes it better. It's sadly not a natural gift. I do many drafts; it takes a lot of work to reduce things to something comprehensible and interesting.

Teaching

Why do you adopt a thematic approach in organising your co-authored textbook '*Jurisprudence: Themes and Concepts*' (4th edition, with Emilios Christodoulidis and Marco Goldoni, Routledge 2023)?

I think a lot of law students find jurisprudence really boring. One of the reasons they find it boring is because they know there's a lot more to law than what the jurisprudence lecturer tells them about Hart and Dworkin.

And they're kind of curious, but they get turned off by the fact that the teachers not only think this way, but they proceed to shove it down their throats that these are the best ways to do jurisprudence. We took a thematic approach because we wanted to relate the problems of legal theory to the real world. And they really matter. In fact, a lot of the great jurisprudence writers, including people like HLA Hart, were deeply concerned with contemporary issues of the rules of law and society. My co-authors and I

wanted to bring that back in, and we wanted to say, it really matters why legal validity is answered in this respect and that respect. In fact, Hong Kong, for me, has been a great place to explore this. If we ask what's the Basic Law in Hong Kong under 'One Country, Two Systems', or where the rule of recognition is to be found, then these are interesting intellectually but also really practical problems that lawyers in several important cases have to grapple with. That's why we took a thematic approach, because it seemed to us best able to address the real-world problems that jurisprudence ought to be concerned about.

How do you practice this thematic approach in your classroom?

Take distributive justice as an example. We look at Hong Kong and ask the question: Is Hong Kong a just society? Hong Kong is one of the most unequal societies on the planet, right? It's not just because they have a particular theory of the market; it's because they have a particular kind of legal system. The question is, what's the relation between legal rights, legal obligations, legal statuses, and so on to an equal and an unequal society?

So we ask the students to think about the relationship between the legal forms, legal institutions, legal rights, legal duties, and the nature of the injustices and inequalities that one finds in Hong Kong. So that is very practical. One learns more if one is informed by different theories, I think, but they only make sense when one applies them to the real world.

What topics have you chosen for your course 'Advanced Legal Theory'? Why do you choose 'law and values' this year?

Over the years, it's varied. One year, I focused on the common good. Another year, I explored liberty and obligation. Dignity was another theme that we looked at. I chose law and value this year because I thought it was time to do an overview of thinking about what values law promotes, protects, and how they relate to each other. We just started the course, and the first value that we look at is so fundamental that it is usually overlooked. We often think of values like liberty, security, or justice, but the first and primary value involved is communication. Law allows us to communicate with each other.

In the first class, we discussed Robert Cover's fantastic article about how law is a resource for us to communicate with each other. That is at its root. In order for law to communicate, it takes certain forms, but also certain styles, such as narrative and stories and so on. There are some fundamental aspects of the way in which law allows social life to occur before then going on to these more traditional value expectations that one would have of law.

Do you have any advice for students struggling with jurisprudence? In particular, any tips for reading long and difficult jurisprudential texts?

One of the things I do is try not to give students too lengthy pieces of reading. Why? Because I would rather they read a short piece really well than read a long piece really fast and not very well at all. It's better to focus on one good text in a condensed way.

The other thing I would say for students struggling with it is to think about why this matters. For example, the idea of validity: Why does it matter in Hong Kong who decides where ultimately the decision is made with respect to a valid enunciation of the law?

I would say that when one goes across a range of things – it could be legal validity, the use of punishment, or the use of justice – we have to ask ourselves why it matters to you as a prospective lawyer, but ultimately, possibly more important than all this, why does it matter to you as a citizen or as a person who lives in a law-governed society? Why do these things matter? And I think if you start to get an insight into that, then you will see that these writings that seem quite difficult are actually geared towards very real, practical, and important questions.

The field of Jurisprudence

There are laments that general jurisprudence has been a stale field in the past decades and that people are mainly doing exegetical works for the 20th century giants. Do you agree?

Yes and no. I think you're right; there's a lot of exegetical work going on. What often passes for general jurisprudence is an analysis of the nature of the concept of law. To me, it misses out on so much about what law is actually about in society that it's no wonder it's become peripheral, because it doesn't really tell you much about the kind of rule-of-law society that we either live in or want to live in. Again, I think it's just what I was saying earlier. We need to expand our range of vision. To the extent that general jurisprudence is only analysing the concept or the nature of law, then I think we need to expand that and deepen and enrich the analysis.

Why do I say no? It's not the case that jurisprudential work is becoming less important since the 'classics'. Think of possibly one of the most influential strands of jurisprudential inquiry in the last 50 years. It's not the analysis of the rule of recognition; it's feminist jurisprudence. Feminist scholars have probably had more impact on the nature of legal education, the nature of law and society, and pushing for equality and dignity for women, and so on. A lot of that work came out of jurisprudential analysis of the structure of power, the structure of patriarchy, and so on. This attests to the vitality of jurisprudential enquiry.

More philosophical works have been written on specific branches of law. How do you see the relationship between general jurisprudence and special jurisprudence?

The connection would obviously depend on what I just said about general jurisprudence. General jurisprudence is still really interesting, but only if it expands its range of curiosity and interest.

My jurisprudential hero is probably Adam Smith, not because he is an economist, but because of the lectures on jurisprudence he gave in Glasgow. They are immensely rich and varied. This was before disciplines, so it wasn't interdisciplinary in the way that is possible now. But what you have there is a range of insights and curiosity into the historical development of the law. Within that, and even within his work, you can see a focus on legal doctrines as well.

So, the analysis of special disciplines is really important. I think it's crucial if it connects, in a sense, to the general schools of thought. This is to think about how legal doctrines—whether it's in contract law, tort law, or equity and trusts—connect to practices in society. Because only then will you learn more about how the laws actually operate.

In your view, what important issues have yet to be addressed in jurisprudence?

Again, there's a certain dominant but narrow strand in jurisprudence that doesn't take much interest in the rest of the world. I think one of the important things is that jurisprudential scholars should broaden their vision. I think the two areas identified in the textbook—technology, and the environment—are issues that have to be more thoroughly integrated into jurisprudential analysis. One can't think of sovereignty, let's say, today, without considering the important distinction between 'capacity' and 'lawful' sovereignty. The environment changes this; it alters the way particular states have sovereign control over their jurisdiction. If a polluting state next door starts polluting, then they've got a problem. So, the coordinates of the modern jurisprudential landscape are put to question in the context of growing ecological disaster and technological growth.

Building on that, what might be the unique contributions of jurisprudence scholars in examining, for example, environmental issues?

To the extent that jurisprudence as a mode of inquiry necessarily opens up beyond the doctrinal, it allows a kind of reflection and connection to be made with a range of other social forms and practices. So in that sense, jurisprudence is deeply engaged in real problems about human societies. But it also has in a way the privilege of being able to stand back and reflect and see how it connects with other things that are going on. I think jurisprudence is an important way of contributing across a range of areas of inquiry. And it's really important to be open to that.

What changes do you like to see in the field? Do you think jurisprudence should be less adversarial?

I don't mind people just getting on with it. I think people have to follow their curiosity. I would say don't waste too much time on what people think is important, just because they think it. Think for yourself.

I am very liberal when it comes to people wanting to argue with each other. That's fine. But I think the kind of jurisprudence you might have in mind here is the kind of thing where if they can win the argument, then they will learn something more about the law. I don't think they will. They will learn more about which arguments they think win amongst themselves.

There's no point just moving pieces around the board. I think what you need to do is try to understand the way in which this is operating, how it connects with the kinds of issues that are very real in the world. You can make all the arguments you want, but unless they are connecting up with real social, political, and environmental problems, it's not the kind of stuff I would want to do. That's not of real interest to me.

Non-academic questions

What are your non-academic pursuits or hobbies?

I read a lot of poetry, fiction, non-fiction, and history. I travel a lot; being in other places and being exposed to new things is great.

Many scholars say that their career destroys their passion for reading, but you do not seem to among them.

The novelist Martin Amis has this nice line that any writer has to keep the words coming in, it's their fuel. They need the words. And I think that's what we do; and they can come from your own doctrinal areas but I think, consistent with what I've been saying all along, that one learns and becomes better informed when one reads more widely.

Could you recommend three books or films to our audience?

I'm originally from Scotland, and I grew up in Edinburgh. Two novels I think are both wonderful and I would recommend to anyone. One is by Muriel Spark called *The Prime of Miss Jean Brodie*, which is about an eccentric schoolteacher in Edinburgh in the 1930s. A film was made of it in 1969. The second is a book by Robert Louis Stevenson called *Kidnapped*, which is a wonderful story about a boy who is kidnapped and chased around the Scottish Highlands. I think it's not the best novel I've ever read, but it's my favourite, and I read it regularly. These are two books that I would strongly recommend to anyone who's watching this.

As for a film, I watch fewer films than I read books, but one of my favourites is *All the President's Men*, which is about the Watergate investigation by journalists into Nixon's activities during the scandal. It's fantastic.

Relay Question

We would like to invite you to raise a question for the next *Intro to HKU Law* interviewee (without knowing who that is). What would be your question?

What matters most to you academically?

END.

Interview hosted by Yiran Shi on February 11, 2025; filmed and edited by CHE; coordinated by Dr Yang Lin