

Preface to Special Issue

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Socio-legal Scholarship on Southeast Asia: Themes and Directions

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This special issue is the result of a workshop, *Socio-legal Research on Southeast Asia: Themes, Directions, and Challenges*, organised by Lynette J. Chua and Andrew Harding at the Centre for Asian Legal Studies (CALs) and funded by the National University of Singapore.¹ As the first in a series of academic gatherings planned to advance socio-legal research on Southeast Asia, the workshop brought together leading scholars in the field and researchers from the region. Its goals were to foster an academic community, articulate potential research directions, and thus provide the bases for subsequent conferences and projects that engage the broader field of socio-legal studies while giving voice to Southeast Asian perspectives and experiences.

Informed by the December 2012 workshop discussions, Chua and Harding decided it was important to reach out to different audiences in several ways. One was to bring socio-legal studies to the attention of legal academy scholars interested in Southeast Asia but who may not be familiar with or interested in this interdisciplinary field. Hence, this special issue was conceived.² It opens with an article by Chua, “Charting Socio-legal Scholarship on Southeast Asia: Key Themes and Future Directions”, which examines the state and future of

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² The other audience is the socio-legal scholarship community at large. To begin this other aspect of the outreach, Chua and Harding, together with David Engel, are planning to feature select articles from the second, follow-up conference in December 2014 in a special issue of a journal with a broader socio-legal studies readership.

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socio-legal studies on Southeast Asia. On the one hand, Chua finds that extant research has greatly enriched socio-legal scholarship, especially in the areas of the intersection between state law and Islamic and/or customary norms, women's equality and legal status, and the natural environment. On the other hand, she argues that growing bodies of work along the major themes of legal pluralism, law and development, and dispute processing demonstrate the potential of Southeast Asian research to advance important debates and sub-fields in socio-legal scholarship at large.

In doing so, Chua situates this special issue and its five other articles in relation to longstanding and emerging research patterns. These five articles consist of contributions from four participants of the December 2012 workshop³ and one from the 2013 CALS Young Scholars' Workshop, which was an initiative that the December 2012 participants had proposed.⁴ Together, the five contributions highlight recent socio-legal work based on a variety of sites – Thailand, Vietnam, Singapore, Indonesia, and the Philippines. The authors pursue a diverse range of research questions, and they rely on different methods, such as ethnographic interviews and archival research, as well as qualitative and quantitative analyses.

The first article is by Frank Munger, a scholar well known for his empirical research on law and social change in Thailand, as well as his broader contribution to the Law and Society Association headquartered in the United States.⁵ In the present article, "Revolution Imagined: Cause Advocacy, Consumer Rights, and the Evolving Role of NGOs in Thailand", Munger examines the founding and evolution of a "Thai-style" NGO dedicated to consumer protection. Based on in-depth interviews with legal practitioners, activists, and members of the judiciary and government, government documents, and media reports, Munger traces features of Thai NGO-based advocacy from the October 1973 student uprising to the present and analyses how the strategy of litigation is shaped by Thai history and politics. His article connects with broader theoretical discussions about the role of cause lawyers, the dynamics of social movements and the rule of law, while demonstrating the importance of rich, focused case studies.

³ Frank Munger, *Revolution Imagined: Cause Advocacy, Consumer Rights, and the Evolving Role of NGOs in Thailand* (2014); John Gillespie, *New Transnational Governance and the Changing Composition of Regulatory Pluralism in Southeast Asia* (2013); Helena Whalen-Bridge, *Conceptualisation of Pro Bono in Singapore* (2014); Stacia L. Haynie & Tao L. Dumas, *The Philippine Supreme Court and Regime Response* (2014).

⁴ Agung Wardana, *Alliances and Contestation in the Legal Production of Space: The Case of Bali* (2014).

⁵ Munger has been President of the Law and Society Association (1999–2000) and former General Editor of the *Law & Society Review*, among other positions.

Similar to Munger, John Gillespie also draws from extensive qualitative fieldwork in “New Transnational Governance and the Changing Composition of Regulatory Pluralism in Southeast Asia”. He analyses how Transnational Production Regimes (TPRs) with Northeast Asian and Euro-American origins produce different regulatory responses in Vietnamese firms. Gillespie is an expert on the legal system of Vietnam, a pioneer in the field of regulatory theory, and the author of numerous publications on commercial law, law and development, and legal transfers. In this article, he unpacks how TPRs are absorbed and integrated into the organisational fabric of Vietnamese firms in varying degrees. He deftly grounds his article in the diverse scholarship on legal pluralism and builds on more recent responses to this by regulatory and systems theorists.

Whereas Gillespie argues that a newer form of legal pluralism – regulatory pluralism – appears as a result of interactions between the TPRs and Vietnamese legal and political norms, Agung Wardana details a controversy over spatial planning regulation to highlight a classic type of legal pluralism – one involving tensions between state law and customary practices in a decentralised Indonesia. Also based on qualitative research and the use of case studies, Wardana’s “Alliances and Contestation in the Legal Production of Space: The Case of Bali” examines whose interests are served by leveraging the dynamics of legal pluralism in contemporary Bali and how space is produced in a pluralistic legal setting. He demonstrates the complexity inherent in the tourism industry, which provides the main source of income for the province of Bali, as well as the sources of corruption. These competing agendas present particular challenges for the concept of spatial planning and its practical development in local contexts.

While the three articles above relied on a range of original data, especially in-depth interviews, Helena Whalen-Bridge’s article, “Conceptualisation of Pro Bono in Singapore”, takes a different approach with its use of archives. To analyse the discourse on the role of lawyers in providing legal services to indigent persons in Singapore, Whalen-Bridge conducts a comprehensive review of newspaper archives. By employing this methodology, she demonstrates a different perspective that would not have been apparent from a traditional legal analysis of court documents or legal instruments. Her article also shares links with Munger and his concern for the roles of social actors in achieving social change or justice. She does not assume that “pro bono” is a homogenous concept but, while recognising its origins in the United States, carefully considers what it has come to mean in the Singaporean context. She finds that language usage to describe such legal services has shifted over time, from free legal services and legal aid to the inclusion of the term “pro bono”. She argues that these changes are coupled with increased discussions of access to justice, representing a move towards a more obligatory concept of indigent legal

services. However, Whalen-Bridge differs from Munger in that she focuses on the role of elite legal actors, namely lawyers, while Munger considers the actions of those who are not necessarily situated within formal political institutions.

In this respect, Whalen-Bridge shares affinities with Stacia L. Haynie and Tao L. Dumas, who are interested in the behaviour of another type of elite legal actor, the judiciary. In “The Philippine Supreme Court and Regime Response, 1970–2000”, Haynie and Dumas use quantitative analysis of the decisions of the Philippine Supreme Court over multiple decades, from the Marcos years through the first few years of Joseph Estrada, to test the ability of the Filipino government to succeed in litigation compared to individuals and businesses as the popularity of different presidents surges and wanes. Building on Haynie’s previous research and database on the Philippine’s Supreme Court in particular, the authors engage with broader debates sparked by Galanter’s seminal law and society article on “Why the Haves Come Out Ahead”.⁶ Their results suggest that the Supreme Court, like other political institutions in the Philippines, responded to the rise and fall of political personalities that dominate the country’s distribution of power. The use of quantitative techniques as another methodological approach within law and society scholarship offers another perspective on Southeast Asia, given that such legal data is increasingly accessible and available online.

While the coverage of this special issue is limited, all six articles reflect a key tenet in socio-legal research, that is, the understanding of law as a social institution and legal actors as socially embedded. They also showcase an in-depth understanding of local contexts, and the diverse research enquiries and fruitful analysis that socio-legal research on Southeast Asia can offer. We hope that this special issue will contribute to the development of Southeast Asian socio-legal scholarship and an accompanying community of peers.

As guest editors, we want to express our gratitude to Andrew Harding and Wang Jiangyu, chief editors of the *Asian Journal of Comparative Law*, for their commitment to and belief in this special issue. We also thank David Engel, Jason Bonin, and the anonymous reviewers of the articles. Finally, we are grateful to Regana Zara Mydin, our excellent and dedicated administrator at the Centre for Asian Legal Studies, and student assistants Sumithra Dhanarajan, Gabriela Marti, Michael Grainger, Jannelle Lau, and Lam Pak Nian.

⁶ Marc Galanter, “Why the Haves Come Out Ahead: Speculations on the Limits of Legal Change” (1974) 9 *Law & Soc’y Rev.* 95.