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What is Finance for? A Functional Framework for Finance and Law

Professor Thomas Coendet



Date: November 22, 2018 (Thursday)

Time: 1:30pm – 2:30pm

Venue: A723, 7/F, Cheng Yu Tung Tower, Centennial Campus, HKU

Language: English

Abstract:

What is finance for? Ten years after the financial crisis this question remains of pivotal importance. Does the financial system serve society, the economy or just itself? And how does any of these three functional directions affect law and financial regulation? The seminar will address these questions from a law and finance perspective. It will first map the post-crisis discussion on the functions of finance, arguing that we can discern two approaches to finance: a material approach that understands finance as a means to achieve particular social goals and a formal approach that reads finance through the lenses of welfare and market economics. Drawing on Max Weber, the main argument will be that this material/formal distinction replicates in the legal sphere and thus can be used to build a functional framework for finance and law. How such a framework plays out in legal analysis will be illustrated with the *Kay Review of UK Equity Markets*, for the economic perspective, and the Law Commission's report on *Fiduciary Duties of Investment Intermediaries*, for the legal perspective.

About the Speaker :

Thomas Coendet is Shanghai Distinguished Professor (Oriental Chair) at KoGuan Law School of Shanghai Jiao Tong University. He holds a MJur from the University of Oxford, and a PhD from the University of Berne (Switzerland). Prior to joining KoGuan Law School, he held a series of prestigious fellowships in Europe, including a Postdoc at Goethe University Frankfurt and a Visiting Research Fellowship at the University of Oxford and the University of Paris I (Sorbonne). He also worked as an attorney for banking, finance, and regulatory. His publications include a book on comparative legal reasoning and a wide range of journal articles and chapters on legal theory, judiciary, banking and contract law, both in English and German. He also serves as an editor of *Ancilla Iuris – Constellations of Law* and the *Asian Journal of Law and Society*, and is an Honorary Member of the Romanian Association for Law and European Affairs. For his paper *Legal Reasoning: Arguments from Comparison*, he received the ARSP Best Article Prize 2017.