

PUZZLES IN THE LAW OF ECONOMIC DURESS AND LAWFUL ACT DURESS

TUESDAY 8 APRIL 2025 || 4PM TO 5.15PM || SEMINAR ROOM 3



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Despite two recent UK Supreme Court decisions, several fundamental puzzles remain in the law of economic duress and so-called 'lawful act duress'. Economic duress is plagued by terminological ambiguity, leading to substantive confusion. In particular, judges and commentators have elided three separate requirements, namely (i) an illegitimate threat, that (ii) subjectively caused the claimant to contract, where (iii) objectively there was no reasonable alternative. Thus we find judges opining that, 'not every threat to breach a contract is illegitimate', when on closer examination they mean 'not every threat to breach a contract meets conditions (ii) and (iii).' This in turn has led to the suggestion that it might be legitimate to threaten to breach a contract (ruling out a finding of economic duress), even where conditions (ii) and (iii) are met, for example if the defendant was acting 'bona fide' or for 'reasonable motives'. This seminar will address this suggestion, and demonstrate that it is muddled, and unfortunate in undermining contractual rights and the need for precision in legal reasoning. Similarly, despite the seminal decision of the UK Supreme Court in *Pakistan International Airline Corporation v Times Travel (UK) Ltd* (2021) on so-called 'lawful act duress', uncertainties remain – are the two examples given in the majority judgment exhaustive of the concept, or merely illustrations? What is the difference between 'highly reprehensible' conduct and 'bad faith', particularly in the context of gross disparity of bargaining power? The UK Justices referred in detail Singaporean law – can it help provide the answers?

PROGRAMME

- 4.00PM** Presentation by Prof Janet O'Sullivan
- 5.00PM** Q&A moderated by Prof Mindy Chen-Wishart
- 5.15PM** End of event

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SPEAKER



Janet O'Sullivan
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Selwyn College, Cambridge

Janet O'Sullivan is a Professor of Private Law, University of Cambridge, and is Vice-Master and Director of Studies in Law at Selwyn College, Cambridge. She gained a triple first in Law as an undergraduate in Cambridge, graduating first in her year in 1988 and receiving several university prizes. She practised as a commercial solicitor with Slaughter and May after graduating, before returning to Cambridge to take up a teaching fellowship at Selwyn in 1994 and a lectureship in the Law Faculty two years later. In 2005 she was awarded the Pilkington Teaching Prize for excellence in university teaching. She specialises in the Law of Contract and the Law of Tort, in particular the intersection of the two, concurrent liability and professional negligence, and has published extensively in these areas, with articles in leading journals including the Law Quarterly Review and the Cambridge Law Journal, and numerous edited collections. Janet is the author of a very successful OUP textbook on the Law of Contract, now in its eleventh edition. Last year she organised a highly successful symposium to mark the 25th anniversary of the Contract (Rights of Third Parties) Act 1999. She has three adult children, one of whom has Down syndrome, and lives in North Essex.

CHAIRPERSON



Professor Mindy Chen-Wishart
NUS Law

Mindy Chen-Wishart was Professor of the Law of Contract and Dean of Law at Oxford University, Fellow of Merton College until September 2023. She has joined the National University of Singapore full time after many years as a fractional appointment. Mindy is also an Honourary Professor at Otago University and was awarded an Honourary Doctorate in 2023. She has also taught in China, Singapore, Hong Kong, Taiwan, New Zealand, Thailand, and Germany. She was born in Taiwan and lived in NZ for 21 years. She will remain a Visiting and Emeritus Professor at Oxford, and an Emeritus Fellow at Merton College. Mindy had received the Conference's Lifetime Achievement Award at KCON in July 2024 (KCON is the largest annual international academic conference dedicated to contract and commercial law). Mindy has delivered many international keynote lectures around the world, is a respected teacher, and a leader in legal education, and diversity and inclusion.