to those who would be specialists in, say, legal history, constitutionalism or the criminal process to work on. Professor Yeo's forte is Criminal Defences (Chapters 16–32), a topic which he has written extensively about in jurisdictions (apart from Singapore) as varied as Malaysia, Australia, India, Myanmar, Sri Lanka and Bhutan. Professor Yeo's chapters bear the marks of this multi-jurisdictional expertise. They are comparativism writ large. One other signature of his writing could perhaps be attributed to his lifelong dedication to his role as an educator of the criminal law. One gets the impression on reading his chapters of a patient and thorough teacher explaining each and every nuance of the law in a step-by-step and unhurried manner. Professor Chan, the relative youngster in this company, sweeps up the rest of the chapters. His particular skill is his lean and to-the-point prose, which stands him in good stead for topics which students and the uninitiated tend to consider "difficult" such as Causation (Chapter 5), The Concurrence Principle (Chapter 6), Abetment and Criminal Conspiracy (Chapter 33), Joint Liability (Chapter 34), and Attempts (Chapter 35). Professor Chan's treatment gives the reader the impression of a mind which has sorted out the potential complexities with near mathematical precision, and which is clear as crystal on the what the bottom lines are.

The works of Professors Yeo, Morgan and Chan have been the closest thing to an authoritative text on Singapore criminal law since the publication of the first volume in 2007. This work which for the first time trains its sights on Singapore alone promises to be the primary work of reference for a good many years to come. There simply is no other like it.

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Standing in Private Law: Powers of Enforcement in the Law of Obligations and Trust by Timothy **Liau** [Oxford: Oxford University Press, 2023. XXXVI + 305 pp. Paperback: £110.00]

Rigorous legal theoretical work should explain and justify not just substantive legal rules, but also the procedural superstructure within which those rules are invoked, litigated, and given effect. Dr Timothy Liau's monograph, *Standing in Private Law: Powers of Enforcement in the Law of Obligations and Trusts*, is an example of this. Against the long-standing view that standing rules are either absent from or inconsequential to private law, Liau argues that courts and commentators should recognise the existence of a general rule of standing in private law – only the primary right-holder has standing to enforce his rights – with several exceptions.

Standing in Private Law consists of three parts. Part I – "Conceptualising Standing" – describes and delineates Liau's account of standing in private law. After some methodological preliminaries (Chapter 2), Liau defines standing as a claimant power to hold another accountable before an adjudicative body, like a court, thereby subjecting that person to the court's power (jurisdiction) (Chapters 3–5).

Central to this conceptual definition are two claims. First, standing differs from Hohfeldian (claim-)rights, with correlative duties. Instead, it is a power (to sue),

which subjects another to a liability (to a court order) (at 32–34). Second, a claimant's power to sue differs from a court's power to issue remedial orders. Private law proceedings typically invoke three concepts: the claimant's private law right, the claimant's standing to sue, and the court's power to award remedies (at 55–58). These concepts are usually related – having a right generally gives you standing to sue, and suing triggers the court's jurisdiction to try the dispute and thus its power to award remedies – but they are distinct.

The discussion in Part I culminates with Liau setting out what he calls a "General Standing Rule" (hereafter, "GSR"):

> [**GSR**] Only the primary right-holder has the standing (a power) to sue to enforce his rights (and no one else)

The GSR is subject to three caveats. For starters, the GSR is merely "a", rather than "the", standing rule in the law of obligations (at 75, 90). Moreover, the GSR grants standing to "apparent" rather than actual primary right-holders, this being an "epistemic" limit to the application of the rule rather than a qualification demanded by principle (at 96). Finally, the GSR is subject to important exceptions. If rights and standing are separate, one can, conceptually, have rights without standing – and conversely, standing without rights (at 91–93).

In Part II – "Standing's Doctrinal Distinctiveness" – Liau demonstrates the doctrinal implications of recognising the GSR, and the possibility of exceptions thereto, across the law of obligations.

Chapters 6 and 7 focus on contract law. They cover the role of standing in the "doctrine" of privity, which, on Liau's account, elides what are really three aspects of the idea of privity. The first two are widely accepted: third parties to a contract cannot acquire primary contractual rights and cannot obtain secondary rights to remedies for breaches of such primary rights (at 106–109). By contrast, the third aspect – "privity's standing aspect" – is overlooked, and is really just one manifestation of the GSR: only the promisee has standing to sue to enforce his contractual rights (at 115). For Liau, acknowledging privity's standing aspect is important because it is the GSR, not the fact that third parties lack primary or secondary rights, that should have been the target of statutory reform by the Contracts (Rights of Third Parties) Act 1999 (UK) (which Singapore's 2001 Act is largely modelled on). More precisely, giving standing rather than rights to third parties would have solved many of the perceived doctrinal problems which the privity reform sought to address: cases involving duties to pay liquidated sums to third parties, terms restricting third-party liability, and damages for "transferred losses" (at 118–132). And it would have better responded to the concerns that prompted reform: gaps in enforcement, where real and legitimate, rather than gaps in contractual rights (at 133–139).

Unjust enrichment and trusts are the focus of Chapters 8 and 9. Here, Liau targets the rule in *Re Diplock* (*Ministry of Health v Simpson and others*) [1951] AC 251 (HL, Eng) ("*Re Diplock*"), allowing a deceased's next-of-kin to claim assets distributed by the personal representative of the deceased's estate under a void will, even against good faith recipients. *Re Diplock* is typically viewed as an anomalous unjust enrichment claim, because it places recipients of the estate's assets in a worse position than recipients of trust assets, who are subject to personal claims in

knowing receipt (at 144–145). It also flouts the directness requirement bundled into unjust enrichment's "at the expense of" element and grants proprietary restitution to claimants with only personal rights (at 148–158). On Liau's account, however, *Re Diplock* is not an anomalous claim but a justifiable exception to the GSR. While generally only those entitled to restitution may claim it, exceptionally others may do so on their behalf and for their benefit. This explains why *Re Diplock* flouts no directness requirement, and why the next-of-kin could follow and trace substitutes of the estate's property: they were enforcing the estate's entitlement to restitution and not their own (at 158–163). Moreover, *Re Diplock*'s counterpart in equity is not knowing receipt but the *Vandepitte* procedure, enabling trust beneficiaries to enforce the trustee's rights against recipients of trust property (at 163–164 and 176–181). And being exceptions to the GSR, *Re Diplock* and *Vandepitte* are available only in "special circumstances", for example, when a personal representative or a trustee had a duty to enforce the estate's or trustee's rights, but were unwilling or unable to do so (at 164–167 and 183–185).

Chapter 10 turns to tort. The highlight here is not the importance of standing's distinctiveness but the limits thereof. Liau acknowledges that the GSR alone cannot explain situations where third parties can bring claims against tortfeasors for infringements of the victim's primary rights. These include claims that a deceased's dependents have against his killer (see Fatal Accidents Act 1976 (UK) ss 1(1), 1(2); Civil Law Act 1909 (2020 Rev Ed) ss 20(1), 20(2)), that beneficiaries of a deceased's intended will have against an errant solicitor (*White and another v Jones and another* [1995] 2 AC 207 (HL, Eng)), and that infants have for their disabilities caused by pre-birth torts committed against their parents (see Congenital Disabilities (Civil Liability) Act 1976 (UK) s 1(1)). In these cases, claimants are being conferred a secondary right to damages for breaches of the tort victim's primary rights, in addition to the standing to enforce those secondary rights. Standing alone is insufficient: if the claimant were simply suing the tortfeasor for breaching the victim's primary and secondary rights, damages would go to, and would be calculated by reference to losses suffered by, the victims, not the claimants (at 237).

Finally, in Part III, Liau sets out to justify the GSR and its exceptions. Chapter 10 provides several reasons which, either individually or in combination with each other, can justify the GSR (at 242). Seven "non-instrumental reasons" are offered (at 246–259). Six involve the primary right-holder's interests: the value of being in charge of one's own life, the value of autonomy to the same ends, the concern that right-holders are not forced to participate in litigation and to receive remedies, the value of determining the normative relevance of one's rights, the ability to forgive the infringements of one's rights, and the need to respect the privacy that one undoubtedly loses by being involved in legal proceedings. A seventh non-instrumental reason is the duty-bearer's interest not to be sued by all and sundry. We are then given five "instrumental reasons" to support the GSR (at 259–265). The GSR weeds out suits brought by indignant busybodies or others with inappropriate motivations, facilitates settlements by directing duty-bearers to bargain only with the right-holder, enables suit only by persons most likely to have best access to the relevant evidence, keeps enforcement out of the state's hands, and is consistent with the common law public policy against maintenance and champerty.

In Chapter 11, Liau then sets out three justifications for exceptions to the GSR, which cancel or outweigh the justifications for the rule. The first justification for

exceptions is the primary right-holder's consent (at 280–288), which undercuts most of the GSR's non-instrumental justifications. This justification helps motivate the exceptions to privity's standing aspect. The second justification for exceptions is the primary right-holder's incompetence to enforce his rights. Physical incompetence to sue or consent to another suing, coupled with evidence that the right-holder would surely have consented to the latter if he could, operates like consent (at 289–291). An analogous situation of chronic right-holder vulnerability precluding effective consent is also mentioned (at 295–298). Legal incompetence justifies exceptions in a different way: paternalism is justified over infants or the infant-like, and this overrides the justifications for the GSR which apply in relation to them (at 291–295). These justifications seem to support most of the exceptions to the GSR in tort. The third justification for exceptions is "duty-bound standing", or one's legal duty to enforce one's rights or entitlements (at 298–304). Here, the very reason the law gives someone a right or entitlement – that he holds it for the benefit of another – implies that the justifications for the GSR aimed at his interests do not apply here insofar as they conflict with the other's interest, that he should thus also have a duty to exercise his standing for the other's benefit, and that the other may justifiably be given standing where that does not happen. It is this justification that animates the exceptions to the GSR in unjust enrichment and trust law.

Standing in Private Law is powerful stuff. Liau's claims are built on firm theoretical soil, and his case is confidently and persuasively made, with significant real-life doctrinal implications. Judges, as well as scholars working within the law of obligations, are likely to find his views on privity, *Re Diplock*, and three-party tort claims convincing if not compelling. For the rest of us, the book's conceptual and theoretical contributions remain valuable. The idea that private law does and should have standing rules which are distinct from the phenomenon of having claim-rights, and which rests on separate justifications, is useful both as a source of inspiration for analogical reasoning and as datum for intra-systemic doctrinal comparison. At the very least, it is liable to prompt questions about the scope, limits, and generalisability of Liau's claims within common law legal systems. It has prompted four such questions for me.

First, is the GSR a jurisdictional requirement like standing rules in public law? If so, a judgment entered for a claimant without standing under the GSR is *ultra vires* and void. The difficulty with this jurisdictional view is that claimants who clearly lack standing under the GSR (because they are not primary right-holders) may still obtain valid default judgments against absentee defendants. Liau's response is that such claimants may still be "apparent primary right-holder[s]" (*ie*, claimants whose statements of claim will survive a striking out) and that the GSR should be refined to give them standing (at 96–97). But this refinement does not entirely avoid the difficulty. Striking out applications are brought on the defendant's initiative, not the court's, so default judgments may be entered against absentee defendants even if claimants lack even apparent primary rights. Such default judgments are not void, only capable of being set aside by the defendant, and in setting aside applications, the merits of the claimant and defendant's cases are only relevant factors weighed alongside other procedural concerns like delay (see Civil Procedure Rules 1998 (SI 1998 No 3132) (UK) Rule 13.3(2); *U Myo Nyunt (alias Michael Nyunt) v First Property Holdings Pte Ltd* [2021] 2 SLR 816 (CA) at [64]). This difficulty, we should note, does not arise in public law, where standing may properly be viewed

as jurisdictional. Judicial review applicants must apply for leave, which will only be granted if, in addition to standing, they also have an arguable case (see *Sharma v Brown-Antoine and others* [2007] 1 WLR 780 (PC, T&T) at [14(4)]; *Public Service Commission v Lai Swee Lin Linda* [2001] 1 SLR(R) 133 (CA) at [22]).

Second, to what extent is the GSR a "general" standing rule across private law? Liau expressly limits the GSR only to the law of "interpersonal obligations" (at 17), and even there, he "do[es] not claim that [the GSR] is the only standing rule" (at 75). This seems sensible: there are at least two kinds of proceedings which seem to involve private law obligations, yet do not require those empowered to commence these proceedings to possess even apparent primary-rights upon commencement. There are proceedings for negative declarations or declarations of non-liability in contract, tort, or restitution (see *eg*, *Messier-Dowty Ltd and another v Sabena SA and others* [2000] 1 WLR 2040 (CA, Eng) at [42]; *Ashlock William Grover v SetClear Pte Ltd and others* [2012] 2 SLR 625 (CA) at [29]). Defendants seek these to clarify their legal positions or to pre-empt proceedings in jurisdictions more advantageous to the claimant. There are also proceedings where claimants plead choice-of-law rules and foreign law to establish claims in contract, tort, or restitution. Choice-of-law rules must be pleaded to take their effect, which involves excluding what would otherwise have been parties' rights and duties under the *lex fori* and replacing them with the rights and duties the foreign applicable law would give them (*Brownlie v FS Cairo (Nile Plaza) LLC* [2022] AC 995 (SC, Eng) at [112]–[116]; *EFT Holdings, Inc and another v Marinteknik Shipbuilders (S) Pte Ltd and another* [2014] 1 SLR 860 (CA) at [57]–[58]). To his credit, Liau has expressly acknowledged the GSR's inapplicability to these proceedings in discussions. It would be interesting to hear what, in his view, the appropriate standing rule is instead.

Third, is there room for a "public interest" exception to the GSR? Liau says his three exceptions are "not exhaustive or definitive" (at 305), but save for legal incompetence, those exceptions rest on reasons that cancel rather than outweigh his justifications for the GSR. Outweighing, however, is what a "public interest" exception would entail: the logic would be that, where a private law dispute raises a legal question of general public importance, a right-less enforcer might be given standing to sue even if doing so compromises the right-holder's autonomy, interests, or privacy. A plausible response might be that such a "public interest" exception is precluded by the GSR's instrumental justifications – like the need to ensure that claimants have proper motivations or are best-equipped to adduce all relevant evidence – because sacrificing these may undermine the accuracy (and thus defeat the purpose) of judgments on questions of public importance. But there are also plausible counters. On questions of public importance, right-holders will, by definition, not be the only claimants with proper motivations. Moreover, evidential accuracy is usually a concern only at first instance rather than on appeal where legal questions of public importance take centre-stage (see UK Supreme Court Practice Directions 3 para 3.3.3; Rules of Court 2021 O. 18 r. 29(5)(*a*)), which may justify transferring standing to others at that stage.

Finally, why does the GSR differ from the standing rule in public law, which requires the applicant to have a "sufficient interest" in bringing proceedings? A difference in general rules applicable in different fields must rest on some essential feature that distinguishes these fields from each other. The cases reveal two candidate

features. The first feature, which Liau seems inclined to endorse (at 16–19), concerns the field's substantive rules. While private law protects legal rights, public law is generally concerned with redressing "wrongs" or "misuses of public power" (*R v Somerset County Council ex p Dixon* [1998] Env LR 111 (HC, Eng) at 121). Even if unlawful administrative decisions infringe no rights, good governance requires that they be subject to challenge, and public law standing rules must permit this. Conversely, since private law protects rights, it need only give right-holders standing. The second feature involves the field's remedial norms. While in private law remedies follow from rights, with courts having a discretion only in fashioning the appropriate remedy, public law remedies are never an entitlement, with courts having a discretion to delay or even deny them (recently placed on statutory footing in the UK in Senior Courts Act 1981 (UK) s 29A, and in Singapore in Rules of Court 2021 O. 24 r. 6(5)). If remedial discretion in public law is "a necessary counterbalance to the widening of rules of standing" (*Walton v Scottish Ministers* [2013] Env LR 16 (SC, UK) at [103]), the lack of remedial discretion in private law might, conversely, justify narrower standing rules.

There is, of course, a complication – which for Liau's thesis may be more an opportunity than a challenge. That is: these features may not truly be distinguishing features of public or private law, which, in turn, might make it difficult to argue that their standing rules should necessarily differ. For example, in public law, administrative decisions targeted at an individual's legally recognised interests look very much like rights-infringements and, where unlawful, quashing orders usually follow as of right. This, in turn, seems to have warranted narrower interpretations of public law's "sufficient interest" standing rule: only those formally subject to the decision will have standing, because they are typically best-equipped to challenge the decision and because third party intervention might compromise their interests and privacy, unless it seems practically impossible for them to sue (see J Bell, "The Resurgence of Standing in Judicial Review" (2024) 44(2) OJLS 313 at 319–323). The similarities between this narrow interpretation of "sufficient interest" and Liau's GSR and its exceptions are hard to miss. It may thus be worth asking whether a comprehensive account of standing in private law should be developed in isolation from standing in public law. Perhaps there might be a general law of standing, *simpliciter*, with different standing rules for different categories of proceedings that cut across public and private law.

That *Standing in Private Law* prompts these kinds of questions is, as I see it, a testament to its quality: it is what one expects genre-defining work to do. In a book launch earlier this year, one commentator remarked that Liau had, with this monograph, essentially "invented a new field". I doubt this is an overstatement. *Standing in Private Law* is a remarkable piece of work. It is elegant and erudite, and sure to enrich – or at least agitate – its reader's view of private law and its role within common law legal systems.

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