



# CMEL

THE UNIVERSITY OF HONG KONG  
CENTRE FOR MEDICAL ETHICS AND LAW

The Centre for Medical Ethics and Law (CMEL) develops new ideas and solutions in response to the big ethical, legal and policy questions of medicine and health.



**SEPTEMBER 2021**  
**NEWSLETTER**

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## EDITORIAL

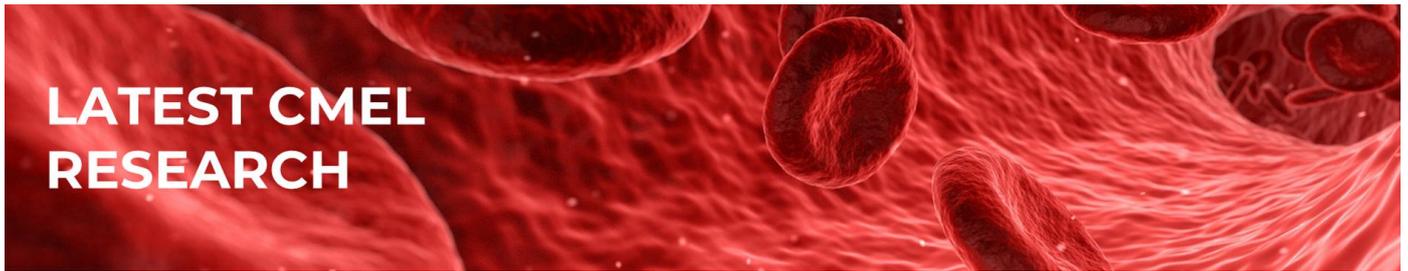
### CHILD ABUSE PREVENTION, DATA PROTECTION AND OTHER UPDATES

On 10 September 2021, the Law Reform Commission (LRC) of Hong Kong published a [report](#) which recommends the introduction of a new offence that will focus on the protection of children and vulnerable persons. The proposed offence will impose criminal liability on those who fail to take "reasonable steps to protect" a child or a vulnerable person where the child's or vulnerable person's death or serious harm results from an "unlawful act or neglect" regardless of whether they did or may have done the unlawful act or neglect provided that the requirements of the offence are satisfied. The proposed offence will apply to, among others, those who owe the victim a duty of care, which may include healthcare personnel. The report follows a study by an LRC sub-committee chaired by [Ms Amanda Whitfort](#) from the Law Faculty. CMEL's Co-Director [Dr Philip Beh](#) is a member of the sub-committee.

In this month's newsletter, health law updates include a [guidance issued by Hong Kong's Office of the Privacy Commissioner for Personal Data](#) to explain the values and ethical principles that should be observed in the development and use of Artificial Intelligence (AI), as well as to assist organisations in complying with the provisions of the Personal Data (Privacy) Ordinance. Readers may also like to note that [Mainland China's Personal Information Protection Law \(PIPL\)](#) has been passed. This legislation, which contains provisions on extraterritorial application, is expected to have far-reaching implications. Additionally, readers may wish to note a recent Hong Kong court case in which the claimant sued his former employer for discrimination by reason of his disability which arose from illness but failed to establish discrimination.

Lastly, we are pleased to present new publications, policy paper and media interviews of CMEL's Co-Directors and faculty

members on topics that include genetics and genomics research, COVID-19 countermeasures and coroner's inquiry.



## BLOG ESSAY

"Courts, Proportionality and COVID-19 Lockdowns" [Open Access]

By [Eric C. Ip](#)

In *IACL-AIDC Blog, International Association of Constitutional Law* (2021)

<https://blog-iacl-aidc.org/covid19-future-constitutionalism/2021/9/23/courts-proportionality-and-covid-19-lockdowns>

## JOURNAL ARTICLES

"Germline Genome Editing: Moratorium, hard law, or an informed adaptive consensus?" [Open Access]

Our [Terry Kaan](#) is the lead author.

In *PLOS Genetics* (2021)

<https://doi.org/10.1371/journal.pgen.1009742>

"The Genetic Discrimination Observatory: confronting novel issues in genetic discrimination" [Open Access]

Our [Calvin W. L. Ho](#) is a co-author.

In *Trends in Genetics* (2021)

<https://www.sciencedirect.com/science/article/pii/S0168952521002286>

## POLICY PAPER

"Framework for Involving and Engaging Participants, Patients and Publics in Genomics Research and Health Implementation" (POL 006/ v1.0: July 2021) [Open Access]

By the Global Alliance for Genomics and Health

[https://www.ga4gh.org/wp-content/uploads/GA4GH\\_Engagement-policy\\_V1.0\\_July2021-1.pdf](https://www.ga4gh.org/wp-content/uploads/GA4GH_Engagement-policy_V1.0_July2021-1.pdf)

Our [Calvin W. L. Ho](#) is a contributor.



### WEBINAR ON MAINLAND CHINA'S PERSONAL INFORMATION PROTECTION LAW

Please refer to the "Medical Law Updates" section below.

### WEBINAR ON PAEDIATRIC VACCINE TRIALS

As mentioned in the August issue of our newsletter, CMEL's Co-Director [Dr Calvin W. L. Ho](#) will be speaking on the ethical and legal considerations in initiating paediatric vaccine trials as part of a panel entitled "*Initiating clinical trials in children—Is there a right time?*" together with other panel members [Dr Robert W. Frenck, Jr.](#) (Cincinnati Children's Hospital Medical Center, USA) and [Dr Isao Miyairi](#) (Hamamatsu University School of Medicine, Japan). [Dr Steven Joffe](#) (University of Pennsylvania, USA) will be the moderator. The panel is part of a webinar series entitled "*Advancing international pediatric clinical research: Informing the future from COVID-19 lessons learned*" organised by [MRCT Center of Brigham and Women's Hospital and Harvard](#) in Cambridge Massachusetts, USA, and will be held on 7 October, 2021, from 6am to 9am (time in Hong Kong).

The registration page may now be accessed [here](#).

### WEBINAR ON GROSS NEGLIGENCE MANSLAUGHTER

The webinar on comparative legal analysis of gross negligence manslaughter that was mentioned in the August issue of our newsletter is expected to take place in November 2021. Registration details will follow in our newsletter next month.



## KNOWLEDGE EXCHANGE

### PREVENTION AND DETERRENCE: NEW OFFENCE PROPOSED TO PROTECT CHILDREN AND VULNERABLE PEOPLE

In its recently published report on Causing or Allowing the Death or Serious Harm of a Child or Vulnerable Adult, the Law Reform Commission of Hong Kong recommends the introduction of a new offence of "*failure to protect a child or vulnerable person where the child's or vulnerable person's death or serious harm results from an unlawful act or neglect*". [Ms Amanda Whitfort](#) from the Law Faculty is the chair of the relevant sub-committee of the Commission. CMEL's Co-Director [Dr Philip Beh](#) is a member of the sub-committee.

Report: [https://www.hkreform.gov.hk/en/docs/rcadcva\\_e.pdf](https://www.hkreform.gov.hk/en/docs/rcadcva_e.pdf)  
Press Release:  
[https://www.hkreform.gov.hk/en/docs/rcadcva\\_pe.pdf](https://www.hkreform.gov.hk/en/docs/rcadcva_pe.pdf)

### CORONER'S INQUEST: EXPERT OPINION ON THE CAUSE OF DEATH IN A LOCAL CASE

In 2015, a middle-aged patron of a Hong Kong restaurant had a physical confrontation with another patron and was hospitalized afterwards. The hospitalized patron subsequently died. In the TV programme "Scoop" on TVB, CMEL's Co-Director [Dr Philip Beh](#) explained his opinion which was presented at the Coroner's Inquest on the cause of death. The Coroners Court returned a verdict of "Death due to Natural Causes."

Click [here](#) for the clip [in Chinese only].

### TIME TO CONSIDER SCALING DOWN ON TRAVEL RESTRICTIONS?

As a growing number of territories have either achieved or are close to achieving a high vaccination rate, it may be timely to consider whether stringent restrictions and border controls should be maintained given the competing concerns over, on the one hand, minimising COVID-related sickness and deaths and, on the other hand, social and economic costs. In a recent interview with the *South China Morning Post*, CMEL's Co-Director [Dr Calvin W. L. Ho](#) shared his views on this.

Click [here](#) for the article.

# MEDICAL LAW UPDATES



## **NEW GUIDANCE ON ARTIFICIAL INTELLIGENCE ISSUED BY HONG KONG PRIVACY WATCHDOG**

The Office of the Privacy Commissioner for Personal Data (PCPD) of Hong Kong has recently issued the "Guidance on the Ethical Development and Use of Artificial Intelligence". The guidance is issued to explain the values and ethical principles that should be observed in the development and use of Artificial Intelligence (AI) and to help organisations understand and comply with the relevant provisions of the Personal Data (Privacy) Ordinance. Read more [here](#).

## **MAINLAND CHINA'S PERSONAL INFORMATION PROTECTION LAW SET TO TAKE EFFECT**

The Personal Information Protection Law (PIPL) of Mainland China will come into effect in November 2021. Read more [here](#).

The Office of the Privacy Commissioner for Personal Data (PCPD) of Hong Kong will hold a webinar on PIPL on 13 October 2021. Click [here](#) for registration.

## **LEE CHI BUN v NOVARTIS PHARMACEUTICALS (HK) LIMITED [2021] HKDC 1101**

This is a discrimination action brought by a patient against his former employer, alleging that he was discriminated by the former employer by reason of his disability which arose from his illness. The employment contract of the patient, who was diagnosed with end-stage renal failure and/or chronic kidney disease, was terminated by the former employer on the ground of redundancy. The court adopted a four-step approach in determining whether there was disability discrimination under section 6(a) of the Disability Discrimination Ordinance (paragraph 22 of the judgment).

Click [here](#) for the judgment.

## ABOUT



The Centre for Medical Ethics and Law (CMEL) develops new ideas and solutions in response to the big ethical, legal and policy questions of medicine and health.

CMEL is the first cross-faculty interdisciplinary institution of its kind in the region. It was founded in 2012 by the LKS Faculty of Medicine and Faculty of Law at The University of Hong Kong as a joint inheritor of their vibrant intellectual traditions dating back to 1887 and 1969 respectively.

Today, CMEL brings together bioethicists, academic lawyers, medical scientists, and other scholars to conduct cutting edge bioethical and legal research and contribute to policy development in flagship areas like population and global health, mental health and capacity, and digital health and emergent technologies.

Research, teaching and knowledge exchange—CMEL's core initiatives—aim to ensure that developments in biomedicine and public health will be underpinned by ethical and legal considerations.

## CONTACT

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