

# JURIS DIVERSITAS

## ANNUAL CONFERENCE

17 July (evening) to 19 July 2014

*Faculty of Law and Political Science - Aix-Marseille University - Aix-en-Provence,  
France*

## CONGRÈS ANNUEL

17 juillet (soir) au 19 juillet 2014

**Faculté de droit et de science politique - Aix-Marseille Université - Aix-en-Provence,  
France**

# COMPARATIVE LAW AND ... LE DROIT COMPARÉ ET ...



# Comparative Law and ... / *Le droit comparé et ...*

Co-sponsored by / *co-organisé par*

***Aix-Marseille Université, Faculté de droit et de science politique  
& *Juris Diversitas****

Thursday, July 17, 2014

17:00 *Registration - Accueil*

17:45 **Welcoming Address Philippe Bonfils Dean of the Law and Political Science Faculty**

18:00 **PLENARY – KEYNOTE**

Chair: Seán Patrick Donlan

- **The Complexity and Size of Jurisdictions: an Experiment at the Intersection of Law and Linguistics**, *Jan M. Smits*, University of Maastricht (Netherlands)

19:00 *Reception*

Friday, July 18, 2014

8:30-9:45 **PARALLEL SESSIONS I**

**I.A Legal Traditions, History & Culture**

- **Comparative Law and Legal Traditions: How Far Can We Go?**, *Stathis Banakas*, University of East Anglia (UK)
- **The Division of Legal Families: A Cultural Undertaking?**, *Serban S. Vacarelu*, Maastricht University (Netherlands)
- **Legal History as a Companion and a Role Model to Comparative Law**, *Nir Kedar*, Sapir Academic College (Israel)

**I.B Rule of Law, Due Process & Constitutionalism**

- **Rule of Law: How it Relates to Liberty, and How it Differs from the Civilian Legal State**, *Nadia E. Nedzel*, Southern University, Baton Rouge (USA)
- **Swiss and Ukrainian Civil Procedures: Due Process Europeanization and Approximation**, *Iuliia Zubrytska*, University of Zurich (Switzerland)
- **Non-Statutory Executive Powers in Three Regimes: Assessing Global Constitutionalism in a Structural-Institutional Context**, *Margit Cohn*, Hebrew University of Jerusalem (Israel)

### **I.C A Patchwork of Laws, Harassment and Isolation**

- **Mongrel Laws or Model Code? The Strange Antecedents of the Penal code of Seychelles**, *Mathilda Twomey*, National University of Ireland, Galway (Ireland)
- **Stalking: Claim for Civil Damages in Italy and in England**, *Francesca Casarosa*, Italian Association of Young Lawyer (Italy)
- **North Korea: the Recent Development of an Unconventional Legal System**, *Andrea Serafino*, Università del Piemonte Orientale (Italy)

### **I.D Droit comparé : enjeux, stratégies & identité**

- **Droits étrangers : un nouvel enjeu pour le notariat**, *Marjorie Devisme*, Centre notarial de droit européen, Lyon (France)
- **Le recours au droit comparé par le juge de l'Union européenne : une stratégie au service des intérêts de la Cour**, *Valérie Michel*, Aix-Marseille Université (France)
- **Le « Law and » est-il symptomatique d'une véritable crise d'identité du droit ?**, *Vanessa Arviset*, Université McGill (Canada)

9:45-10:15 Break

### **10:15-11:30 PARALLEL SESSIONS II**

#### **II.A Of Nature, Natural Law & Moral Judgment**

- **Why Are Courts Being Asked to Make Basic Moral and Policy Choices for Society?** *George C. Christie*, Duke University (USA)
- **Roman Law, *ius commune* and Natural Law: Why Resurrection of *ius commune* is not Natural Law Revival?**, *Anna Taitslin*, University of Canberra (Australia)
- **Law and Ethology**, *Alberto Gianola*, University of Turin (Italy)

#### **II.B Judicial Treatment of Pluralism: Proportionality, Equity & Legal Interpreters**

- **Proportionality and Constitutional Cultures in Europe**, *Afroditi Marketou*, European University Institute, Florence (Italy)
- **Judicial Equity and the "Mild" Ethnicisation of Italian Law**, *Raffaele Aveta*, University of Naples 2 (Italy)
- **The Legal Interpreter: Ghost or Intruder?**, *Stefanos Vlachopoulos*, Epirus Institute of Technology (Greece)

#### **II.C Droit & économie**

- **Le droit comparé et la flexisécurité en droit du travail**, *Alexis Bugada*, Aix-Marseille Université (France)
- **Le droit comparé et l'économie : la justification économique de la responsabilité précontractuelle en droit français et anglais**, *Olivier Beddeleem*, EDHEC Business School (France)

- **Droit comparé et mondialisation : la normalisation des technologies émergentes et l'encadrement des risques qui les accompagnent**, *Vanessa Barbaro*, Université Jean Moulin Lyon 3 (France)

### 11:30-12:30 PLENARY – KEYNOTE – HOMAGE

Chair: Olivier Moréteau

- **Comparative law and the Forensic Process**, *Duncan Fairgrieve* (British Institute of International and Comparative Law; Sciences Po Paris (UK & France) & *François Lichère*, Aix-Marseille Université (France)
- **Roderick A. Macdonald (1948-2014), A Unique Pluralist**, *Olivier Moréteau*, Louisiana State University, Baton Rouge (USA) & *Jacques Vanderlinden*, Université libre de Bruxelles et Université de Moncton (Belgique, Canada)

12:30-14:15 Lunch

### 14:15-15:45 PANEL & PARALLEL SESSIONS III

#### III.A PANEL – Post-socialist Civil Law

- *Murray Raff & Anna Taitzin* (dir.), University of Canberra (Australia)
- With *Fryderyk Zoll*, University of Osnabrück (Germany), *Xiang Gao & Chengwei Liu*, China University of Political Science & Law, Beijing (China), *Michael Liu*, University of Canberra (Australia), *Jasna Arsic-Dapo*, formerly Office of the High Representative (Bosnia and Herzegovina), *Tomislav Boric*, Karl-Franzens-Universität Graz (Austria), *Miloš Živković*, University of Belgrade (Serbia)

#### III.B Codification, Mix & Identity

- **Should Legal Uniqueness be Compared ? The Subsidiary Character of the Civil Code in Spain**, *Aniceto Masferrer & Juan B. Cañizares*, University of Valencia (Spain)
- **The Memory of the Past and the Legal Culture Narratives in Québec and Louisiana: which Challenges for Comparative Law?**, *Biagio Andò*, University of Catania (Italy)
- **Implementation of French Codes on the Polish Territories as an Instrument of Modernization**, *Anna Klimaszewska & Michał Gałędek*, University of Gdańsk (Poland)
- **The Myth of Frankenstein: The Israeli Civil Code, Dream or Reality**, *Paola Aurucci*, University of Bar Ilan, Ramat Gan (Israel)

#### III.C Pluralisme & universalité

- **Comparer quoi et pourquoi comparer ? Réflexions ethnographiques sur le pluralisme juridique en Inde**, *Karine Bates*, Université de Montréal (Canada)
- **Pluralisme juridique et droits indigènes : regards comparatifs sur l'articulation du droit de l'État et des droits indigènes**, *Éric Carpano*, Université Jean Moulin Lyon 3 (France)
- **Des épistémologies autres : culture, pouvoir et résistance dans les études juridiques**

comparatives, *Gino Piero Carrion Nunez*, Université Paris 1 Panthéon-Sorbonne (France)

- **L'application de la conception non-linguistique de la norme de loi à base du système « droit commun »**, *Oskar Pogorzelski*, Université Jagellonne, Cracovie (Pologne)

15:45-16:15 Break

#### 16:15-17:30 PARALLEL SESSIONS IV

##### IV.A Making Comparison? Issues in Methodology

- **Methodology of Comparative Legal Research**, *Mark Van Hoecke*, Ghent University (Belgium)
- **Is There Anything Certain to Say about Law's Relationship to National Values?**, *Wibo van Rossum*, Utrecht University (Netherlands)
- **Making Comparison?**, *Ida Pedretta*, University of Southampton (UK)

##### IV.B State v. Market: Regulation, Publicity & Control

- **Freedom of Contract under State Supervision – Applicability of Freedom of Contract to Chinese State-Owned Enterprises**, *Hao Jiang*, Tulane University (USA)
- **Regulatory Impact Assessment in the Developing World: A Comparative Analysis of Mexico and South Africa**, *Renny Reyes*, Pontificia Universidad Católica Madre y Maestra (Dominican Republic) & *Angela Troisi*, LUISS Guido Carli, Rome (Italy)
- **Registration Systems in Comparison**, *Lucia di Costanzo*, University of Naples & University of Camerino (Italy)

##### IV.C Legal Pluralism: Constitutional Perspectives

- **Constitutional Comparison and Religious Pluralism**, *Francois Venter*, North-West University, Potchefstroom (South Africa)
- **Legal Pluralism as a Challenge to Constitutionalism: New Perspectives for Comparative Constitutional Law**, *Maria Chiara Locchi*, University of Perugia (Italy)
- **Comparative Law and Political Science: Government of Judges, Governing with Judges? A Case-Study of Judicial Selection at the Court of Justice of the European Union**, *Sophie Turenne*, University of Cambridge (UK)

##### IV.D Deconstructing Criminal Justice: National & International Perspectives

- **Law, Change, and Organizational Theory**, *Shawn Boyne*, Indiana University (USA)
- **Deconstructing the Presumption of Innocence**, *Michelle-Thérèse Stevenson*, University of Limerick (Ireland)
- **The Principle of Legality in International and Comparative Criminal Law – ICC vs. ECHR?**, *Giulio Vanacore*, University Carlo Bo, Urbino (Italy)

#### 17:30-18:30 JURIS DIVERSITAS GENERAL MEETING

20:00 Conference Dinner

Saturday, July 19, 2014

**9:30-10:45 PARALLEL SESSIONS V**

**V.A Human Rights, Historical & Comparative Perspectives**

- **Human Rights and Antiquity**, *Carlos Felipe Amunátegui Perelló*, Pontificia Universidad Católica de Chile (Chile)
- **Conceptualising International Human Rights as Institutional Constitutional Guarantees: Promises and Perils of Comparativism**, *Ekaterina Yahyaoui Krivenko*, National University of Ireland, Galway (Ireland)
- **Human Rights as Property Rights in Postcolonial Malta**, *David E. Zammit & Kurt Xerri*, University of Malta (Malta)

**V.B Powers, Conflicts of Interests & Usages in Global Trade**

- **A Transnational Law of Trade Usages**, *Fabien Gelin*, McGill University (Canada)
- **Stare Decisis in the WTO: Myth, Dream or a Siren's Song?**, *Alessandro Romano*, Erasmus University, Rotterdam (Netherlands)
- **WTO and ICSID Compared: an Economic Analysis of Procedural Rules**, *Chiara Sotis*, LUISS Guido Carli, Rome (Italy)

**V.C Land & Ownership: Indigenous & Outside Perspectives**

- **Comparative Law and ... Customs, Law and Traditions: Bright Lines or Grey Areas?**, *Sue Farran*, Northumbria University (UK) & University of the South Pacific (Vanuatu)
- **The Right of Property in Albania, the Past and Present**, *Juliana Latifi*, University of Tirana (Albania)
- **The Land Struggle between the State of Israel and the Negev Bedouins in Comparative Perspectives**, *Alexandre (Sandy) Kedar*, University of Haifa (Israel)

**V.D Fraternité, responsabilité, propriété : essais de médiation**

- **Des pièces de musées aux principes de propriété, une exposition comparée du régime juridique des collections muséales**, *Anne-Sophie Hulin*, McGill University (Canada)
- **La fraternité entre responsabilité civile et contrat, le cas des dommages de masse**, *Angelo Parisi*, University Tor Vegata, Rome (Italy)
- **Intervention sur le thème « le droit comparé et la médiation »**, *Catherine Poli*, Université Montesquieu Bordeaux 4 (France)

10:45-11:15 Break

**11:15-12:30**    **PARALLEL SESSIONS VI**

**VI.A**    **Comparative Law, Legal Education & Research**

- **Comparative Law and Legal Education, Mission Impossible?**, *Irina Moutaye*, Institute of Legislation and Comparative Law, Moscow (Russia)
- **Comparative Law and ... Legal Education, the Teaching of Comparative law in Italy before World War I**, *Annamaria Monti*, Università Bocconi, Milan (Italy)
- **Digital Humanities Methods in Comparative Law: Quantitative Analysis on a Plain Text Corpus of Books to Trace the Diffusion of Legal Concepts in Public Spheres**, *Thomas Favre-Bulle*, École Polytechnique fédérale de Lausanne (Switzerland)

**VI.B**    **Homosexuality: Where is Human Dignity?**

- **The Concept of Human Dignity in Gay Rights Adjudication and Legislation in the EU and the US**, *Michèle Finck*, University of Oxford (UK)
- **Equality and Singapore's First Constitutional Challenges to the Criminalization of Male Homosexual Conduct**, *Jack Tsen-Ta Lee*, Singapore Management University (Singapore)
- **An Unnatural Aberration: the Indian Supreme Court's Regression from the Comparative Method in Suresh Kumar Koushal v. Naz Foundation**, *Radhika Chitkara & Manish*, National Law University, Delhi (India)

**VI.C**    **Alterity, Legal & Social Norms: Alternative Views?**

- **Thinking about Norms in Pluralistic Societies: "Blurred Lines" between the "Legal" and the "Social" of Normative Orders**, *Christa Rautenbach*, Northwest University, Potchefstroom (South Africa)
- **Alterity in Emmanuel Levinas' Philosophy and Comparison of Laws**, *Emma Patrignani*, University of Lapland (Finland)
- **Comparative Fiction and Posthuman Law: The Case for an Alternative View**, *Joseph P. Garske* (USA)

**VI.D**    **Property, Housing, Taxation & Expropriation**

- **Expropriation: A Comparative Study of the Jurisprudence of Ghana, Namibia, South Africa and Zimbabwe**, *Samuel Amoo*, University of Namibia (Namibia)
- **Comparative Law and Development Studies: Towards a Better Understanding of Contemporary "Land Grabbing" Processes**, *Margherita Baldarelli*, University of Trento (Italy)
- **The Legal System in Saudi Arabia and Tax: A Friend or Foe in Levying Tax on Lands**, *Abdulaziz Aleid*, University of Leeds (UK)

12:30-14:00    *Lunch*

**14:00-15:15 PARALLEL SESSIONS VII**

**VII.A Freedom, Physical & Moral Integrity**

- **The Different Treatment of Freedom of Expression in France and in the United States**, *Arnaud Raynouard*, Université Paris Dauphine (France) & *Russell L. Weaver*, University of Louisville (USA)
- **Comparative Law and Human Integrity: Recognizing a Gender in National Law**, *Elwira Macierzyńska-Franaszczyk*, Kozminski University, Warsaw (Poland)
- **Law and Social Change: Right to a Name, Personal Identity and Private Life in Context**, *Alessandra Pera*, University of Palermo (Italy)

**VII.B Intellectual Property Worldwide**

- **A Comparative Analysis of Trade Mark laws in Selected African Countries**, *Yeukai Mupangavanhu*, University of the Western Cape (South Africa)
- **Comparative Law and Intellectual Property: Some Comments Starting from the Software Case**, *Matteo Dragoni*, University of Pavia (Italy)
- **Franchising Business Practices in South Korea: Confucianism vs. Free Trade**, *Giovanni Tamburrini*, SolBridge International School of Business (South Korea)

**VII.C EU Law in Member States Courts**

- **European Economic Interest Grouping's National Implementation Rules: A Comparison for a Better Competition**, *Alessio Bartolacelli*, University of Trento (Italy)
- **Enhanced Cooperation as a Legislative Instrument – Current Status**, *Michael Randall*, University of Leeds (UK)
- **Judge's Liability in Europe**, *Domitilla Vanni di San Vincenzo*, University of Palermo (Italy)

**VII.D Traduction, communication, uniformisation?**

- **Droit comparé et traduction**, *Isabelle Richard*, Aix-Marseille Université (France)
- **Le processus d'uniformisation du droit des affaires dans un contexte de pluralisme juridique : le bijuridisme camerounais et l'OHADA**, *Ibrahim Abdouraoufi*, Lyon (France)
- **Droit comparé et ... droit musulman**, *Harith Al-Dabbagh*, Université de Montréal (Canada)

15:15-15:45 *Break*

**15:45-17:15 PLENARY SESSION WITH PANEL DISCUSSION**

Chair: Seán Patrick Donlan

(detail to be announced / *organisation en cours*)