



FACULTAD DE DERECHO
PONTIFICIA UNIVERSIDAD
CATÓLICA DE CHILE

ICON·S

CONFERENCE
2019

Public Law in Times of Change?

July 01-03

#iconsantiago

Pontificia Universidad
Católica de Chile

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I WELCOME STATEMENTS

S Conference
01 – 03 July 2019
CO Pontificia Universidad
CO Católica de Chile

We warmly welcome all of the participants in the 2019 Annual Conference of ICON-S, the International Society of Public Law. This year's meeting will be our first to take place in South America, after Asia, Europe, and North America. And, on this occasion, we are proud that here in Santiago we will have our first bilingual conference, with part of the concurrent panels held in Spanish. The Society and its chapters are increasingly growing worldwide and this strengthens our efforts to make ICON-S a welcoming place for the interdisciplinary, intergenerational and genuinely global study of public law. This latter is facing crucial challenges, which every day call scholars for further commitment, research and education. This is why our Conference's overarching theme this year will be "Public Law in times of Change?", with parallel panels and plenary events dealing with topics at the heart of contemporary public law inquiry. We are grateful to our Chilean hosts for their extraordinary hard work and dedication in putting together such a gigantic event, in every single detail, including child care service for our members; and we thank our sponsors for their generous support. Most of all, we very much thank you, the ICON-S' members, for your constant overwhelmingly enthusiastic response to the calls for panels and papers over these years: you are the key of the success of our Society and of its annual conferences. We are delighted to present here a terrific and intellectually (and physically...) challenging program, featuring scholars from different social sciences and from all parts of the world. And we are proud to confirm this year two events, which are particularly important for the Society's mission and community: the Women's reception and the ICON-S Workshop. We wish all of you a wonderful journey into the change(s) of public law!

Lorenzo Casini
IMT School for Advanced Studies of Lucca

Rosalind Dixon
University of New South Wales Sydney

*Co-Presidents, ICON-S,
the International Society of Public Law*

The ICON-S Conference has become the main academic event of the year in Public Law. It is more than an academic conference. It is also the meeting of a vibrant community of scholars, interested in rigorous and open discussion of ideas. For the Faculty of Law of the Pontifical Catholic University of Chile it is a privilege to be hosting this year's Conference, held for the first time in the Southern Hemisphere.

In more than 130 years since its foundation, our Faculty has fashioned a strong commitment to public service. The two largest political parties in the transition (one center right, one center left) were born as student movements in the halls of our Faculty. Among our alumni we count a president, six of the ten justices currently sitting in the Constitutional Court, several judges of the Supreme Court, many senators, deputies, scholars, civil servants, diplomats, and even a canonized saint!

As we start a new phase in the life of our Faculty, one of the most distinguished in Latin America, we want to continue serving. The world is changing. Political debate becomes more intense, while globalization introduces new social and ethical challenges. Technological advancements open new paths for thought and research. At our Faculty of Law we believe that universities need to offer now more than ever a space for profound academic discussion, illuminating the quest for achieving the common good in this context of change.

Public law is at the center of this quest, and must boldly look towards the future. Under the subject "Public Law in Times of Change", the 2019 ICON-S Conference constitutes today an unparalleled forum for scholarly engagement at the highest level, and we are extremely grateful to all members of ICON-S for allowing us to be a part of it. Thank you, and welcome to the Faculty of Law of the Pontifical Catholic University of Chile!

Gabriel Bocksang
Dean of Faculty of Law
Pontificia Catholic University of Chile
Local Host

II SCHEDULE

Monday 01 July 2019

11.00 – 12.00 **Registration**
 » Plaza Central, Extension Center

12.00 – 12.30 **Opening Remarks**
 » Auditorio Fresno, Extension Center

12.30 – 13.20 **Keynote Address**
 » Auditorio Fresno, Extension Center

13.20 – 13.45 **Coffee Break**
 » Plaza Central, Extension Center

13.45 – 15.20 **Panel Sessions I**
 » Sessions 1 - 31

15.25 – 17.00 **Panel Sessions II**
 » Sessions 32 - 62

17.05 – 18.35 **Plenary Panel I**
 Judiciary in Times of Change?
 » Auditorio Fresno, Extension Center

18.35 – 19.35 **Opening Reception**
 » Plaza Central, Extension Center

08.20 – 9.55

Panel Sessions III

» Sessions 63 - 92

10.00 – 10.30

Coffee Break

» Patio de Derecho

10.30 – 12.05

Panel Sessions IV

» Sessions 93 - 121

12.10 – 13.30

Lunch Break

» Plaza Central, Extension Center

13.40 – 14.40

ICON·S Workshop

J.H.H. Weiler - “A Research and Publication Strategy for a Successful Academic Career (including How Does Peer Reviewing Really Work Or Not Work)”

» Auditorio Fresno, Extension Center

14.50 – 16.20

Plenary Panel II

Crisis or Resurgence of the State?

» Auditorio Fresno, Extension Center

16.20 – 16.40

Coffee Break

» Plaza Central, Extension Center

16.50 – 18.25

Panel Sessions V

Sessions 122 - 151

18.30 – 19.30

Women's Reception

Hosted by Rosalind Dixon and welcome from Justice Gloria Stella Ortíz (President Colombian Constitutional Court)

» Aquiles Portaluppi

08.20 – 09.55 **Panel Sessions VI**
 » Sessions 152 - 182

10.00 – 10.30 **Coffee Break**
 » Patio de Derecho

10.30 – 12.05 **Panel Sessions VII**
 » Sessions 183 - 213

12.10 – 12.40 **Snack Break**
 » Plaza Central, Extension Center

12.40 – 14.10 **Plenary Panel III**
 Public Law, Democratic Backsliding
 and the Erosion of Liberal Democracy
 » Auditorio Fresno, Extension Center

14.20 – 15.00 **Closing Remarks**
 » Auditorio Fresno, Extension Center



Plenary Events

Monday
12.00 – 13.20

Opening Panel



Rosalind Dixon

Professor, University of New South Wales
Co-President, ICON-S

Rosalind Dixon is a Professor of Law at UNSW Sydney, Director of the Gilbert + Tobin Centre of Public Law, and Co-President of ICON-S. She previously served as an assistant professor at the University of Chicago Law School, and has been a

visiting professor at the University of Chicago, Columbia Law School, Harvard Law School and the National University of Singapore. Her work focuses on comparative constitutional law and constitutional design, constitutional democracy, theories of constitutional dialogue and amendment, socio-economic rights and constitutional law and gender. She is co-editor, with Tom Ginsburg, of a leading handbook, *Comparative Constitutional Law* (Edward Elgar, 2011) and related volumes on *Comparative Constitutional Law in Asia* (Edward Elgar, 2014), co-editor (with Mark Tushnet and Susan Rose-Ackermann) of the *Edward Elgar series on Constitutional and Administrative Law*, and editor of the *Constitutions of the World* series for Hart publishing.



Marisol Peña

Secretary General, P. Universidad
Católica de Chile
Former Chief Justice, Chilean
Constitutional Tribunal

Marisol Peña, professor at Faculty of Law, Pontificia Universidad Católica de Chile, teaches Constitutional Law and International Public Law.

She was a justice of the Constitutional Court of Chile from 2006 until 2018, and served as the former Chief Justice of the Chilean Constitutional Court from 2013 to 2014. She is the only woman to have served in that role. Peña is a member of the Chilean Academy of Social, Political, and Moral Sciences. She graduated summa cum laude from Pontificia Universidad Católica de Chile, and obtained an LLM on International Studies from Universidad de Chile. She is the author of several writings on public law. She is currently the Secretary General of Pontificia Universidad Católica de Chile.

Keynote Address:

Technological Revolution, Democratic Recession and Global Warming: The Limits of Law in a Changing World



Luís Roberto Barroso

Justice, Supreme Federal Court of Brazil

Luís Roberto Barroso, professor at the Faculty of Law, Universidade do Estado de Rio de Janeiro (UERJ) and visiting professor at Universidade de Brasília, earned an LL.B. from Universidade do Estado de Rio de Janeiro and obtained an LLM from

Yale Law School. He received an SJD from Universidade do Estado do Rio de Janeiro and pursued post-doctoral research at Harvard Law School as a visiting scholar. He is a Senior Fellow at the Harvard Kennedy School. Since 2013 has served as Justice at the Supreme Court of Brazil. His work focuses on constitutional law, particularly constitutional theory and interpretation. Barroso has published extensively in Brazil, Latin America and Europe. His most recent article published in English was "Counter-majoritarian, Representative, and Enlightened: The roles of Constitutional Courts in Democracies" (*American Journal of Comparative Law*, forthcoming, 2019). His most recent books are *A Judicialização da Vida e o Papel do Supremo Tribunal Federal* (Editora Forum, 2017) and *A República que ainda não foi* (Editora Forum, 2018).



Chair

Francisco Urbina

Associate Professor,
P. Universidad Católica de Chile

Francisco Javier Urbina, associate professor at the Faculty of Law of Pontificia Universidad Católica de Chile, where he earned his LLB *summa cum laude* in 2007. He was chosen one of the 100 leaders

under 35 by newspaper *El Mercurio*, before obtaining an M.St. and a D.Phil. in Law from the University of Oxford. His work is in Constitutional Law, Constitutional Theory, and Human Rights, focusing specially in human rights limitations. His work has been published in journals such as the *Oxford Journal of Legal Studies*, the *American Journal of Jurisprudence*, and the *Canadian Journal of Law and Jurisprudence*. He is the author of *A Critique of Proportionality and Balancing* (Cambridge University Press, 2017) and co-author of *Legislated Rights: Securing Human Rights through Legislation* (Cambridge University Press, 2018).

Monday
17.00 – 18.30

Plenary Session I Judiciary in Times of Change?



Luis María Díez-Picazo
Justice, Supreme Tribunal of Spain

Luis María Díez-Picazo, professor at the Faculty of Law, Universidad de Málaga and Universidad Castilla-La Mancha. He earned his Ph.D. from the University of Bologna. Díez-Picazo has been a justice in the Supreme Tribunal of Spain since 2008 and has served as President of the Third Chamber on Administrative Law since 2015. He has written several books, among which: *Sistema de Derechos Fundamentales* (Editorial Civitas, 4th ed., 2014), *La naturaleza de la Unión Europea* (Editorial Civitas, 2009) and *Constitucionalismo de la Unión Europea* (Editorial Civitas, 2002). He was Distinguished Visiting Scholar at the Georgetown Law Center and has been visiting professor at Indiana University Law School, Institut d'Etudes Politiques de Paris, Université de Paris II (Panthéon-Assas), Université de Bordeaux IV, among others.



Kate O'Regan
Former Justice, Constitutional Court of South Africa
Director, Bonavero Institute of Human Rights, University of Oxford

Kate O'Regan, is the inaugural Director of the Bonavero Institute of Human Rights at the University of Oxford and a former judge of the South African Constitutional Court (1994 – 2009). Since her fifteen-year term at the South African Constitutional Court ended in 2009, she has amongst other things, served as an *ad hoc* judge of the Supreme Court of Namibia (2010 - 2016), Chairperson of the Khayelitsha Commission of Inquiry into allegations of police inefficiency and a breakdown in trust between the police and the community of Khayelitsha (2012 – 2014), and as a member of the boards or advisory bodies of many NGOs working in the fields of democracy, the rule of law, human rights and equality.



Juan José Romero

Justice, Chilean Constitutional Tribunal
Associate Professor, P. Universidad Católica de Chile

Juan José Romero, professor at Faculty of Law, Pontificia Universidad Católica de Chile. He serves as justice of the Chilean Constitutional Tribunal since 2013. Romero received his LL.B. from Pontificia Universidad Católica de Chile, a Master of Science in Regulation from The London School of Economics and Political Science, University of London, and a PhD from Universidad de Salamanca. He was a member of the European Commission for Democracy through Law (Venice Commission) and president of the Sub-Commission for Latin America of the same organization (2013-2017). His work focuses on constitutional law and economic regulation.



Chair

Gráinne de Búrca

Professor, New York University School of Law
Honorary President, ICON-S

Gráinne de Búrca is Florence Ellinwood Allen professor at NYU law school. She is Director of the Hauser Global Law School, and Co-Director of the Jean Monnet Center for International and Regional Economic Law and Justice. She is a corresponding fellow of the British Academy, and co-editor-in-chief of the International Journal of Constitutional law. She was previously professor at Harvard Law School, Fordham Law School and the European University Institute. She writes on questions of EU constitutional law and governance, anti-discrimination law, international human rights, and transnational governance. She is co-editor of the Oxford University Press series Oxford Studies in European Law, and co-author with Paul Craig of the OUP textbook: EU Law.

Tuesday
14.50 – 16.20

Plenary Session II Crisis or Resurgence of the State?



Helena Alviar

Full Professor, Universidad de Los Andes,
Colombia
Visiting Professor, Harvard University

Helena Alviar, full professor at Faculty of Law, Universidad de los Andes, Colombia, where she was Dean from 2011 until 2016. She graduated from Universidad de los Andes, and earned an LL.M. and a PhD from Harvard University. Alviar is a founding member of the Center of Studies of Law, Justice and Society. She has also been a visiting professor at Universidad Pontificia Javeriana de Colombia, Universidad Puerto Rico and Harvard University. She is the author or coauthor of several books and publications, among which *El Estado Regulador en Colombia* (Ediciones Universidad de los Andes, 2016), with Catalina Villegas, and *Feminismo y Crítica Jurídica: El Análisis Distributivo como Alternativa Crítica al Feminismo Liberal* (Ediciones Universidad de los Andes, 2012).



Professor Armin von Bogdandy

Director, Max Planck Institute for Comparative Public Law and International Law
Professor, Goethe University Frankfurt

Armin von Bogdandy is the director of the Max Planck Institute for Comparative Public Law and International Law in Heidelberg and Professor for Public Law at the University in Frankfurt/Main. He graduated in law and philosophy before obtaining a Ph.D. in Freiburg (1988) and qualifying as a professor at the FU Berlin (1996). He has been President of the OECD Nuclear Energy Tribunal as well as a member of the German Science Council (*Wissenschaftsrat*) and the Scientific Committee of the European Union Agency for Fundamental Rights. He has held visiting positions at the New York University School of Law, the European University Institute, the Xiamen Academy of International Law, and the Universidad Nacional Autónoma de México, among others. He is the recipient of the Leibniz Prize (2014), the Premio Internacional "Hector Fix Zamudio" (2015), the "Mazo" (gavel) of the Interamerican Court of Human Rights (2015), and the prize for outstanding scientific achievements in the field of legal and economic foundations by the Berlin-Brandenburg Academy of Sciences (2008).



Beth Simmons

Professor, University of Pennsylvania

Beth Simmons is Andrea Mitchell Penn Integrates Knowledge University Professor of Law, Political Science and Business Ethics at the University of Pennsylvania. She researches and teaches international relations, international law and international political economy. She

is best known for her research on international political economy during the interwar years, policy diffusion globally and her work demonstrating the influence that international law has on human rights outcomes around the world. Simmons directed the Weatherhead Center for International Affairs at Harvard, is a past president of the International Studies Association and has been elected to the National Academy of Sciences, the American Academy of Arts and Sciences, The American Academy of Political and Social Sciences, and the American Philosophical Society.



Chair

Gabriel Bocksang

Dean,
P. Universidad Católica de Chile

Gabriel Bocksang, professor at Faculty of Law, Pontificia Universidad Católica de Chile. He earned an LLM in Public Law and a Ph.D. from the University of Paris I, Panthéon-Sorbonne, France. He is currently the Dean of the Faculty of Law, Pontificia Universidad Católica de Chile. Bocksang is a member of the Institute of Advanced Legal Studies. He has been a visiting professor at Universidad de Paris 1, Panthéon-Sorbonne. His work focuses on administrative law and the history of administrative law, theory of the administrative act, administrative procedure and comparative public law. He is the author of three books and a number of specialized articles and book chapters. He received the prize of the Centre Français de Droit Comparé for his doctoral thesis: *L'inexistence juridique des actes administratifs. Essai de théorie juridique comparée: France, Chili, Espagne, Italie.*

Wednesday
12.40 – 14.10

Plenary Session III Public Law, Democratic Backsliding and the Erosion of Liberal Democracy



Teresa Bejan

Associate Professor, University of Oxford

Teresa M. Bejan is Associate Professor of Political Theory and Fellow of Oriiel College at the University of Oxford. She received her PhD with distinction from Yale in 2013 and was awarded the American Political Science Association's 2015 Leo Strauss Award for the best dissertation in political philosophy. In 2016 she was elected as the final Balzan-Skinner Fellow in Modern Intellectual History at Cambridge. Professor Bejan's first book, *Mere Civility: Disagreement and the Limits of Toleration* (Harvard University Press, 2017; paperback 2019) was called "penetrating and sophisticated" by the *New York Times*. In addition to her many articles in academic journals and edited volumes, she has written on free speech and civility for *The Atlantic* and *The Washington Post*.



Samuel Issacharoff

Professor, New York University School of Law

Samuel Issacharoff is the Reiss Professor of Constitutional Law. He is the author of *Fragile Democracies* (Cambridge University Press, 2015) and is one of the pioneers in the law of the political process, where his *Law of Democracy* casebook (co-authored with Pam Karlan and Richard Pildes) and dozens of articles have helped shape a new area of constitutional law. He served as the reporter for the Principles of the Law of Aggregate Litigation of the American Law Institute. Issacharoff is a 1983 graduate of the Yale Law School. He then began his teaching career at the University of Texas in 1989, where he held the Joseph D. Jamail Centennial Chair in Law. In 1999, he moved to Columbia Law School, where he was the Harold R. Medina Professor of Procedural Jurisprudence. His published articles appear in every leading law review, as well as in leading journals in other fields. Issacharoff is a fellow of the American Academy of Arts and Sciences.



Wojciech Sadurski

Professor, Sydney Law School
Professor of the Centre for Europe at
Warsaw University

Wojciech Sadurski is Challis Professor of Jurisprudence at the University of Sydney and Professor of the Centre for Europe at Warsaw University. He has taught at several institutions around the world, such as Yale Law School, NYU Law School and Fordham Law School in the United States, and at universities across Europe and Asia: including in Trento, Paris and Singapore. He was Professor of Legal Theory and Philosophy of Law at the European University Institute in Florence from 1999 to 2009, and Head of Department of Law at the EUI in 2003-2006. Specializing in philosophy of law, political theory, constitutional theory and comparative constitutional law, his most recent books include: *Equality and Legitimacy* (Oxford University Press, 2008), *Constitutionalism and the Enlargement of Europe* (Oxford University Press, 2012) and *Poland's Constitutional Breakdown* (Oxford University Press, 2019). A member of a number of governing and program bodies of think tanks and NGOs dealing with human rights and democracy promotion, he is currently Chairman of Academic Advisory Board of the Community of Democracies.



Chair

David Landau

Professor, Florida State University

David Landau, Mason Ladd Professor and Associate Dean for International Programs at Florida State University College of Law. He writes primarily about the field of comparative constitutional law, with a regional focus on Latin America. He has published several books, including *Colombian Constitutional Law* (with Manuel Jose Cepeda Espinosa, Oxford University Press 2017) and *The Evolution of the Separation of Powers* (with David Bilchitz, Edward Elgar Press 2018). He has also published in various journals including the *Harvard International Law Journal*, the *University of Chicago Law Review*, the *UC Davis Law Review*, the *International Journal of Constitutional Law*, and the *Virginia Journal of International Law*. In 2011, Professor Landau served as a consultant on constitutional issues for the Truth and Reconciliation Commission of Honduras. Since 2012, he has been a founding editor of ICONnect, the blog of the International Journal of Constitutional Law. Professor Landau holds an A.B., J.D., and Ph.D. (political science) from Harvard University.

Wednesday
14.20 – 15.00

Closing Remarks



Lorenzo Casini

Professor, IMT School for Advanced Studies Lucca (Italy)
Co-President, ICON-S

Lorenzo Casini is Co-President of ICON-S. He is Professor of Administrative Law at IMT School for Advanced Studies in Lucca (Italy), where he sits on the Board of Directors and teaches Cultural

Heritage and Law and Global Law. In 2008, 2009 and in 2013 he was the Hauser Global Fellow at the NYU School of Law-Institute for International Law and Justice. He worked as legal counsel to the Italian Minister for Cultural Heritage and Tourism (2014-2018). From 2009 to 2014 he served as a law clerk to Justice Professor Sabino Cassese at the Constitutional Court of Italy. Since 2018, he has been responsible for the discipline of "Law" at the National School of Administration of the Italian Government. A sports judge, he is also on the Board of Directors of the Uffizi in Florence (2015-2020). He is the President of the Institute for Research on Public Administration (IRPA) and a member of the European Public Law Group (EPLO). Author of hundreds of works in several languages, his latest book is *Potere globale. Regole e decisioni oltre gli Stati* (il Mulino, 2018).

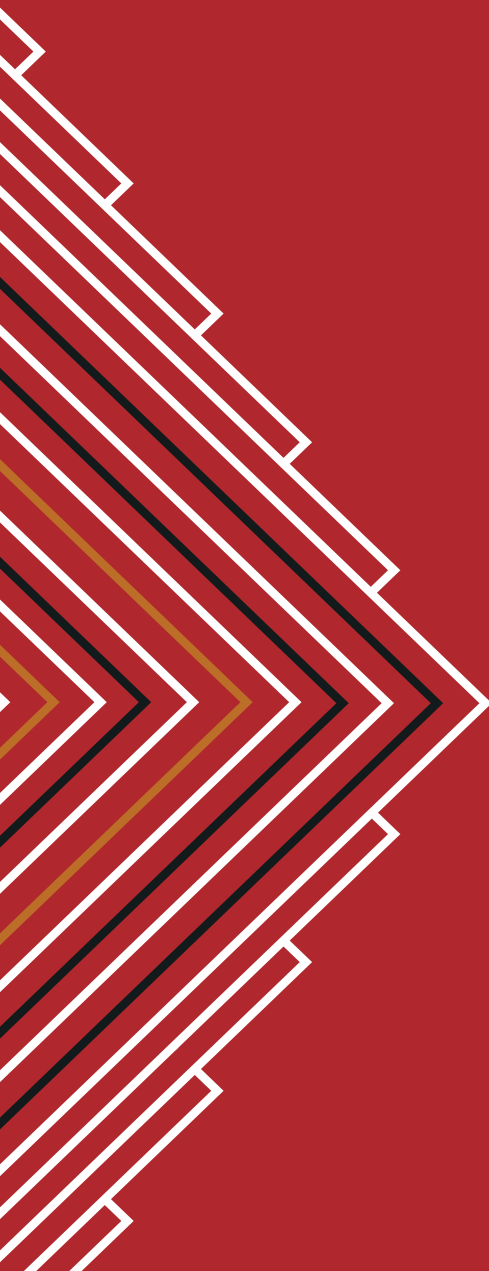


IV

**Concurring
Panels**

Monday
1 July 2019
13.45 – 15.20

Panel Sessions I



1 Populism in Law, Politics, and Justice

Panel formed with individual proposals.

Room:

D303

Chair:

Paul Blokker

Presenters:

Jamil Civitarese & Armando Martins:

A Game-theoretical Model of Penal Populism and Judicial Culture

Svetlana Tyulkina:

Populist Politics and Democracy: Rediscovering Inherent Democratic Quality of Self-Defence

Paul Blokker:

Shifting constitutional imaginaries

Leonardo Cofre:

The possible links between citizen participation and populism

2 Challenges to Democracy in Latin America

Panel formed with individual proposals.

Room:

D304

Chair:

Juliano Benvindo

Presenters:

Glauco Salomao Leite, João Paulo Teixeira & Marcelo Araújo:

Autocratic Legalism and the New Challenges to Public Law in Brazil

Emilio Meyer:

Democracy Decay in Brazil: How the Military and Judges Interfere in Growing Authoritarianism

Joao Archegas:

OUT OF TUNE: The Brazilian Supreme Court and Democratic Erosion

Rafael Patrus:

Political political judges: the Brazilian National Justice Council and the burning question of judicial freedom of political speech

Fernando Acunha:

The "guardrails of democracy" and the 1988 Constitution against authoritarianism: can democracy be preserved in Brazil?

Juliano Benvindo:

The Authoritarian Mindset and the Rule of Law in Brazil's Decaying Democracy

Priscila Renee Monge Kincaid:

The Mexican Paradigm: Participatory Democracies or a door to Authoritarianism?

3 The Collaborative Constitution

This panel will discuss Aileen Kavanagh's forthcoming book called *The Collaborative Constitution*. This book argues that protecting constitutional rights is a collaborative enterprise between all three branches of government, where each branch has a distinct and complementary role to play. Rather than championing either courts or legislatures as the supreme repository of rights, on the one hand, or seeking to uncover a metaphorical 'dialogue' between them, on the other, Kavanagh moves 'from conversation to collaboration', to uncover the intricate workings of a collaborative process of engaging with rights both within and between the three branches of government. Using the UK's Human Rights Act 1998 as a central case-study, this book situates this example in comparative context, rounding out an analysis which has theoretical, empirical, analytical and comparative dimensions.

Room:

Auditorio Claro

Chair:

Mark Tushnet

Presenters:

Aileen Kavanagh:

The Collaborative Constitution

Commentators:

Rosalind Dixon

Stephen Gardbaum

Po-Jen Yap

4 Panel sobre el libro: "Comentario a la Convención Americana de Derechos Humanos", Fundación Konrad Adenauer (eds. Christian Steiner, Marie-Christine Fuchs)

Since 2014, the "Commentary to the American Convention on Human Rights" in its first edition has become one of the most consulted publications on the Inter-American System of Human Rights (IASHR) in the Spanish language. It provides an hermeneutic analysis of all articles of the American Convention of Human Rights by acknowledged experts on the IASHR as well as public international law in general, and contains jurisprudence of the organs of the IAHRs as well as cross-references to the jurisprudence of the European Court of Human Rights. In 2019 the Konrad Adenauer Foundation's Rule of Law Program for Latin America has successfully launched the second edition of the book. The panel unites perspectives from authors of the Commentary, representatives of the IASHR, actors before the same system, law faculties and human rights' experts on the pertinence of this text for addressing the most relevant trends and jurisprudence within the IASHR which has marked the last 5 years such as justiciability of ESCR, jurisprudence on modern slavery and new discussions on indigenous peoples' and migrants' rights.

Room:

Sala Mediación

Chair:

Marie-Christine Fuchs

Presenters:

Judge Eduardo Vio Grossi:

Reflexión sobre la relevancia del Comentario desde la perspectiva de la Corte Interamericana de Derechos Humanos

Claudio Nash:

Reflexión como autor del artículo 5 del Comentario

Nancy Yáñez:

Reflexión sobre la relevancia del Comentario para los derechos de los pueblos indígenas

Magdalena Correa:

Reflexión sobre la relevancia del Comentario para la educación jurídica

Juana Acosta:

Reflexión sobre la relevancia del Comentario como un actor de litigio ante el Sistema Interamericano de Derechos Humanos

Lorena Ávila:

Discussant

5 Issues of Political Representation

This panel comprises a series of papers considering norms and practices of political representation and the connection between claims of representation and political legitimacy. Each of the papers considers a challenge to routinely accepted assumptions about the kind of political representation that is essential to democratic and constitutional governance. These are critically important questions for constitutionalism and public law in an era in which liberal democratic norms and institutions are widely perceived to be in decline. What changes in practices or ideas of representation might provide a basis for reinvigorating the claims of liberal democracy to represent a truly legitimate form of self-government?

Room:

Auditorio A. Silva

Chairs:

Howard Schweber

Andras Jakab

Mark Graber

Presenters:

Andras Jakab:

Children's suffrage and the principle of sustainability

Sanford Levinson:

Representative Samples, Public Opinion, and Democratic Legitimacy

Jeffrey Lenowitz:

Representation during Constitution-making?

Howard Schweber:

Representation and Constitutionalist Politics

6 Constitutional interpretation: politics or law? Some issues on constitutional reasoning in Chile and Argentina

The panel tackles the usual tension that ensues from judicial interpretation of the Constitution in that at times it is very difficult to tell judicial reasoning from political reasoning. Legal interpretivism, however, does not seem to be particularly worried about this, since one of its basic claims is that legal reasoning is an exercise in political reasoning. We would like to cash in on this opportunity to explore how some local variations of the theme of legal interpretivism have been brought to bear on some cases regarding crimes against humanity, thereby affecting some fundamental rights of defendants and, as a result, undermining the very basis of republican government.

Room:

LLM94

Chair:

Luis A. Silva

Presenters:

Andrés Rosler:

If you want a constitutional guarantee, buy a toaster

Guillermo Jensen:

Constitutional interpretivism and its democratic flaws

Luis Silva:

Constitutional interpretivism: how the law becomes politics

7 Rule of law challenges in a time of criminal justice crisis. Theoretical and constitutional issues 1

A series of three panels will explore some of the central challenges to the idea of the rule of law in the face of contemporary criminal justice. Tying criminal justice and state punishment to the rule of law has been traditionally understood as a necessary feature of modern liberal democracies. Contemporary criminal justice, however, seems to challenge many of the central features that rule of law thinking attributes to state action: it is selective, and not universal, the content of the rules applied are complex and thus not always easy to grasp, and administered by a variety of agents acting under very different frameworks. In the fact of this reality, can criminal justice be reconciled with the rule of law? What issues arise out of these tensions? What roles do international human rights and constitutional law play in maintaining the rule of law?

Room:

Sala Reuniones LLM

Chair:

Javier Wilenmann

Presenters:

Leora Dahan Katz:

The Retributive Authority of the State: A Web of Duties Approach

Vincent Chiao:

Hyperlexis and the rule of law

Christoph Burchard:

The blind-spot(s) of the rule of law thinking in (continental European) criminal law theory

8 Género en transición: los derechos de las mujeres y las personas LGBT en los procesos de transición y en la emergencia de políticas neo-conservadoras

The purpose of this panel is to bring together different views from the fields of law and political science on the impact of political transitions on the women's and LGBT's rights movements. We are interested in evaluating how Latin America's rightward shift has impacted or could impact the human rights achievements of women and people with diverse sexual orientations and gender identities as well as in exploring how public law could play a role in defending these rights or allowing them to regress.

Room:

Seminario 3

Chair:

Carolina Vergel

Presenters:

María Cielo Linares & Valeria Silva:

Derechos de las mujeres y regresividad material en los gobiernos actuales de Argentina y Colombia: posibilidades desde el derecho constitucional

Valeria Silva & María Cielo Linares:

Derechos de las mujeres y regresividad material en los gobiernos actuales de Argentina y Colombia: posibilidades desde el derecho constitucional

Lucía Baca & Lilibeth Cortés:

Reconfiguraciones del derecho a la igualdad y no discriminación en las democracias liberales: el posicionamiento de las agendas de los grupos anti-derechos en Latinoamérica

Lilibeth Cortés & Lucía Baca:

Reconfiguraciones del derecho a la igualdad y no discriminación en las democracias liberales: el posicionamiento de las agendas de los grupos anti-derechos en Latinoamérica

Daniela Díaz:

Del silencio a la escucha: aproximaciones teóricas feministas a la comprensión de la violencia a gran escala y las transiciones políticas en Latinoamérica

9 Emerging nation state in traditional social structures in the Middle East: a brief study of Iran & Afghanistan

The Modern State brings with itself a new Social Structure to impose social order. The import of Modern State into societies with previously established social structures has encountered some problems. The nature and outcomes of this face off depends on the nature and structure of social orders. That means, the process of emergence of the modern nation-state and state building is deeply rooted in the confrontation between two different social orders. In societies like Iran and Afghanistan, where the current social structures of Family and Religion were still strong, and there is a unique situation of tradition-modernity confrontation, the emergence of the modern concept of nation-state can be a topic for study. Such a study would focus on the issues that can be defined as the heart of the confrontation between tradition and modernity - therefore, the current panel tries to study Concept of Legal Personality of State in Shia-Imamie Jurisprudence, Women's Party Activity in the processes of state building Iran - From Legal Barriers and Civil underdevelopment, and the study of modern state core elements in contemporary Afghanistan.

Room:

Seminario 2

Chair:

Mohammad Djalali

Presenters:

Seyed Masoud Noori & Zahra Azhar:

Concept of Legal Personality of State in Shia-Imamie Jurisprudence

Ali Akbar Siapoush & Shafiq Shargh:

The study of modern state core elements in contemporary Afghanistan

Shahideh N Mohajer & Shiva Modarreszadeh:

Women's Party Activity in the processes of state building Iran: From Legal Barriers and Civil underdevelopment

10 Dialogues: building bridges to protect democracy and human rights

The last years have testified to construction of an lus Constitutionale Commune in Latin America, due to most of its States adherence to human rights treaties, and recognition of the Inter-American Court jurisdiction. Nevertheless, the continent is facing many challenges. From allegedly consolidated democracies turning to authoritarian leaders, to the ongoing difficulties in consistently implementing human rights, this panel offers a diverse range of propositions to discuss those issues. It addresses the roles of the Inter-American Court on Human Rights and constitutional courts, as well as the influence of the European Human Rights System, in order to establish profitable dialogues towards human rights protection and transformative measures. It also brings the perspective of the decolonial critic on human rights templates and suggests that the judicial interference in politics should be taken with proper caution, to which a comparative study could be enlightening.

Room:

D402

Chair:

Jorge Ernesto Roa Roa

Presenters:

Ana Carolina Olsen & Melina Girardi Fachin:

Cooperative Judicial Dialogue in Latin-America: Integration and Transformation towards human rights defense

Bruna Nowak & Melina Girardi Fachin:

Democracy in danger: judicial dialogues as means to refrain setbacks in Latin America

Juan Jorge Faundes Peñafiel:

Fundamental Right to Cultural Identity of Indigenous Peoples: Challenges for a Euro-American Dialogue on Human Rights

Amélia Rossi:

Human Rights in a colonial perspective: a key to understanding for the better realization of rights in democratic constitutionalism

Camila Salgueiro da Purificação Marques & Claudia Maria Barbosa:

The judicialization of the "megapolitics" from the perspective of institutional dialogue: Brazil and South Africa

11 Living Constitutionalism in a Changing World: Comparing the United States, Canada, South Africa, Japan and the United Kingdom

The idea of living constitutionalism is itself evolving. Although the idea is based on common law constitutionalism, which means judicial constitutional implementation without binding original meaning or formal constitutional amendment, the issues are not necessarily confined to that realm. Living constitutionalism links to the ideas in constitutional interpretation such as the purposive approach and judgments regarding constitutionality in the face of social change. It also relates to the changes by political branches that seek to allow the constitutional order to respond to such social change. Living constitutionalism varies -conceptually and practically- according to the soil in which it grows. We reveal various living constitutions: in the United States, Canada, South Africa, Japan and the United Kingdom. This panel will contribute to an understanding of contemporary trends regarding living constitutionalism, notably in a comparative perspective.

Room:

Auditorio E. Frei

Chair:

Lisa Parshall

Presenters:

Lisa Parshall:

Living Constitutionalism and Interpretive Debate in the United States: Changing Interpretations on the U.S. Supreme Court

Peter Oliver:

Canada and the Living Tree

Julian Jonker:

Transformative Constitutionalism and the Text of the South African Constitution

Keigo Obayashi:

Ad Hoc Living Constitution in Japan

John Morgan:

The UK's inherently living constitution

12 Sovereignty, constitution and democracy: tensions, contradictions and convergences in the 21st Century (Part A)

This panel, split into parts A and B, aims to face the existent challenges in the relationship between Law and Politics, basing itself on the assumption that such challenges are inevitable consequences of the tension between constitutionalism and democracy. Latin America has been going through a conflicting moment in its political and constitutional history: after a period of arising of new rights in constitutions with institutional designs which were more amenable to the sharing of political power, one now notices a great tension between political agents as to what regards the just (or at least more prudent) sharing of authority. In this contentious scenario, rethinking the relationship between constitutionalism and democracy is a must. It is this panel's proposal, thus, to think of new possibilities in the relationship between Law and Politics and ways of sharing political authority, in an agonistic perspective, connected to the challenges of the 21st Century.

Room:

LLM91

Chair:

Katya Kozicki

Presenters:

Estefânia Maria de Queiroz Barboza & Claudia Beek Moreira de Souza:

Is brazilian democracy in decline?

Alfonso Palacios:

Are the People always wise? Recent referenda and its outcomes in Latin America

Jairo Lima & José Mauro Garboza Junior:

Not a step back? Constitutional amendments and the principle of non-regression

Luiz Guilherme Arcaro Conci & João Vitor Cardoso:

Confronting visions of Legal Pluralism in Latin America: Indigenous Jurisdictions between a Liberal perspective and the Epistemologies of the South

13 The Meaning of Citizenship: Instrumental, Political, and Constitutional Approaches to Citizenship

Citizenship has defined for centuries the relationship between individuals and the state. The meaning of citizenship has thus been crucial to the determination of individuals' rights and duties and their belonging to national or local communities. However, throughout the times, the meaning of citizenship and its reference points have changed significantly. This panel addresses three developments: (i) the transformation of citizenship into an instrumental resource or a commodity with a visible reduction of citizenship duties - (ii) the development of vague citizen-centric approaches in public policymaking with limited reference to constitutional or legal frameworks (e.g., in smart cities) - (iii) the decreasing trust of citizens in government and limited democratic participation caused by the ill-defined position of citizens vis-a-vis democratic institutions.

Room:

Auditorio P. Aylwin

Chairs:

Dimitry Kochenov

Zoran Oklopcic

Presenters:

Yossi Harpaz:

From Sacred to Instrumental: The Changing Meaning of Citizenship

Astrid Voorwinden & Sofia Ranchordas:

Citizen-centrism in Smart Cities and Democratic Participation

Antonios Kouroutakis:

"Demossibility" and the design of democratic institutions: How to place citizens at the heart of the political system

14 Changing Constitutions and Sources of Law

Globalization has sanctioned the overcoming of the State as the 'monopolist' of normative production. Public law is therefore undergoing profound changes: instead of relying on State and Statutes (or, more generally, on formal Statutory instruments), normative production is increasingly polycentric and informal. Therefore, a redesign of the rule of law principle and the sources of law is necessary. This panel will deal with these issues making use of the acquisitions reached in the field of global law studies.

Room:

Auditorio Card. Oviedo

Chair:

Joana Mendes

Presenters:

Paul Craig:

In Quest for the Rule of Law

Lorenzo Casini:

Sources of Law: A Global Administrative Law Perspective

Margherita Croce:

Standards: What Kind of Certainty?

Eduardo Jordao:

Judge-made Law

Rodrigo Vallejo:

After the regulatory state: The idea of a private administrative law

Discussant:

Joana Mendes

15 Judicial Appointment and Independence

Panel formed with individual proposals.

Room:

LLM93

Chair:

Kate Berger

Presenters:

Nauman Reayat:

Judicial Independence as a Middle Class Phenomenon: Comparing Pakistan, Indonesia and Colombia

Kate Berger:

Judicial Independence, Judicial Discipline & the Administrative State

Julio Rios-Figueroa:

Patronage and Nepotism in the Mexican Federal Judiciary, 1917-2017

Maximiliano Ravest:

The relationship between constitutional amendment procedure, judicial review and judge's appointments. The United States and Chile case

Piotr Mikuli:

What is the optimal model for the internal structure of the judicial council?

16 Brazilian Constitutionalism: challenges and perspectives

Focusing mainly on Brazilian constitutionalism, the panel will address the different perspectives on its most important aspects. At first, historical influences will be analysed in order to perceive its consequences for the Brazilian jurisdictional experience. The relevant subject of fundamental rights will be treated in accordance with the issues and the limits involving the right to freedom of expression and its parallels with hate speech. Finally, the debate will focus on the main issues related to the Brazilian constitutional jurisdiction, especially judicial activism and judicialization of politics, as well as the judicial deference on the rule-making power of Brazilian agencies for market regulation.

Room:

Seminario 1

Chair:

Cássio Luís Casagrande

Presenters:

Anderson Luís da Costa Nascimento:

About Brazilian constitutionalism: Where are we and where do we go?

Bruno Joviniano de Santana Silva:

Freedom of expression in corrosive erosion

Rodolfo Bastos Combat:

Random Democracy and Constitutional Juristocracy

Maria Clara Conde Moraes Cosati, Rodolfo Bastos Combat, Víctor Hugo Pacheco Lemos:

Judicialization of politics, judicial activism and the Brazilian Supreme Court

Rebecca Féo de Oliveira:

Judicial deference on the rule-making power of Brazilian agencies for market regulation

Juliana Paixão:

Unconstitutional State of Affairs in Brazil

17 Algorithmic “Citizenship”

The panel investigates algorithmic citizenship: how does the implementation of algorithmic analysis expand, compress or manipulate citizenship rights and freedoms? The widespread use of algorithms stems from their perceived potential to increase public sector delivery capability (i.e. protecting rights and freedoms, granting access to welfare schemes and ensuring legal certainty) and societal inclusiveness. However, these processes often result in the exclusion of disadvantaged groups or minorities and unequal classes of citizens. Further concerns regard the effects of practices such as digital profiling on personality rights, and the impact of mis- and disinformation and targeted political propaganda on social network sites on political rights. Algorithmic analysis creates many concerns, even though its full scale has not been properly explored yet. The five panelists discuss various examples, concerns, legal notions, and state obligations regarding algorithmic citizenship.

Room:

Allende Bascuñan 2

Chair:

Elisa Bertolini

Presenters:

Graziella Romeo:

Is algorithmic citizenship a depersonalized citizenship?

Elisa Bertolini:

Rated by the algorithm: suggestions from the Chinese Social Credit System

Paolo Cavaliere:

Astroturfing, computational propaganda and the case for “digital disarmament”

Sarah Eskens:

Algorithms in the news industry: obligations of states to ensure media freedom and information rights of citizens

Delphine Dogot:

Digital Profiling, Law and the Stakes of Personalized Governance

18 Regional autonomy in asymmetrical unitary states: centre-periphery coordination and conflict

The panel will discuss how comparative constitutional law can explain new centre-periphery relations observed in countries that share a model of state that we call “asymmetrical unitary state” as they recognize different degrees of administrative and political autonomy to their regions. For instance, the Catalan crisis is the result of a state model that encourages a permanent renegotiation between regions and central government. In China, the ethnic tensions in the Xinjiang Region illustrates the challenges that another asymmetrical state has to face. The French centralized state is actually less symmetrical than it may seem due to current postcolonial dynamics. In the UK, the effects of Brexit on Scotland are still uncertain. By comparing these cases, panelists will identify which are the constitutional mechanisms that facilitate an effective administrative coordination or political tensions between centre and periphery.

Room:

Allende Bascuñan 1

Chairs:

Juan Enrique Serrano Moreno

Sulan Wong

María Gabriela De Abreu Negrón

Presenters:

Feng Lin:

Does the Policy on Ethnic Autonomy Work in China? A Critical Examination of Autonomy Enjoyed by Xinjiang Uyghur Autonomous Region in China

Francisco Manuel García Costa:

Spanish Autonomous State: regulation, development and, final crisis?

Benoît Delooz:

Unitary state and asymmetrical decentralization in France: solution or source of conflicts?

Juan E. Serrano Moreno:

The limits of freedom of political association in China and Spain due to centre-periphery conflicts

19 Judging and Enforcing Human Rights

Panel formed with individual proposals.

Room:

Auditorio CAP

Chair:

Ana Cristina Pinheiro

Presenters:

Eleni Frantziou:

A Communicative Theory of Horizontality for Constitutional Rights: More than the Privatisation of Public Law?

Valéria Zanette:

Good governance, rule of law and social rights

Angel Aday Jimenez Aleman:

Multilevel Protection of the Right to Housing: Towards an Effective Right?

Iwona Wróblewska:

Publicization of Private Relations by Horizontal Application of Constitutional Rights

Arpita Sarkar:

Reservation on economic basis in India and its impact on inclusive society

Ana Cristina Pinheiro & Estenio Menezes Freitas:

The principles of dignity and legality in times of change for the guarantee of the social rights of transgendered individuals

20 Threats to Democracy

Panel formed with individual proposals.

Room:

LLM92

Chair:

Eoin Carolan

Presenters:

Badrinath Rao:

A Government without power? The aberrations of federalism in India

Dariusz Adamski:

EU law against the emerging social contract of democratic backsliding

Eoin Carolan:

Investigating authority in constitutional systems

Atagun Mert Kejanlioglu:

Legal Education in the Context of Autocratic Legalism

Tushar Kanti Saha:

Presidential Terms, Electoral Contests and Protests against Dictatorial Regimes in Africa

Zachary Elkins:

What does militant democracy look like?

21 Antidiscrimination and Equality

Panel formed with individual proposals.

Room:

D302

Chair:

Carissima Mathen

Presenters:

Yuvraj Joshi:

Affirmative Action as Transitional Justice

Viviana Ponce de León Solís:

Choice architecture and constitutional values: a nudge towards equality

Fernando Muñoz:

Discrimination: on the constitutional history of a fundamental concept

José Manuel Díaz de Valdés:

Reform to the Chilean Antidiscrimination Law and Comparative Standards

Carissima Mathen & Jennifer Chandler:

The Equality Rights Implications of Medically Assisted Death in Canada

Ilias Trispiotis:

The wrongfulness of religious discrimination

22 Contemporary challenges to the fundamental rights of political minorities

Political minorities are under challenge. Although widely recognized in domestic and international legal arenas, political minorities face a number of theoretical and practical obstacles to the enforcement of their rights. Currently, recent populist upsurges scattered around the globe claim the reversal of longstanding democratic gains contributing to the worsening of this situation. In these contexts, the protection and promotion of fundamental rights of political minorities are under threat. This menace affects not only their realization but also their symbolic and discursive legitimacy. Departing from a Latin-American perspective, this panel seeks to address contemporary challenges in this field of legal theory shedding light on both substantive and institutional aspects regarding women, LGBT and migrants' rights.

Room:

R510

Chairs:

Jane Reis Gonçalves Pereira

Presenters:

Jane Reis Gonçalves Pereira:

Democratic representation and courts: the problem of political minorities

Juliana Cesario Alvim Gomes:

Sexual Rights: limits and possibilities to the use of the concept

Ligia Fabris Campos:

Variations on transgender rights in light of the liberalism vs. paternalism debate: a feminist critique

Delfina Beguerie:

Fidelity to the Multicultural Transformation: the harm of using stereotypes

Sofía del Carmen Treviño Fernández:

Backlash and same-sex marriage in Mexico: what is the law of the land?

23 Environmental Protection and International Law

Panel formed with individual proposals.

Room:

D401

Chair:

Justine Bendel

Presenters:

Justine Bendel:

Challenging the judicial nature of international courts in international environmental law: an exploration of the relationship between judicial bodies and non-compliance procedures

Alba Nogueira:

Circular Economy in the Liberalization Era. Is Public Law prepared to address this new legal paradigm?

Raúl Campusano:

Escazú treaty: should it be signed? A new environmental debate

Mariarita Circi:

The global framework for integrating the Environmental Social and Governance (ESG) considerations into investments: from preference to duty?

Chiara Ingenito:

The role of soft law in environmental protection

Felipe Clavijo-Ospina & Elizabeth Macpherson:

The pluralism of river rights in Aotearoa New Zealand and Colombia

24 Corruption's Corrupting of Liberal Democracy

Former UN General Secretary Kofi Annan famously defined corruption as "an insidious plague that has a wide range of corrosive effects on societies". Undoubtedly corruption is one of the principal elements that contributes to undermining liberal democracy and is a serious threat to democratic constitutionalism. This panel will consist of two comparative papers and one case study. Greschner's paper will pose the question of whether corrupt actions should also be framed as human rights violations, Borlini's contribution will focus on the achievements and deficiencies of international anti-corruption cooperation, while Frosini's paper will consist of a case study on the successes and failures of Italy's National Anti-Corruption Authority. The panel will be chaired by Tom Daly who in 2017 underlined how corruption was one of the most important elements in diagnosing "democratic decay".

Room:

D405

Chair:

Tom Gerald Daly

Presenters:

Donna Greschner:

Corruption and the Narratives of Human Rights

Leonardo Borlini:

"Not Such a Retrospective": Reflections on the Origins, Evolution and Outcome of the International Anti-Corruption Cooperation

Justin Orlando Frosini:

Has the National Anti-Corruption Authority (ANAC) Proved to Be the Best Way of Fighting Corruption in Italy?

25 Justicia y Derecho en el Uruguay

The panel will discuss the evolution and the current state of justice and law in Uruguay. Especially in regard to constitutional supremacy, the control of conventionality by the Inter-American Court of Human Rights and the practical application of the Uruguayan Supreme Court of Justice, as well as judicial activism. Likewise, the concurrent or dissident votes of the Uruguayan judges in the Inter-American Court of Human Rights, since its creation, are analyzed.

Room:

D404

Chair:

Ruben Correa Freitas

Presenters:

Ruben Correa Freitas:

La supremacía constitucional y el control de convencionalidad en el Uruguay

Cristina Vazquez:

Derecho público, tiempos de cambio y activismo judicial

María Elena Rocca & Mariel Lorenzo:

La actuación de los jueces uruguayos en la corte interamericana de derechos humanos

Javier Paolino:

Control de cumplimiento del derecho internacional de los derechos humanos en el Uruguay

26 Constitutional Courts enforcing the due process of law-making. Challenges for the concrete control

The panel presents the question on the provenance of the concrete control of constitutionality of the laws and constitutional amendments for defects of form, with emphasis in the Chilean case regarding the inapplicability action. The proposed objectives are to analyze historically and with a comparative perspective the provenance of the control of the legislative processes and the constitutional amendment, the tensions that occur between such control with democratic principle - and the position assumed by the Chilean Constitutional Court on such types of vices. The hypothesis is that, in case of being proceeding, the concrete control of the constitutionality of the vices of form does not operate in the same way as in respect of the substantive vices and that the decision of unconstitutionality generalizes the effects that, in principle, are circumscribed to the specific case. The panel is oriented, in part, to the research framed in the Fondecyt Regular 1180530 project.

Room:

A101

Chairs:

Miriam Henríquez Viñas

Presenters:

Sebastián Soto Velasco:

Experiencias comparadas del control de constitucionalidad que realizan las cortes sobre los procesos legislativos

Maria Pía Silva Gallinato:

Control abstracto y concreto de vicios de forma: importancia de los principios democrático y de conservación de los actos del legislador

Sabrina Ragone:

Requisitos procedimentales como parámetros para el control de normas de rango constitucional

Enrique Navarro Beltrán:

Inaplicabilidad por vicios de forma. jurisprudencia constitucional del Tribunal Constitucional de Chile

Manuel Nuñez Poblete:

La generalización de los efectos de la acción de inaplicabilidad por vicios de forma

Miriam Henríquez Viñas:

La desnaturalización de la acción de inaplicabilidad por vicios de forma

27 The demise of constitutional justice in Chile?

Many suggest that the Chilean Constitutional Court is eroding Chile's democracy by preventing parliamentary coalitions from passing sensible legislation on workers', students', women's, and consumers' rights. In recent years, the Court has embraced a form of activism erecting itself as the guardian of the Pinochet dictatorship's legacy. Some consider these practices and decisions diminishing of the Court's own political power, which may actually explain why current parliamentary debates on the Court point toward amending its review powers. This panel reflects on the evolution and trajectory of Chile's Constitutional Court's case law and practice, in order to place these complaints in due light.

Room:

A102

Chairs:

Jorge Contesse

Sergio Verdugo

Presenters:

Christian Viera:

Activismo político del Tribunal Constitucional chileno

Daniela Mendez:

El Tribunal Constitucional chileno y el activismo judicial: una mirada desde la justicia transicional

Domingo Lovera:

La deforma del derecho

Daniela Marzi:

Tribunal Constitucional y trabajo: un derecho de migajas

Discussant:

Sergio Verdugo

28 Beyond Referendums in Constitutional Creation and Change

Referendums claim to provide a democratic authorisation for constitutional creation and constitutional change. However, referendums leave a lot to be desired as a complete mechanism for constitutional creation and change. At the level of constitutional practice, many countries have developed mechanisms of participatory and deliberative democracy that function alongside or instead of referendum processes. At the level of constitutional theory, the relationship between referendums, democracy and popular sovereignty has been questioned. The papers in this panel explore both the theoretical and normative limitations of referendums as well as the practical mechanisms that have been developed to replace and supplement them.

Room:

A103

Chair:

Yaniv Roznai

Presenters:

Richard Stacey:

The Unnecessary Referendum

Elisabeth Perham & Maartje de Visser:

Challenges and Opportunities of Democracy-enhancing Tools in Constitution-Making in Small States

Oran Doyle & Rachael Walsh:

Constitutional Disagreement, Deliberation and Change

29 Roundtable: Judicial Appointments in a Comparative Perspective - The Kavanaugh Confirmation and Beyond

The process through which judges are appointed is understood as a key feature in the design of any constitutional democracy. Since judges determine the meaning of the constitutional text and exercise the (stronger or softer) power of judicial review, the control over the composition of the bench carries significant political, economic and legal consequences. Who appoints judges vested with constitutional powers, pursuant to which procedures and criteria, and subject to what forms of review or approval – are all significant questions, as a matter of political practice and theory. The Kavanaugh confirmation in the US and developments in other jurisdictions in liberal and less liberal constitutional democracies call for reflection on the state of the art. The roundtable will address these questions, consider the main challenges facing the appointment procedures in selected jurisdictions, and debate the lessons – practical and theoretical – that may be learned from these developments.

Room:

Aquiles Portaluppi

Chairs:

Sujit Choudhry

Amnon Reichman

Discussants:

Kai Möller

Discussant – Reflections on Judicial Appointments: Theory and Practice

Tímea Drinóczi

Discussant – Judicial Appointments: The Hungarian Lesson and the Eastern European Context

Javier Couso Salas

Discussant Judicial Appointments – The Latin American Perspective

Amnon Reichman

Discussant: The Historical Arc and Comparative Significance of the Kavanaugh Confirmation

30 A Latin American approach to International Economic Law? A reform agenda for a time of change

Climate change and the protection of other public goods and societal values create a challenge to the orthodoxy in International Economic Law (IEL). Whilst the current zeitgeist increases the necessity of a global approach to public goods' regulation, IEL has not provided satisfactory solutions to those problems. Furthermore, IEL institutions are currently immersed in deep existential crises. It is against this background that this panel aims to provide a novel approach to those discussions by shifting the perspective by focusing on the efforts to tackle those issues through a regional approach. The panel ventures into the analysis of a 'Latin American approach' to discern how the recent international trade and investment agreements concluded in the region tackle both the challenges that trade regulation poses to the protection of public goods widely understood, and the current crisis of traditional IEL.

Room:

Sala Juicio Oral

Chairs:

Andres Delgado

Nicoló Lanzoni

Presenters:

Belen Olmos:

A 'Latin American approach' to International Economic Law?: Reconciling trade liberalisation and investment protection with the safeguard of public interest

Jaime Tijmes:

International Economic Law (& Politics): A Latin American Perspective

Andres Delgado:

A Latin American Approach to Investor-State Dispute Settlement (ISDS) reform

Andrea Lucas:

Trade and Investment from a Climate Change perspective: A Latin American approach in a changing time

31 Compensatory Damages for Human Rights Violations

This panel inaugurates a section of the project “Inter-American Scholarship” (*Doctrina Interamericana*), whose portal <http://www.doctrinaidh.com> will now include not only an “updated” version of the American Convention on Human Rights according to the Inter-American Court’s case law, but also a table with all of the compensations that the Inter-American Court has granted to victims. The portal’s information about compensations is broken down according to the type of victim, the kind of damages, the familial relationship of the “secondary victim”, etc. The presentations of this panel will deal with the challenges of a system of compensatory damages for human rights violations and with the Inter-American Court’s granting of compensatory damages in particular.

Room:

FD 101

Chair:

Álvaro Paúl

Presenters:

Kate O'Regan:

The Challenges of a System of Compensatory Damages for Human Rights Violations: the Perspective of a Constitutional Court Judge

Pier Pigozzi:

A Tool for Analyzing the Inter-American Court's Case Law and Compensations

Álvaro Paúl:

The Inter-American Court's Granting of Compensations

Monday
1 July 2019
15.25 – 17.00

Panel Sessions II

32 Global Data Governance and the Future of International Organizations

International organizations (IOs) have long been both producers & consumers of data. Digitization, vast volumes of data and new technologies, however, are offering new opportunities. Aggregated in large datasets, digital data from different sources can supplement scant government statistics and offer unprecedented insights into constituencies, space, resources and environments. Often, however, this data is concentrated in the hands of commercial actors whose willingness to share it may be hampered both by business and legal concerns. As both a product of and a key input for emerging technologies, digital data has become an intangible capital, with both public and private actors racing to capture its value and legislators around the globe attempting to regulate data flows & mediate access to public and private data, often with 'extraterritorial' effects. The panel will discuss the role that IOs can play in global governance of data.

Room:

LLM94

Chair:

Guy Fiti Sinclair

Presenters:

Eyal Benvenisti:

Global Access to Data: The Role of International Organizations

Dimitri van den Meerssche:

Digital Data in Border Control Governance

Angelina Fisher:

International Organizations as Global Regulators of Digital Data Flows

33 El Rol del Poder Judicial en el Constitucionalismo Transformador Latinoamericano y Construcción del Ius Commune

(The Role of the Judiciary in Transformative Constitutionalism in Latin America and the Construction of the Ius Commune) - The panel explores the role played by the Judiciary in the construction of a transformative constitutionalism in Latin America: one that contributes to changing the political and social reality of the region, which is strongly marked by exclusion and inequality. It will showcase the experiences of transformative constitutionalism in Chile, Colombia, Brazil, and Mexico, demonstrating that the Judiciary is a central agent for the implementation of rights and for the fulfillment of constitutional promises. These experiences also unveil the development of common denominators concerning human rights, democracy and the rule of law in the region, based on the open statehood of the various national systems to international and regional law. The Judiciary is one of the most relevant agents that have played a key role for the construction in progress of a Ius Constitutionale Commune en América Latina (ICCAL), an original Latin American path of transformative constitutionalism.

Room:

Auditorio A. Silva

Chairs:

Armin von Bogdandy

Presenters:

Miriam Lorena Henríquez Viñas:

La Jurisprudencia de la Corte Suprema de Chile como un Agente Transformador en la Protección de los Derechos de los Migrantes (The Supreme Court of Chile as a Transformative Agent concerning the Protection of Migrants' Rights)

Jorge Ernesto Roa Roa:

El Constitucionalismo Transformador frente a la Sala de Máquinas (The Transformative Constitutionalism before the Engine Room)

Patrícia Perrone Campos Mello:

Constitucionalismo Transformador y Protector en Brasil: el Ius Commune en América Latina como Estrategia de Resiliencia (Transformative and Protective Constitutionalism in Brazil: The Ius Constitutionale Commune en América Latina as a Resilience Strategy)

Roberto Niembro:

El Constitucionalismo Transformador en México (The Transformative Constitutionalism in Mexico)

34 Rule of law challenges in a time of criminal justice crisis: Theoretical and constitutional issues 2

A series of three panels will explore some of the central challenges to the idea of the rule of law in the face of contemporary criminal justice. Tying criminal justice and state punishment to the rule of law has been traditionally understood as a necessary feature of modern liberal democracies. Contemporary criminal justice, however, seems to challenge many of the central features that rule of law thinking attributes to state action: it is selective, and not universal, the content of the rules applied are complex and thus not always easy to grasp, and administered by a variety of agents acting under very different frameworks. In the fact of this reality, can criminal justice be reconciled with the rule of law? What issues arise out of these tensions? What roles do international human rights and constitutional law play in maintaining the rule of law?

Room:

Sala Reuniones LLM

Chair:

Javier Wilenmann

Presenters:

Hamish Stewart:

The Elusive Virtue of Congruence

Javier Wilenmann:

State theory, criminal justice decision making and the rule of law project

Nicola Recchia:

Is criminal law "special"? A defense of a stricter scrutiny of judicial review of legislation in criminal matters

Francesco Viganò:

Proportionality of penalties as a fundamental right?

35 Sovereignty, constitution and democracy: tensions, contradictions and convergences in the 21st Century (Part B)

This panel, split into parts A and B, aims to face the existent challenges in the relationship between Law and Politics, basing itself on the assumption that such challenges are inevitable consequences of the tension between constitutionalism and democracy. Latin America has been going through a conflicting moment in its political and constitutional history: after a period of arising of new rights in constitutions with institutional designs which were more amenable to the sharing of political power, one now notices a great tension between political agents as to what regards the just (or at least more prudent) sharing of authority. In this contentious scenario, rethinking the relationship between constitutionalism and democracy is a must. It is this panel's proposal, thus, to think of new possibilities in the relationship between Law and Politics and ways of sharing political authority, in an agonistic perspective, connected to the challenges of the 21st Century.

Room:

LLM91

Chairs:

Estefânia Maria de Queiroz Barboza

Glauco Salomao

Presenters:

Vera Karam de Chueiri & Heloisa Fernandes Câmara:

Brazilian Constitutional Hardball: Institutions and the Constitutional Instability

Katya Kozicki & Maria Helena Fonseca Faller:

Radicalizar la democracia, popularizar la constitución: un ensayo para mayor participación ciudadana en la política

Vera Karam de Chueiri & Ana Claudia Milani e Silva:

Urban struggles and radical democracy: perspectives for a democratic constitutionalism

José Arthur Castillo de Macedo & Thais Amoroso Paschoal:

Tutela colectiva, cooperación e transfederalismo: compartilhando problemas e soluções

36 The Normative Foundations of Administrative Law

Historically, administrative law has proved to be a rather flexible and adaptable body of law. It has developed as a multi-purpose project, aimed both at developing and structuring administrative power. Such process has followed several routes, the combination of which has gradually defined the mission of administrative law within and outside state legal orders. Administrative law has also been functional to the operationalization of a great variety of ideologies and political programs, ranging from socialism to economic liberalism. And it has flourished within different constitutional settings and legal contexts. While flexibility and adaptability may contribute to explain the lasting success of administrative law and its expansion in the globalized legal world, they also question its capacity as a normative project. The panel aims at reflecting on such issues, in order to identify their multiple dimensions and to frame a research agenda on administrative law as a normative project.

Room:

LLM93

Chair:

Edoardo Chiti

Presenters:

Bernardo Giorgio Mattarella

Mariana Prado

Peter Lindseth

Joana Mendes

37 Foreign Direct Investments Screening: A Challenge for Public Law

The administrative measures of economic protectionism do not only consist in the classical imposition of commercial duties. A modern way to conduct trade wars consists in the use of administrative measures formally aimed to check foreign direct investments for national security and other public interests' concerns. On the one hand, FDI can be an opportunity for national economic development, while, on the other hand, they can be an instrument through which foreign entities may acquire control of strategic sectors of other nations' economies. The panel intends to discuss the different ways through which the national governments control the flow of resources from abroad, to understand their stage of development and the steps made for their harmonization. It should be considered that the whole set of laws in this field is undergoing a series of reforms in many countries, such as the one adopted in the USA and the new EU regulation establishing a common framework for the screening of FDI.

Room:

LLM92

Chairs:

Giulio Napolitano

Presenters:

Samed Sahin:

European Foreign Direct Investment Screenings and Control Mechanisms in the Light of the Charter of Fundamental Rights

Bruno Paolo Amicarelli:

Remedies against Unlawful Foreign Direct Investments Screening Measures under the New Common EU Regulation

Maria Stella Bonomi:

Foreign Direct Investments Screening Measures and Duty to Give Reasons

38 Current Constitutional and Political Challenges in Europe

Panel formed with individual proposals.

Room:

Seminario 3

Chairs:

Pablo José Castillo Ortiz

Presenters:

Radek Píša:

Fortified Majority

Ivan Sammut:

Mixed legal systems – A 'loving' marriage of legal systems or a curse – The case study of Malta in the EU context

Ermioni Xanthopoulou:

Rights and Trust in EU Criminal Law: Age of Distrust or Pragmatic Trust?

Pablo José Castillo Ortiz:

The Radical Right Party 'Vox': a Threat to Liberal Constitutionalism in Spain?

Orbán Endre:

The Symptoms of Distrust in the Fundamental Law of Hungary and in its 7th Amendment

Beniamino Caravita di Toritto:

Where is Europe going? Paths and perspectives of the European federalising process

39 Dialogic Constitutionalism I

Panel formed with individual proposals.

Room:

Seminario 2

Chairs:

Daniel Wunder Hachem

Presenters:

Arturo Fernandois:

Constitutional dialogue between judicial branches: removing obstacles for concrete review of constitutionality in Chile

Carlos Ignacio Giuffré:

Dialogic Constitutionalism: An Analysis of its Conditions of Appearance

Daniel Wunder Hachem & Eloi Pethechust:

Forced dialogue or overlapping monologues? The override of Brazilian Supreme Court's decisions by the Congress through constitutional amendments

Jan Podkowik, Marek Zubik & Robert Rybski:

Judicial dialogue in Europe. Between harmony and cacophony on the example of personal data protection

Chien-Chih Lin:

Judicial Dialogue or Monologue? Exploring Noncompliance with Judicial Rulings

40 The Practice of Constitutional Democracy

This panel explores several contemporary problems in constitutional democracy. The first problem is that of social rights and equality. Equality is said to be a foundation of constitutional democracy, but that is only a threat in many regimes. A second problem is abusive constitutionalism, the use of constitutional reform to subvert constitutionalism.

Room:

D304

Chairs:

Antonia Baraggia

Presenters:

Mariana Rodrigues Canotilho:

No taxation without equality: taxes and (other) austerity measures from an equality perspective

Oren Tamir:

Abusive "Abusive Constitutionalism"

Carmen Montesinos Padillo:

The Constitutional Reform as a Barrier against the Economic Globalization. State of the Matter in Spain and Proposals for Action

Johanna Frolich:

Discussant

Alexander Somit:

Discussant

41 Problems in the Theory and Practice of Constitutional Democracy

This panel explores different problems in the theory of constitutional democracy. Some problems concern the role of the rule of law. Others concern the constraining power of constitutions. Still others concern the role of courts and the fine line between a constitutional democracy and autocracy.

Room:

Auditorio E. Frei

Chairs:

Sandy Levinson

Presenters:

Kim Lane Scheppele:

Wolves in Sheep's Clothing: Distinguishing Democrats from Autocrats in a World of Backsliding

Martin Krygier:

What's the Point of the Rule of Law

Mark Graber:

Constitutions as Constraints

Mariana Rezende Oliveria:

Which democracy: Questioning Courts as Democracy Builders

Yvonne Tew:

Discussant

Sandy Levinson:

Discussant

42 Challenging and Propagating Neoliberalism Across the Globe

Panel formed with individual proposals.

Room:

Seminario 1

Chairs:

Diego Gil Mc Cawley

Presenters:

Leticia Kreuz:

From abusive to intersectional constitutionalism - a deontological analysis

Aneta Tyc:

How to Shape the Future Direction of Global Labour Governance

Dragica Vujadinovic:

Neoliberal and Welfare State Strategies of Development and of Understanding the Causes of the Crisis and Ways Out

Vijayashri Sripathi:

The global spread of neoliberalism via United Nations Constitutional Assistance: A salient but understudied international constitutional mechanism

Diego Gil Mc Cawley:

The Institutionalization of Neoliberal Reforms: A Case Study of Chile's Housing Law and Policy

43 Law and Politics in Brazil

Panel formed with individual proposals.

Room:

Allende Bascuñan 2

Chairs:

Janaína Silva

Presenters:

Luísa Netto:

Fight against corruption in Brazil: the risk of selective and unbalanced legal enforcement

Marina Bonatto & Leonardo Cabral:

Rethinking Brazilian Democracy from a Gender Perspective

Bernardo Campinho:

The differences between the procedures of refuge and asylum in the Brazilian constitutional experience: an analysis in the light of the dialogue between International Law, Constitution and Brazilian migratory law

Marcelo Labanca:

The role of state constitutions in the densification of fundamental rights at the subnational level in federal or quasi-federal countries: A prospective agenda from the Brazilian case

Janaína Silva:

Women and Constitution: a case study about the political participation of women in Brazil

44 The Movement of People and the State: A Historical and Legal Approach to Japan's Experience

The movement of people across borders interests states in such respects as territorial integrity, social solidarity, and national identity. Japan has been expected and able to keep an effective immigration control because of its territorial insularity and (supposed) national homogeneity. However, its immigration policy has now undergone a remarkable transformation in response to the aging of its population and globalization. This panel casts light on this process from historical and legal perspectives. Iokibe and Inayoshi, both historians, deal with the Meiji Government's regulation on foreign visitors in the territory and their entry at ports in the 19th century. Ohnishi, legal comparatist, builds a bridge from the history to the current legislation, focusing on the post-war development of immigration law. Sekine, specializing in social security law, and Okitsu, in administrative law, respectively analyze social rights of non-nationals and refugee recognition.

Room:

Allende Bascuñan 1

Chairs:

Yukio Okitsu

Presenters:

Kaoru Iokibe:

The Modernization of the Japanese State: How to Regulate Foreign Visitors

Akira Inayoshi:

Regulations for Ports and Harbours in Japan's Open Ports in the 1860s

Nami Thea Ohnishi:

The Japanese Immigration Policy and its Legal Fundaments

Yuki Sekine:

The Mutual Implications of Social Security and Immigration Laws: the Case of Japan

Yukio Okitsu:

Refugee Status Determination: State v. UNHCR

45 Proportionality Around the World

Panel formed with individual proposals.

Room:

D302

Chairs:

Dam Shubhankar

Presenters:

Murray Wesson:

Australian Constitutional Culture and the Reception of Structured Proportionality

Virgilio Afonso da Silva:

It is not all about balancing: proportionality's necessity test

Elena Drymiotou:

Proportionality in two analytical zones of human rights adjudication

Shubhankar Dam:

Shades of Proportionality: Fundamental Freedoms and Reasonable Restrictions in India

João Andrade Neto:

The Mendes Court (2003-2013): Progressist, Pro-Freedom, and Socially Engaged, but a Political Moralist

Fabio Estrada Valencia:

The penal sanction in the Colombian peace agreement with the farc-ep and the international standard of proportionality of punishment

46 La participación ciudadana en el otorgamiento de títulos mineros

At the beginning of the 21st century, two opposing forces entered into conflict: on the one hand, a legislation informed by a highly centralized, established to protect mining companies with conception of the management of mining and hydrocarbon resources. On the other hand, communities dedicated to protect local affairs, the defense of their territory and their well-being, as well as the new trends of Latin American constitutionalism in the last section of the 20th century and the beginning of the 21st century this new conceptions of development promoted by international organizations such as the World Bank or UNDP. In Colombia, constitutional case-law was receptive to the claims of the communities. These have been an interesting debate on the role that corresponds to citizen participation and local institutions in the management of mineral wealth and hydrocarbons. This Panel seeks to analyze the central lines of this transformation, identify the actors in this field.

Room:

D401

Chairs:

Federico Suarez

Presenters:

Hector Santaella

Juan Carlos Covilla

Ramon Huapaya

47 Constituent Power, Violence and the Material Constitution

The involvement of violence in the constitution-making process has not been traditionally analyzed by constitutional theory. Whereas predominant constitutional law scholarship has focused on developing both a normative and a descriptive theory on constituent power from the perspective of citizen participation in the creation of a constitutional framework, the present panel analyses the importance of physical coercion and abuse in foundations of constitutional democracies. The discussion counts with approaches from the theoretical perspective on the relations between violence in the constitutional origins and the material constitution provided by Zoran Oklopčić, Joel Colón-Ríos and Hèctor López Bofill. In addition, the panel includes a contribution focused in particular empirical cases regarding the problem of the violence in the constitutional foundations such as the digression provided by Vito Breda.

Room:

Auditorio Claro

Chair:

Francesca Maria Pou Giménez

Presenters:

Joel Colón-Ríos:

Of Historical and Material Constitutions

Zoran Oklopčić:

Dark material(s) and material constitutions: constituent power, institutional aims and productive forms

Hèctor López Bofill:

The Constituent Power, the Problem of Violence, and a Theory of the Constitution

Vito Breda:

The New Caledonian referenda and the strategies of diverting political power into violence

48 Methodological pluralism in comparative constitutional research

Research methods in comparative constitutional law are in transition. The ongoing debate on methodology in comparative constitutional law distinguishes between legal-hermeneutical and social sciences-empirical approaches. The panel does not only intend to open up the plurality of methods but shall also discuss the potential of methodological pluralism. Different approaches, like empirical, historical, hermeneutical and knowledge-based methods, will be evaluated, discussed and linked to each other. The interrelation between the purpose of comparative research and the research methods create a benchmark to re-evaluate the methodological approaches. A critical evaluation of existing methods will develop new perspectives towards a consolidation of the existing methodological discourse.

Room:

D402

Chair:

Konrad Lachmayer

Presenters:

Theunis Roux:

Interdisciplinary Research in Comparative Constitutional Law: Benign Toleration or Critical Engagement?

Renata Uitz:

The Rise of Illiberalism as an Invitation for Interdisciplinarity in Comparative Constitutional Scholarship

Matthias Goldmann:

Public Interests in Sovereign Debt Litigation: An Empirical Analysis

Konrad Lachmayer:

A knowledge-based approach towards constitutional comparison

Wen-Chen Chang:

Discussant

49 Public Values in Expert Decisionmaking

Panel formed with individual proposals.

Room:

Auditorio CAP

Chair:

Renata Brindaroli Zelinski

Presenters:

Quentin Pironnet & Xavier Miny:

A two-tiered justice system ? – Or how to attract foreign investors through the State justice mechanisms

Renata Brindaroli Zelinski:

Consensual public administration: a new paradigm of a participatory and democratic activity

Paul Mertenskötter & Tim Dorlach:

Interpreters of International Economic Law: Corporations and Bureaucrats in Contest over Chile's Food Warning Label

Robert Grzeszczak & Joanna Mazur:

Regulating without Regulation? Regulating without the Sovereign? The Transition from Government to Governance on the example of the GDPR.

Yu-Yin Tu:

The Governance of Independent Agencies- Starting from the Analysis of Taiwan Experience

Esther van Zimmeren:

Trusting New Institutional Actors: Specialized Courts in the field of Intellectual Property Law

50 Judicial independence in hard times

The panel on judicial independence is based on a presumption that in the representative democracy Parliament should play a role of delegated power. However, Parliament tends to overstep its competences. To prevent such a situation an independent arbiter is needed. The judiciary usually plays such a role. But if courts are captured by ill-founded majority, they fail to act as neutral arbiters. The institutional balance is violated. The panelists provide three examples of systems in crisis. Acting as servant of political will the Polish Constitutional Tribunal enables transformation of the system towards illiberal democracy. In the Hungarian consolidated illiberal system, the judges of the younger generation have been socialized in the illiberal system, thus they perceive judicial independence in a specific illiberal way. Another example is connected to Romania's judiciary reform. The reform triggered debates on the progress made by the country in strengthening the judicial system.

Room:

D405

Chair:

Anna Tarnowska

Presenters:

Anna Tarnowska & Wojciech Włoch:

Constitutional Courts and representative democracy

Agnieszka Bień-Kacała:

Judicialization of politics or politicization of the constitutional court in Poland

Tímea Drinóczy:

Customizing judicial independence

Mónika Márton:

Judiciary reforms in Romania: progress or democratic backsliding?

51 Unconstitutional Constitutional Amendments and Abusive Constitutionalism in Latin America

Panel formed with individual proposals.

Room:

A102

Chair:

Leticia Kreuz

Presenters:

Leticia Kreuz:

Abusive constitutionalism and the fraudulent female Legislative candidacies in Brazil

Rick Pianaro:

How democracy is being undermined by constitutional amendments in Brazil

Daniel Capecchi Nunes:

The 1988 Brazilian Constitution's dismemberment: abusive constitutionalism and the ending of the democratic political cycle

Arthur Passos El Horr

The judicial review of constitutional amendments in Brazil and its democratic importance considering the specificities of the Constitution of 1988

Trilce Valdivia

Unconstitutional constitutional amendments in the Peruvian way. A first approach

52 Nuevos Derechos y Desafíos para su Protección

Panel formed with individual proposals.

Room:

R510

Chair:

Ana María García

Presenters:

Mariana Canales:

¿Es la separación de poderes suficiente?

Ana María García:

Derechos Implícitos y su desarrollo en la Jurisprudencia Constitucional Chilena

Carmen Droguett González:

El reconocimiento del derecho de acceso a la información de interés público como derecho fundamental, en la jurisprudencia constitucional y administrativa chilena a 10 años de la promulgación de la Ley N° 20.285 sobre acceso a la información pública

Jhonathan Avila Romero:

El Rol del Tribunal Constitucional Peruano y la Eficacia de los Derechos Sociales

Guilherme Scotti & Rodrigo Gomes:

Los impactos de la matriz histórico-jurídica producida en el contexto de las diásporas afrobrasileñas sobre los derechos de las comunidades quilombolas

Fabiana Lanke, Eduardo Domingues, Eliane Almeida & Milton Souza:

Seguridad alimentaria en Brasil – Análisis bajo el enfoque del ciclo de las políticas públicas

53 Unequal protection: immigration detention and deportation as fundamental rights blind-spots. The US and Chile compared from an interdisciplinary perspective.

Immigration has been an ever-present issue in the history of humanity, and for almost two centuries has required specific legislation from most states. But never had it been such a pressing issue for public policy, nor had it shined a light so brightly upon the nation-states' and international community's shortcomings as in recent decades. This panel focuses on one of the largest blind-spots in immigrants' rights protection: detention and deportation. The topic is reviewed in compared perspective, from a theoretical and practical point of view (having faculty from UC Davis and PUC with field experience), and from an interdisciplinary approach (through presentations of two sociologists). Do states have the right to deny constitutional protection to immigrants? Is it a legitimate exercise of sovereignty? What are the long-term consequences of racialized detention, deportation and family separation? Are Courts in the US and Chile doing enough when facing these human rights blind-spots?

Room:

D404

Chair:

Martín Bernardo Canessa Zamora

Presenters:

Caitlin Patler:

The Fiscal, Social, and Human Impacts of U.S. Immigration Detention

Eleonora López Contreras:

Deportación de poblaciones migrantes en Estados Unidos y Chile: Una expresión del racismo estatal

Tomás Pedro Greene Pinochet:

The constitutional protection of immigrants' rights against the Administration's powers to detain and deport: Chile and the US compared

Leticia M. Saucedo:

The Narratives in the U.S. Courts Justifying Restricted Rights for Immigrants

54 Soberanía, Constitución y Democracia

Panel formed with individual proposals.

Room:

A101

Chair:

Guillermo Otorola Lozano

Presenters:

Denis Junior Cahuana Marca:

Ámbitos excluidos de la reforma constitucional en el Perú

Guillermo Otorola Lozano:

Constitución y clientelismo

Eduardo Esteva:

El Estado y su supervivencia desde el Renacimiento: una categoría histórica o absoluta?

Esteban Szmulewicz:

Igualdad política: implicancias para el diseño institucional y los derechos fundamentales

Federico Ambroggio:

La judicialización de la política y el problema de su indeterminación conceptual

Xavier Vence:

Los Tratados comerciales y la privatización del derecho: amenazas para la soberanía y la democracia

Claudio Alvarado:

Origen y legitimidad de la Constitución de Chile: notas de teoría política y legal

55 Flexible Justice, Enduring Peace? Courts, Transitional Governance and Transformative Constitutionalism in Colombia and Mexico

Courts play a pivotal role in the design and implementation of transitional governance in Latin America. However, adjudication in this context is sometimes controversial. The priorities, legal doctrines, or strategic incentives of international courts may sometimes collide with those of national decision-makers, activists, or victims. And domestic courts are often asked to step up their participation in transitional governance, but they could end up playing a role they are reluctant (or unable) to perform. By exploring the Colombian and Mexican experiences under the framework of the project *Ius Constitutionale Commune en América Latina* (ICCAL), this panel discusses some of the tensions underlying adjudication in transitional settings focusing on how the choice between rigid and flexible standards, between dialogue and commands, could foster (or hinder) successful transitions in the region.

Room:

D303

Chair:

Rene Uruena

Presenters:

Ana Maria Ibarra:

The Ayotzinapa decision: self-restraint and transitional justice under review

Juana Acosta:

Rights of victims in transitional contexts vis-a-vis the Inter-American Human Rights System: amidst the Conventionality Control and the National Margin of Appreciation

Alexandra Huneus:

The Judicialization of Peace

Manuel Góngora

The Inter-Americanization of Transitional Justice: The Colombian Case from a Coevolutionary Perspective

56 Investment Law and Constitutional Law From a (Post)Colonial Perspective

Investment law's mechanism for enforcing its standards of protection, investor-state dispute settlement (ISDS), continues to attract a great deal of controversy, in part, because of the constitutional functions that are served by this new transnational legal order. It origins are traceable to the period of formal decolonization, when ISDS emerged as the most effective means, short of armed invasion, for protecting the property of metropole investors. This privatized form of justice enables investors to sue newly decolonized states and to claim compensation in circumstances when these states seek, among other things, to exercise sovereignty over their natural resources. This panel will focus upon the relationship between investment law and constitutional law through a (post)colonial lens. Of particular interest are the implications for states in the Global South. Panellists will explore how the ISDS is reshaping and renewing colonial relationships between states home to former empires.

Room:

Sala Juicio Oral

Chairs:

Federico Suarez

David Schneiderman

Presenters:

Magdalena Correa:

The BITs in Colombia and the principle of equality: a new constitutional control

Guillermo Moro:

"What Are We Doing in Europe Then?" Latin-American Lawyers and the Post-Colonial Construction of the Investment Protection Regime

David Schneiderman:

Investment Law's Formal and Informal Constitutional Empire

Ximena Sierra:

A (post)colonial approach: Colombia before the ISDS and the disputes over natural resources

Federico Suarez:

An empirical rethinking of the hegemonic concept of foreign investment in the Global South

57 New Frontiers of Citizenship

The contours of citizenship are undergoing dramatic changes. On the one hand, the past decades have seen countries adopt increasingly flexible and liberal regimes, with the consolidation of EU citizenship, an increased toleration of dual citizenship and a growing commitment to anti-discrimination. On the other hand, many governments have recently taken an increasingly restrictive approach to immigration, especially by political and economic refugees. Bridging these two trends is a broader move towards the marketization of state membership: economic capital is becoming ever more important as a criterion for admission and inclusion in a state. Individuals on the ground respond to this new situation by becoming more strategic and instrumental vis-à-vis citizenship-granting states. The four presentations will discuss these transformations from multiple legal and sociological perspectives, offering an empirical and theoretical evaluation of the present state of nation-state citizenship.

Room:

FD101

Chair:

Martijn van den Brink

Presenters:

Ayelet Shachar:

The Marketization of Citizenship in an Age of Restrictionism

Yossi Harpaz:

Citizenship 2.0: Dual Nationality as an Asset

Dimitry Kochenov:

Citizenship's Unnecessary Future

Kristin Surak:

The Marketization of State Membership

58 Public law and bioethics in times of change. Reflection on human rights concepts and biomedical issues

Public Law encounters challenges with biomedical issues since mid-'80s - early '90s on several aspects. One of these aspects is to know whether Law or medical deontology should regulate biomedical issues. Indeed, the legislator was wondering whether he should take a position towards biomedical practices or let these issues be regulated by another kind of norms such as medical deontology, for instance. Nowadays, the medical practice still plays an important role. One of these aspects is also to know which field of Law should regulate biomedical issues. Should biomedical issues be regulated by Medical Law, Civil Law or Human Rights Law? One other aspect is to know if domestic Public Law is today inadequate to regulate biomedical issues in times of globalization. This panel will look at national and international law and will attempt to analyse how Public Law and Human Rights deal with biomedical issues.

Room:

Auditorio Card. Oviedo

Chairs:

Grainne De Burca

Presenters:

Maria Kalogirou:

Reproductive technologies – reproductive rights? Medically assisted reproduction in French and in Greek Law: Different concepts but same type of protection

Enrique Santamaria:

Genetic research on human biological samples (HBS). Old and new challenges for public and private law

Judit Sandor:

Legal Consequences of Genetic Textuality

Laurie Marguet:

The change of the legal framework governing Surrogacy in France and Germany

Tanya Hernandez:

Discussant

Manon Altwegg-Boussac:

Discussant

59 Political Parties and the Constitution

In an era of populism, xenophobia and nationalism, there is a growing need to treat political parties as public law institutions. Political parties fundamentally affect the functioning of separation of powers in constitutional systems. They serve as intermediaries between the representatives and the people and as platforms for debating and shaping constitutional values. Yet, political parties are under-theorized and under-regulated in public law. The panel will address questions of constitutional design from a theoretical, historical and comparative perspective.

Room:

Auditorio P. Aylwin

Chair:

Julie Suk

Presenters:

Stephen Gardbaum:

Political Parties and Constitutional Values

Sujit Choudhry:

The Public Law Theory of Political Parties: Preliminary Notes from Bagehot and Dicey

Tarun Khaitan:

Constitutionalising the Party: Protecting the State from the Party and the Party from its Base

Rivka Weill:

Discussant

60 Rights to Health, Food and Nutrition

Panel formed with individual proposals.

Room:

Sala Mediación

Chairs:

Bárbara Bertotti

Presenters:

Bárbara Bertotti:

Brazilian unified health system: is it egalitarian to be gratuit?

Leonardo Ribas:

Desertion, Resistance, Exodus and Civil Disobedience: "Enclosures" of the "common" in the human right to adequate, healthy and sustainable food in the context of imperial globalization

Thana de Campos & Mariana Canales:

Global Health Governance, the centralization approach, and the principle of subsidiarity

Rodolfo Figueroa:

Justiciability of the Right to Health in Chile

Rawin Leelapatana & Seksiri Niwattisaiwong:

Legal and Economics Framework for Optimization in Drug Affordability

Paola Bergallo:

Shifting "shifting legal visions" in Argentine constitutional law

61 Book Panel: NW Barber, The Principles of Constitutionalism (Oxford University Press, 2018)

NW Barber is the Professor of Constitutional Law and Theory at Trinity College, University of Oxford. This panel will see leading scholars from different parts of the world discuss aspects of his most recent book, *The Principles of Constitutionalism*. The book explores the idea of constitutionalism itself, sovereignty, the separation of powers, the rule of law, civil society, democracy and subsidiarity. It offers an integrated account of each of these values, seeking to put constitutionalism in its best light. It is a work of constitutional theory, but one delivering a systematic rendering of central ideas in constitutional thought which will be of interest and accessible to public lawyers around the world. On this panel, jurists from Canada, the United States, Hong Kong, Germany and Britain will reflect on elements of the book and probe the author on its more contentious claims. The author will reply to each before opening the floor for a half an hour's discussion.

Room:

A103

Chair:

Jeff King

Commentators:

Vicki Jackson

Cora Chan

Peter Oliver

Mattias Kumm

Reply to commentators:

Nicholas Barber

62 Transformative Constitutionalism and Constitutional Paternalism

What is the role of courts in transforming the constitutional order? Can courts promote and strengthen the democratic institutions? How do courts conduct a 'structural judicial review'? Supreme and constitutional courts are increasingly acting as guardians of parliaments, in their supposed interest, aiming at safeguarding a space of manoeuvre for representative actors. This trend can be regarded as "Constitutional paternalism": A slightly paradoxical notion, as, in many cases, Parliaments would be entitled with appropriate authority and powers to safeguard their position within the constitutional system, simply by exercising their powers. Panelists will explore challenges raised by these developments to the constitutional state: is constitutional paternalism a viable answer to the crisis of Parliaments and representative democracy? Does it violate or instead strengthen separation of powers? Does it rather foster popular distrust in representative democracy and strengthen populism?

Room:

Aquiles Portaluppi

Chairs:

Aileen Kavanagh

Presenters:

Michaela Hailbronner:

Defending democracy by protecting parliamentary rights

Pietro Faraguna:

Constitutional paternalism, crisis of parliaments and "techno-populism"

David Landau:

The (Contingent) Obligation to Issue a Structural Remedy in Socioeconomic Rights Cases

Yaniv Roznai:

Constitutional Paternalism: The Israeli Supreme Court as Guardian of the Knesset

Samuel Issacharoff:

Discussant

Tuesday
2 July 2019
08.20 – 09.55

Panel Sessions III



63 Are classical concepts of constitutionalism collapsing? Reflections on the contemporary mutations of constitutionalism

The mutation of Constitutional Law concepts is customary, especially in times of change. Their elasticity is widely discussed, sometimes in terms of resistance to those mutations, sometimes in terms of new challenges to be included. However, the movements within mutations are difficult to grasp. Indeed, they are either explicitly recognized and defended on a theoretical level (i.e., discourses on global constitutionalism), or sometimes the change occurs in a more invisible way (i.e., conditions of constitutional interpretation). No matter the ways these changes occur, classical constitutional concepts seem to be torn apart. Are these concepts indefinitely extendable? The purpose of our panel is to focus on these movements (coming from legal discourse, jurisdiction or philosophy of law) - on the way they operate and the way they justify/or not these conceptual changes - and on the nature of their consequences on discourses and principles relating to constitutionalism.

Room:

Auditorio A. Silva

Chair:

Mark Tushnet

Presenters:

Manon Altwegg-Boussac & Patricia Rrapi:

Between liberal constitutionalism and new representations of constitutionalism: when constitutional concepts are swinging

Andras Jakab:

The Nature of Constitutional Concepts

Mattias Kumm:

Continuity and Discontinuity in basic constitutional concepts: Three transformations

Andrea Abi-Nader:

External actors in constitution making: does constituent power still have its place in constitutional theory

Laetitia Braconnier-Moreno:

Rights of Nature or community right in new constitutionalism?

Stephen Gardbaum:

Discussant

64 Author meets readers: How to Save a Constitutional Democracy

Democracies are in trouble all around the world, with dangers of erosion not only in new and recently “consolidated” democracies, but in established democracies of long standing. How to Save a Constitutional Democracy provides an analysis of the mechanisms of democratic decline as well as some possible remedies in constitutional design. This panel will present critical commentary.

Room:

Auditorio Claro

Chair:

Tom Ginsburg

Commentator:

Roberto Gargarella

Discussants:

Francisca Pou Gimenez

Ran Hirschl

Michaela Hailbronner

Reply to commentator:

Aziz Huq

65 Membership and Exclusion

The constitutional identity of a 'people' within a nation state can be affected by legal categories of membership and exclusion, as understood and applied by institutional actors: judicial, legislative and/or executive and others. Those categories may be informed by cultural norms, global developments and historical compromises. This research group will be a network for scholars exploring the ways in which constitutions can and do perform the role of defining community. This panel focuses on these issues from the perspective of a particular state (or sub-national level of governance) or set of states - from a comparative perspective, across time or space - or from philosophical, theoretical or doctrinal perspectives.

Room:

LLM94

Chair:

Octaviano Padovese

Presenters:

Amelia Simpson:

The inclusive potential of 'judicial power': Australian developments

Dorota Pudzianowska & Piotr Korzec:

'Undeserving' individuals and what does it tell us about the statelessness legal framework?

Octaviano Padovese:

Friend and Enemy in the age of rhetoric of crisis

Fabian Steinhauer:

Legitimation and "Gründungsbilder"

66 Antidiscrimination Law and Religion: Theorizing the Relation

An increasingly contested domain of public law involves conflicts between antidiscrimination norms and claims to religion and religious belief. Cases such as Masterpiece Cakeshop, Ashers Baking Company and Jews Free School have presented complex questions for courts. Despite differences in spatial geography, culture and religious traditions, and despite divergences in reasoning and result, there is a discernable modularity in how antidiscrimination law functions in these cases as a distinctive aspect of the rationality of the modern secular state. This panel explores this relationship in modern public law jurisprudence on three questions: First, how does the public/private divide in not only shape but is itself transformed in these conflicts? Second, how does the right to religious freedom relate to and underpin the reasoning in these cases? And third, how do the largely unarticulated grounds and justification of antidiscrimination law itself apply to the domain demarcated as "religion"?

Room:

D402

Chair:

Mark Graber

Presenters:

Ioanna Tourkochoriti:

The Same-Sex Marriage Cake cases and the Forced Speech Argument

Peter Danchin:

The Antinomies of Antidiscrimination Law and Religious Freedom

Lena Salaymeh:

Religion is secularized tradition: the case of Jewish and Muslim circumcisions in Germany

67 Constitutional Experiments in Latin America: The Quest for Effective Constitutional Entrenchment Mechanisms – Part 1

Latin America is often perceived as a region where the rule of law is unstable and the constitutions are frequently replaced. However, Latin America also offers a rich—and many times under-researched—history of institutional experiments seeking to enforce the constitutions to guarantee relevant democratic principles. Some of those experiments are novel, and some are adaptations of European or American constitutional ideas. This panel is part of a larger symposium that seeks to identify the conditions that explain the success or failure of those constitutional experiments by examining case-studies from Brazil, Chile, Colombia, Ecuador, Mexico, and Uruguay. This first part of the symposium will discuss case-studies focusing on particular entrenchment mechanisms of Colombia, Brazil, and Mexico.

Room:

Auditorio E. Frei

Chair:

Joel Colon-Rios

Presenters

Vicente F. Benítez-R:

The people as semi-guardians of the Constitution: Actio popularis and judicial review of amendments in Colombia

Karina Denari Gomes de Mattos:

The civil society of public prosecutors: the constitutional path for the Brazilian Ministério Público's major role in group litigation

Mariana Velasco Rivera:

The Political Sources of Amendment Difficulty. A Comparative Study between the United States and Mexico

Joel Colon-Rios:

Discussant

68 The Global Public Law of Private Infrastructure

Infrastructures—physical, informational, digital—can have regulatory-type effects. These include requiring, preventing, channeling, enabling, and nudging particular human and social behavior. Infrastructures and their regulatory effects, in turn, interact, compete and are shaped by law. As infrastructures become ever more globally interconnected, new questions emerge regarding the governance structures that shape their regulatory functions. This panel, convened by the “InfraReg” project of NYU’s Institute for International Law and Justice, addresses the role of global public law in enabling, structuring and regulating the development of infrastructures by private actors. The panelists will consider the various effects of public law on the promise, creation, operation, maintenance, repurposing, and repair of infrastructures. The panel will be structured as an open conversation and will leave plenty of time for engagement with the audience.

Room:

D401

Chair:

Benedict Kingsbury

Presenters:

Kevin Davis:

The Effects of Corruption in Infrastructure Contracts

Cecilia Garibotti:

Infrastructure (re)development in post-privatization Argentina

Nahuel Maisley:

Infrastructure as a Trump Card: Global Public Law and the Centrality of Infrastructure Development in Public Policy Debates

Alejandro Rodiles:

Transnational Infrastructural Initiatives and the Changing Paradigms of Law and Development

Rodrigo Vallejo:

Discussant

69 Inter-American Human Rights

Panel formed with individual proposals.

Room:

LLM91

Chair:

Jorge Contesse

Presenters:

Victorino Solá:

¿Carl Menger in San José de Costa Rica? Judges, interpretation and rights

Walter Carnota:

Evolution at the Interamerican Court of Human Rights: Right to health

Gonzalo Candia:

Facing new challenges at the Inter-American Commission on Human Rights: The procedural delay as a substantive –and not only procedural– problem.

Juan Mecinas & Ricardo Uvalle:

Mexican National Guard: Conventionality and public aims

Jorge Contesse:

Ruling Through Advice: The Use of Advisory Jurisdiction in International Human Rights Law

70 Towards a "BRICS-Law" and the Future of Global Governance

The current global governance debate, a debate supposed to prepare the establishment of a future global legal order, is facing challenges from legal pluralism, increasing regulatory complexity and constant change. A global legal order of the future must necessarily combine through the comparative method the often fragmented fields of public law that is to say constitutional and administrative law, both national and international. Additionally, it must also include and integrate in a coherent manner the fields of both international private and private international law (or conflicts of law). The present panel thus presents the cooperation between the BRICS countries (Brazil, Russia, India, China and South Africa) as a new model of global legal cooperation. The panel discusses the various advantages and disadvantages of the BRICS cooperation due to its slim institutional setting and more flexible legal framework by identifying a different area of law in which they can make a difference.

Room:

Sala Reuniones LLM

Chair:

Iris Eisenberg

Presenters:

Michel Levi:

The Future of Legislation in Regional Organisations

Alexandr Svetlicinii:

The BRICS Countries and Their Cooperation in the Field of Competition Law and Policy

Lilian Hanania Richieri:

Promoting Creativity and Cultural Diversity in the BRICS in the Digital Age

Rostam J. Neuwirth:

Towards a "BRICS-Law" and the Emergence of New Sources of Law

Denis de Castro Halis:

Discussant

71 International Law of Global Economy in Times of Change: Moving Paradigms

Today international economic law would more than ever find itself in unsettling times. All the three pillars of international economic law are facing challenges. The long-lasting unsuitability of the WTO to keep on being a negotiation forum is well-known and now the Appellate Body is fading away. Turning to international investment law, a recurring theme is the backlash against investment arbitration. Monetary law is rapidly facing a change of paradigm, with the emergence of discussions surrounding Stateless currencies. More generally, the 'migratory crisis' is the occasion for questioning the functioning of supranational economic mechanisms and their participation in the problems raised by a development policy that may show its dark sides. This panel will explore the ongoing changing movements happening in international economic law. The guiding idea will be to show how crisis entails the transformation of classical paradigms of the law of Global Economy.

Room:

Auditorio P. Aylwin

Chair:

Hélène Ruiz Fabri

Presenters:

Henok Asmelash:

Regulating International Trade in the Age of Rising Economic Nationalism

Edoardo Stoppioni:

Critical Approaches to International Investment Law: Voicing the Needs for Change

Alain Zamaria:

Towards a Trustless Crypto-Monetary Order?

Janine Silga:

Financial instruments in the EU external migration policy: Moving towards a generalised migratory conditionality?

72 Comparative Election Law: Constructing Democratic Regimes

Democracy does not implement itself - a society's commitment to govern itself democratically can be effectuated only through law. Yet once law appears on the scene, significant choices must be made in constructing any system of institutions designed to produce workable, democratic self-governance. This panel will address some of the foundational systems typically utilized by nations to build regimes of democratic self-rule, with special attention to two questions. First, what do choices about the legal structure of democratic regimes reveal about the underlying assumptions and preferences of the societies that make these choices? Second, how successful are the various regimes at implementing the foundational commitments of their respective societies? The papers presented by the panelists will be included as chapters in a forthcoming compilation, *Comparative Election Law* (Edward Elgar 2020), edited by the panel chair.

Room:

A102

Chair:

James Gardner

Presenters:

Yasmin Dawood:

Constructing the Demos: Voter Qualifications, Participation, and Suppression in Comparative Context

James Gardner:

Conceptions of Politics in Comparative Perspective

Michael Pal:

Recognition and Protection of Political Rights

Patricia Popelier & Jochgum Vrielink:

A Constitutional Perspective on Electoral Gender Quotas

Pablo Riberi:

Theories of Representation

73 Law and Technology in Context I

Panel formed with individual proposals.

Room:

Seminario 3

Chair:

Magdalena Jozwiak

Presenters:

Magdalena Jozwiak:

Data is political

Mário Barata:

Data privacy, terrorism, and the need to amend the portuguese constitution

Ana Cristina Aguilar Viana & Lucas Saikali:

Diamond blood: cyberdemocracy and social exclusion

Paloma Krööt Tupay:

Estonia, the digital nation - reflections on a digital citizen's rights

José Lyon:

The dangers of legislative nostalgia: the application of received legal categories to new technologies

74 Gender ideology and constitutional debates

The panel seeks to identify new and old constitutional arguments and framings over gender ideology, feminist and conservative legal mobilization experiences in European and Latin American countries.

Room:

LLM93

Chair:

Paola Bergallo

Presenters:

Mary Anne Case:

Developments in the Demonization of "Gender Ideology"

Alicia Ely Yamin:

Reframing Sexual and Reproductive Rights Battles

Paola Bergallo:

Constitutional framings and the struggle to liberalize abortion in Latin America

75 Constructing and Constraining Courts

Panel formed with individual proposals.

Room:

LLM92

Chair:

Iyiola Solanke

Presenters:

Iyiola Solanke:

A Public Health Approach to Judicial Diversity

Scott Stephenson:

Constitutional Conventions and the Judiciary

Alessandro Ferrara:

Legitimacy and Reasonability: Reflections on Judicial Review

Ranieri Lima-Resende:

Separate Opinions in the Inter-American Court of Human Rights: Institutional and Individual Performances

João Andrade Neto:

The (mis)representation of constitutional courts' decision-making: do the people have a role to play in this mythological tragedy?

Mariana Rezende Oliveira:

Which democracy?: Questioning courts as democracy builders

76 Third World and Decolonial Approaches to Constitutional Law

Papers in this panel will deal with Third World Approaches to Constitutional Law and with the Decolonisation of Constitutional Law. As understood by Amaya Alvez, in Latin America the Third World Approaches to Constitutional Law have been engaged with studying, for instance, how the titularity of fundamental rights has been widened as in Ecuador - how Bolivia can be seen as an exemplar of a plurinationalism, and how Chile's colonial past and the demands of indigenous peoples continue to be ignored. Papers engaged with the project of decolonising Constitutional Law will study constitutions in the context of the history of modern imperialism. In this way, they can deal with declarations of independence and constitutions adopted in the aftermath of Independence or Decolonization, and explore how those circumstances permeated them. They can also elaborate on the adoption of Eurocentric principles that marginalised indigenous normativities in Africa, America and Asia. And on how constitutions legitimise and resist neo-colonialism and internal colonialism today.

Room:

Seminario 2

Chair:

José Manuel Barreto

Presenters:

Germán Sandoval:

Constitution as Nationalism and Constitution as a Corporation: Decolonise and Dispense the Law

Tatiana Cardoso Squeff:

The treatment of women in a patriarchal society: The case of constitutional amendments in Brazil

Jose-Manuel Barreto:

The colonial and anti-colonial character of Colombian Constitutional Law

77 Socialist Legal Orders

The papers consider the ways in which socialist legal orders differ from other forms of legal order, and the tensions that can arise when socialist and non-socialist legal orders interact.

Room:

D302

Chair:

Nicholas Barber

Presenters:

Cora Chan:

Thirty years from Tiananmen: China, Hong Kong, and the ongoing experiment to preserve liberal values in a Leninist legal system

Ruiyi Li:

How to understand the organizational form of political power in China?

Ewan Smith:

Legality and Socialist Legality

Anna Lukina:

Soviet Human Rights: an Oxymoron?

78 Exercise of rights of people with intellectual and psychosocial disabilities in Latin America

This panel critically analyzes problems of the exercise of rights of people with intellectual and psychosocial disabilities (hereinafter PD) in Latin American legal systems. We identify tensions between national regulations and obligations established by the Convention of Rights of People with Disability, and we make proposals to help the demand for equal recognition before the law of PD addressing needs for support and safeguards in decision making in different contexts of PD's lives. We assume that this is a central issue for the effectiveness of the rights recognized by the CRPD with respect to PD and for the fulfillment of the duty of promotion, protection and assurance of the enjoyment of their rights by the State. Its proper treatment will allow us to advance in the satisfaction of the promises of social inclusion and respect towards these people, contributing to the elimination of the forms of discrimination, exclusion and stigmatization of which these people are victims.

Room:

Seminario 1

Chair:

Pablo Marshall

Presenters:

Viviana Ponce de León:

Electoral exclusion of people with intellectual, cognitive and psychosocial disabilities in Chile

Paula Gastaldi:

The right to vote of persons with disabilities: an analysis from the Social Model of Disability

Pablo Marshall:

Avoiding stigma and discrimination when providing inclusion, accessibility and support: the case of the right to vote of people with disabilities

Renato Constantino:

Towards the end of disability-based paternalism?: Some thoughts over the concept of 'safeguards' in the recent Civil Code Reform in Peru on the legal capacity of persons with disabilities

Renata Bregaglio:

Same rights and same duties: Criminal liability of persons with disabilities

79 The Domestication of International Criminal Justice: Chile After the "Pinochet Case"

Chile is one of the originating contexts of the burgeoning sociolegal field of transitional justice. Its trajectory in post-authoritarian truth, justice and reparations has regularly made international headlines. Twenty years after the 1998 "Pinochet case", the judicialization of transitional legacies in Chile's domestic courts and related policy debates, continue to generate challenging legal dilemmas relevant to the entire international criminal justice project. Domestic atrocity crime prosecutions meanwhile repeatedly confront remaining institutional and constitutional authoritarian enclaves, legacies of imperfect democratization. In this panel, protagonists and analysts of Chile's transitional justice trajectory will explore issues including the challenges presented by enforced disappearance, the constitutionality of inquisitorial system-era evidentiary rules in present-day atrocity crime investigations and the recent role of the Constitutional Tribunal in underwriting impunity.

Room:

Allende Bascuñan 2

Chairs:

Pietro Sferrazza

Francisco Bustos

Presenters:

Cath Collins:

La Ropa Sucia Se Lava en Casa: Chile and the Domestication of International Criminal Justice

Daniela Accatino:

Los juicios por violaciones de derechos humanos en juicio ante el Tribunal Constitucional: una defensa de la constitucionalidad de las reglas de prueba aplicadas

Francisco Bustos:

El Tribunal Constitucional como mecanismo (in)formal de impunidad

Pietro Sferrazza:

La búsqueda de las personas desaparecidas en Chile: reflexiones críticas

80 Constitutional Theory: New and Old Challenges

Panel formed with individual proposals.

Room:

Allende Bascuñan 1

Chair:

Martin Krygier

Presenters:

Brigitte Leal:

Facing Up Fact Uncertainty: A Complexity in the Public Law Litigation Model

Guilherme Scotti & Marcos Queiroz:

Fundamental rights as an aperture to the past: Dialogues between Ronald Dworkin and the post-colonial theory

Octaviano Arruda:

On Legal Interpretation: nomos, violence and romantic constitution

Leonardo Cofre:

Reconciling the is/ought divide in constitutional theory

Fernando Contreras:

The problem of legalism: Lon Fuller's critique of HLA Hart's Rule of Recognition

Martin Krygier:

What's the point of the rule of law?

81 Nation-States and society facing migration. Attempts of dialogue and proposals pro homine from Latin America.

One of the most relevant challenges in the government of migration arises from the necessity to coordinate public policies and initiatives taken by States and stakeholders. Migration alters the political map of the Latin-American region and creates tensions among the States involved in the reception of migrants. Therefore, the adoption of common and integral public policy on migration, capable of understanding and governing the phenomenon in its multiple dimensions is urgent. This panel contributes to a contextual, complex and wide understanding of migration in the region, since it offers instruments to understand the behavior of the Colombian state in relation to migration from the historical perspective - it studies the experiences and learnings from other countries and, at the same time, it offers useful insights for policy makers - finally, it debates the challenges and opportunities for the private sector brought by migration.

Room:

FD-101

Chairs:

Carolina Moreno

Gracy Pelacani

Presenters:

Juan Manuel Amaya Castro:

Colombian and the Venezuelan exodus: between a normative and international institutional managerialist approach

Gracy Pelacani:

Challenges and opportunities for a regional approach to migration in Latin America

Miguel Alejandro Malagón Pinzon:

A History of Migration in Colombia: 1850-1957

Carolina Moreno Velasquez:

The Venezuelan migration in the Current Colombian Context: A Challenging Balance between Centralization and Decentralization

Anna Luisa Walter de Santana:

Business responsibility and migration: dialogues for the protection and promotion of human rights

82 Innovative reasoning in the Inter-American human rights system: facing contemporary human rights challenges

Human rights law faces new challenges, such as economic injustice and the lack of effective protection of economic, social and cultural rights, or violations by global business corporations and other non-state actors. The Inter-American Human Rights bodies are responding to these challenges by incorporating innovative judicial reasoning and interpretation methods. These methods, however, stretch international law norms in ways that risk producing a backlash against the decisions of these bodies and the effective protection of human rights. The panel addresses some of these innovative methods in a critical way, suggesting ways to improve their effectiveness within the boundaries of public international law.

Room:

D405

Chair:

Pier Paolo Pigozzi

Presenters

Andrés Felipe López:

Empresas y derechos humanos en el Sistema Interamericano

María Angélica Benavides:

La buena fe en la interpretación judicial internacional de los derechos humanos

Álvaro Paúl:

Dos visiones del control de convencionalidad

Soledad Bertelsen:

La referencia al derecho local en la jurisprudencia de la Corte Interamericana de Derechos Humanos

Pier Paolo Pigozzi:

Discussant

83 New Social Challenges for Public Law

Panel formed with individual proposals.

Room:

Auditorio CAP

Chair:

Andrea Cristina Robles Ustariz

Presenters:

Felipe Bravo:

Consumer law from a public law outlook

Fulvio Costantino:

New wine and old wineskins. Sharing economy between global platforms and local regulations.

Mariana Lucía Burgos Jaeger:

The end of the interdiction for disability in Peru: a blow to the legal paternalism

Seksiri Niwattisaiwong & Rawin Leelapatana:

The Karma of 'being disabled' in Thailand: the tension between religious belief, law, and economics

Andrea Cristina Robles Ustariz:

The obsolescence of human beings in the era of globalization 4.0: the "big short" for human capital through the lifelong learning principle

Klaus D. Beiter:

Where Have All the Scientific and Academic Freedoms Gone? And, What Is 'Adequate for Science'? Crucial Guidance on the Interpretation of the Right to Enjoy the Benefits of Scientific Progress and Its Applications

84 Courts Against or in Favor of Democratic Decay?

In constitutional theory, judicial authorities are supposed to work as the last defense against aggressions to democratic institutions and fundamental rights. Political practice has shown that such presupposition can be sound in some opportunities but flawed in most of the cases. The first decades of the 21st century revealed serious challenges to constitutional democracy, in a way that made academics, public authorities and civil society groups hope that courts can control the rising of authoritarianism. However, are judges and tribunals the proper forum to defend democracy? Or, on the other way around, can judicial authorities contribute to democracy decay? Have the judicialization of politics poisoned tribunals' proper role in liberal democracies? This panel aims at debating possible answers to these questions, relying not only on Constitutional Law lens, but also on empirical data and comparative analyses of different jurisdictions.

Room:

R510

Chair:

Emilio Meyer

Thomas Bustamante

Presenters:

Emilio Meyer & Mariana Oliveira:

Moderating Powers? Military and Judges in Brazilian Undemocratic Revival

Diletta Tega:

The Italian Constitutional Court in-politics

Tom Daly:

The Mutation of Juristocracy in the Context of Global Democratic Decay

Estefânia Barboza & Adriana Inomata:

The Brazilian Judiciary Under Attack

Conrado Mendes:

Judicial collaborationism in the guise of "classic separation of powers"

Thomas Bustamante & Evanilda Bustamante:

Barroso's Theory of Constitutional Legitimacy: A Critical Approach

85 The People in Constitution-Making and -Changing

Panel formed with individual proposals.

Room:

D404

Chair:

Sophie Weerts

Presenters:

Aya Fujimura-Fanselow:

Citizen-led inquiries as a form of resilience in the global and national order: opportunities and challenges

Sophie Weerts & Clarissa Valli Büttow:

Constituent Power 2.0

Jamil Civitarese:

Constitutional Design and the Optimal Level of Deliberation in a Society

Gabriel Negretto & Mariano Sánchez-Talanquer:

Constitutional Origins and Liberal Democracy: The Impact of Elite Cooperation and Mass Participation

Alan Greene:

Parliamentary Sovereignty and the Locus of Constituent Power in the United Kingdom

Juan Diego Galaz:

The right to resist: changing the paradigm from the obligation to obey, to the right to participate

86 Constitutional Politics in Latin America

Panel formed with individual proposals.

Room:

Sala Juicio Oral

Chair:

Andrés Pavón Mediano

Presenters:

Nilo Rafael Baptista de Mello & Vanessa Cristine Cardozo Cunha:

Brazilian Public Law Reactions to the Conservative Wave: Reaffirming constitutional values

Andres Pavon Mediano, Diego Carrasco & Diego Pardow:

Estimating judicial ideal points in the Chilean Supreme Court's public law chamber

Andrés Vodanovic:

Legitimacy of the Constitution and legitimacy of judicial review: the Chilean case

Karina Denari Gomes de Mattos & José Ribas Vieira:

Measuring Judicial Compliance in the 21st Century: critical thoughts on contemporary literature and Court's initiatives

Bruno Camilloto:

The branches of government and the Brazilian crisis of democracy: a case of Dilma Rousseff impeachment (2015-2016)

87 Nuevos retos de la construcción de la decisión administrativa y su control judicial

Panel formed with individual proposals.

Room:

Sala Mediación

Chair:

Hector Santaella

Presenters:

Irit Milkes:

Abnegación del Derecho y el control judicial de la decisión administrativa en el derecho Colombiano

Ramon Huapaya:

Control judicial de la decisión administrativa (PERU)

André Saddy:

Control judicial de la decisión administrativa (BRASIL)

Christian Rojas:

Metodología de control y metodología direccional para la adopción de decisiones administrativas

88 Democratic change or democratic dissolution? The Populist challenge to Liberal Constitutionalism

After being celebrated in the '90s as the "the only game in town" or the "final form of human government", liberal democracy is nowadays facing a deep crisis that has become a major concern in public law. Several constitutional systems worldwide are confronted by the upsurge of populist/nationalist movements. In Europe, migratory flows, economic crisis and Brexit are showing the weakness of the EU framework – even questioning the supranationalist project – but also challenging traditional categories of constitutional law, such as "sovereignty" and "people". On the other side of the Ocean, both the election of President Trump and the crisis faced by Latin American states are generally considered as symptoms of the creeping deterioration of democratic values. The proposed panel discusses the features that are triggering distrust in liberal democracy focusing on the rise of populism/sovranism in Western countries/democracies and investigating the causes/outcomes of this phenomenon.

Room:

A103

Chair:

Lorenza Violini

Presenters:

Luca Pietro Vanoni & Benedetta Vimercati:

Identity Politics and the Rise of "New" Populisms/Nationalisms in Europe

Arianna Vidaschi:

Revocation of Citizenship as a Counter-Terrorism Measure: A Dangerous Weapon of the Populist Rhetoric

Fernando Londoño:

Common sense versus best knowledge: two faces of punitive populism in the XXI century

Nicholas Hatzis:

Populist Speech and Representative Democracy

Javier Couso Salas:

Evaluating National and International Strategies Dealing with the Crisis of Constitutionalism and the Rule of Law in Latin America

89 Socio-Economic Rights 2.0: Old questions, new approaches

The Colombian Constitutional Court has a long trajectory in the protection of Socio-Economic Rights. The Court has protected these Rights through Constitutional Review (Tutela and C-Cases). This practice has generated an intense academic debate on at least the following issues: (i) the definition of the justiciable content of rights in a context of deep socioeconomic inequalities, poverty and transition - (ii) the adequate institutional design of the judicial intervention on Social Rights - (iii) the type of judicial remedies and its efficacy in local contexts of institutional weakness - (iv) the potential democratic character of some of these remedies - (v) the uses of international law in local decisions - (vi) recent changes in judicial doctrines in a global context of populism and democratic regression. The panel will gather academic projects in different stages, based on diverse methodological approaches, that respond to some of these issues regarding Socio-Economic rights.

Room:

A101

Chair:

Esteban Hoyos-Ceballos

Presenters:

Jose Toro:

How international development institutions approach socio-economic rights: the strange case of World Bank's ICSID

Natalia Angel-Cabo:

Garbage, Courts and Political Struggles: socioeconomic rights enforcement in emerging global cities

Antonio Barboza:

How to combine structural and individual litigation: the case of the Right to Health in Colombia

Henrik Lopez:

Resilience and protection of social rights in Colombia

Esteban Hoyos-Ceballos:

The limits of the idea of meaningful engagement in the jurisprudence of the Colombian Constitutional Court

Tatiana Alfonso:

Property rights in the midst of the transition: Interventions of the Colombian Constitutional Court in property rights

90 Derechos y cambio social: desafíos para la inclusión

At the current time, we live in a context where several changes are taking place: different relationships between people, and between people and the state - new recognition of individuals and societies - new media, among others, creating new demands and asking for solutions. All these changes are complex and impact Law, requiring a different paradigm to give responses from a diverse perspective. This new vision of law requires the construction and re-evaluation of principles and concepts that enhance these changes, including all the "newness" for juridical protection. This panel will address this challenge shifting the paradigm, deepening in the idea of solidarity, inclusion and explaining one particular example, indigenous rights. The analysis will be made from an interdisciplinary vision: Philosophy, Law and Political Science.

Room:

D303

Chair:

Carolina Salas Salazar

Presenters:

Margot Aguilera Ormeño:

El rol de la solidaridad como principio integrador del Derecho en las sociedades del siglo XXI

Carolina Salas Salazar:

Inclusión social como desafío para las sociedades democráticas en Latinoamérica

Katherine Becerra Valdivia:

Reevaluando el impacto de los movimientos sociales indígenas para incluir derechos colectivos en Latinoamérica: entre actores políticos fuertes y nuevos aliados

Taeli Gómez Francisco:

Discussant

91 The Algorithmic State: Constitutional and Administrative Law Challenges

Data-driven technology, artificial intelligence and machine learning are reshaping the relationship between citizens and the states. AI and ML are increasingly employed in public and private decision-making, even though these systems are regarded as black boxes by both public authorities and citizens. Constitutional and administrative legal principles were developed throughout the times for governments of men and not machines. How does algorithmic decision making fit within these legal frameworks? This panel offers new insights on the role of constitutional and administrative law in the "algorithmic state". This panel explores in particular (i) the role of the state in cyberspace as user, superuser, and regulator - (ii) how the use of algorithms fits within the duty to give reasons and explain decisions taken by public bodies - (iii) the need to develop or reinterpret the principle of good administration - (iv) and the legitimacy of "robot-law" from a legal pluralist perspective.

Room:

D304

Chair:

Antonia Baraggia

Presenters:

Amnon Reichman:

The Role of the State in Cyberspace

Andrea Simoncini:

Why Are You Doing This to Me? The Duty to Give Reasons in the Algorithmic Era

Angelo Golia:

Public and Private Regulation in Robot Technology: A Legal Pluralist Perspective

Sofía Ranchordas:

Algorithmic Decision-Making and Good Administration

92 Proportionality, US constitutional law, and “Rights as Trumps?”

Even as proportionality has cemented its status globally as the dominant approach to adjudicating constitutional rights claims, the United States remains an outlier, its rights jurisprudence heavily influenced by a rival conception of “rights as trumps”. In November 2018, Jamal Greene carried the case for proportionality into the heart of the US legal academy with his Harvard Law Review Foreword titled “Rights as Trumps?”. Greene argues that, while “we take rights seriously enough” in the US, when we reduce constitutional principles to rigid rules, “we do not take them reasonably enough.” Proportionality, he argues, is better adapted to deciding politically charged rights claims in a pluralistic and polarized democracy. HLR Forewords are widely read and often become landmarks of legal scholarship - Greene’s could change the conversation on rights review in the US. This panel brings together a wide-ranging set of responses to the Foreword, with its author serving as discussant.

Room:

Aquiles Portaluppi

Chair:

Jud Mathews

Presenters:

Vicki Jackson:

Law, politics, and proportionality

Carlos Bernal Pulido:

The normative necessity of proportionality

Francisco Urbina:

Proportionality and the world of enemies

Jamal Greene:

Discussant

Tuesday
2 July 2019
10.30 – 12.05

Panel Sessions IV



93 European Public Order in Times of Change

The European Court of Human Rights (ECtHR) has declared the European Convention on Human Rights a constitutional instrument of European Public Order (EPO). This claim suggests that the Convention is built on common understandings and approaches to human rights. Moreover, it seems that EPO can change over time. This panel will be asking what these common understandings are now and whether the claim of common EPO is still valid in times of change. The panellists will first revise their approach to EPO and see if there is a coherent vision of such order from the bench of the ECtHR. Then the panel will proceed with three case studies. First, the panelists will look into whether there is common understanding of vulnerability and see how it can shape EPO. Then the panel will consider if the modern threat of terrorism had an impact on EPO. Finally, we will see if EPO spreads outside the borders of Europe through regulating military interventions by European states.

Room:

Aquiles Portaluppi

Chair:

Wojciech Sadurski

Presenters:

Kanstantsin Dzehtsiarou:

European Public Order in Times of Change: View from Strasbourg

Vassilis Tzevelekos & Dimitrios Kagiros:

Assessing the Impact of Vulnerability on European Public Order in the Case Law of the ECtHR

Michael Lancaster Steiner & Antal Berkes:

Exporting the ECHR Public Order outside Europe: the European Convention of Human Rights as the Applicable Law of Peace Missions

Rumyana Grozdanova:

Secrecy as Counter-Terrorism: How should the European Court of Human Rights respond?

94 The Institutions of Constitutional Democracy

This panel explores the institutions of constitutional democracy, ranging from courts, to legislatures to electoral commissions. The paper presenters explore the nature of those institutions, how they are working and how they might be made to work better.

Room:

Sala Mediación

Chair:

Lorenza Violini

Presenters:

Eneida Desiree Salgado:

Institutional powers, institutional players: the judicial branch walks into the electoral arena

Alexei Trochev:

Judicial Clientelism and Decay of Democracy in Post-Soviet States

David Schneiderman:

Reviving Parliamentarism in an Era of Illiberal Executives

Michael Pal:

South Asian Fourth Branches

Mark Tushnet:

Discussant

95 EU anti-discrimination law in times of contestation

After the European Union initially developed anti-discrimination norms on nationality and gender as protected grounds under the commercial rationale of the common market, two Equality Directives followed in 2000, one focusing on race and ethnic origin, the other covering religion, sexual orientation, disabilities and age. Eighteen years after the adoption of these Directives, we gather the scholars contributing to a recent book published by Hart (U. Belavusau and K. Henrard, eds., 2018) to reflect on their limits and prospects, and revisit the rise of EU anti-discrimination law beyond gender. Protection against discrimination has only become more pressing and at times contested during the economic and refugee crises, and amid rule of law backsliding. EU anti-discrimination law has, thus, reached its age of maturity - its eighteenth birthday - in confusing times, which nonetheless brings opportunities that will be reflected upon in presentations during this panel.

Room:

D404

Chair:

Dr León Castellanos-Jankiewicz

Discussant:

Dr Aleksandra Gliszczynska-Grabias

Presenters:

Dr Uladzislau Belavusau:

A bird's eye view on EU anti-discrimination law: the impact of the 2000 equality directives

Prof. Dimitry Kochenov:

When equality directives are not enough: taking issue with the missing minority rights policy in the EU

Dr Mathias Möschel:

Eighteen years of the race equality directive: a mitigated balance

Dr Beryl ter Haar:

EU age discrimination law: a curse or a blessing for EU youth policy?

Dr Alina Tryfonidou:

The impact of Directive 2000/78 on the protection of LGB persons and same-sex couples from discrimination under EU law

96 Integrating social science and normative legal approaches to comparative constitutional law

Social science epistemologies and methods are now a well-established part of comparative constitutional law scholarship. From quantitative research on the longevity of written constitutions to qualitative research on populist constitutionalism, the field has benefitted from a growing range of empirical social science perspectives. Little thought to date, however, has been put into how best to integrate social science research with normative legal scholarship. This panel seeks to begin a conversation about this issue. Theunis Roux's paper argues that, by synthesizing the insights of empirical political science and normative legal theory, the field can generate practical advice on how constitutional judges should approach their mandate. Niels Petersen next provides a sympathetic critique of empirical scholarship on constitutional design. Finally, Emanuel Towfigh analyzes the role digitalization and quantitative methods play in shaping legal scholarship.

Room:

Auditorio A. Silva

Chair:

Joana Mendes

Presenters:

Theunis Roux:

Comparative Constitutional Decision-making: An Interdisciplinary Research Agenda

Niels Petersen:

Empirical Research in Comparative Constitutional Law: A Bird's Eye View

Emanuel V. Towfigh:

Digitalization and Empirics: What's in the Stars for Legal Scholarship and Legal Education?

97 Liberalism, Authoritarianism and the Tasks of Constitutional Theory: Making Sovereignty Popular Again?

Liberal constitutionalism has become increasingly unpopular and authoritarian. It has become unpopular in the sense that many are turning away from it, not least the electorate. But it has also become unpopular in a deeper theoretical sense, self-consciously turning away from the concept of popular sovereignty, even eschewing the foundational supports of sovereignty altogether. Liberalism purports to abjure these foundations, distorting the meaning of what is 'popular' but at the same time becoming more authoritarian in its own practices and prescriptions. The purpose of this panel is both critical and constructive. It aims to examine the shortcomings of the liberalist treatment of populism and to expose the authoritarian elements within liberalism. It will also consider the conditions under which popular sovereignty, notionally still a central category of contemporary constitutional thought, might again become symbolically efficacious and institutionally consequential.

Room:

LLM91

Chair:

Michael Wilkinson

Presenters:

Margaret Martin:

Reckoning with the Liberal Self

Zoran Oklopčić:

Beyond Populism: Liberalist Projections and Quotidian Constitutions

Eugénie Mériau:

Towards a theory of Dual Constitutionalism: Constitutional Reason of State, Prerogative, and France's Authoritarianism

Samuel Tschorne:

Chile's "constitutional problem": a matter of popular sovereignty

Michael Wilkinson & Alexander Somek:

Unpopular Sovereignty?

98 Transformative constitutionalism in Latin America: challenges in dark times

This proposal focuses on the challenges for a Transformative Constitutionalism (TC) in the current political and social scenario of Latin America, where countries have witnessed the reversal of longstanding democratic gains and new authoritarian threats. The Brazilian case is an example and has shown the urgency of developing new strategies in public law, for the strengthening of democracy and to advance the guarantee of human rights and social justice. The Colombian TC, vindicated by ICCAL as a new path to the Latin American context of exclusion and inequality, provides the basis for this discussion, which will involve the following themes: 1) resilience strategies to protect constitutional orders and courts from authoritarian attacks - 2) strong constitutionalism and the role of the judiciary in the TC - 3) alternative instruments to strengthen democracy and the influence of private entities in protecting rights - 4) "Unconstitutional State of Affairs" and dialogical judicial activism.

Room:

LLM93

Chair:

Vera Chueiri

Presenters:

Patricia Perrone Campos Mello:

Resilience strategies of constitutional courts before authoritarian regimes: The Brazilian case

Jorge Roa:

The role of the judiciary in the Transformative Constitutionalism

Danielle Pamplona & Anna Luisa de Santana:

ICCAL' strategies for strengthening democracy

Katya Kozicki & Bianca van der Broecke:

"Unconstitutional state of affairs", judicial activism and transformative constitutionalism

99 Cultural Heritage and its Law in Times of Change

This multidisciplinary panel addresses how times of change affect cultural heritage legislation and therefore public law, including administrative and constitutional law. Recent examples in the news are used as case studies. The democratically mandated Brexit may have crucial consequences for the free movement of goods especially with regard to the illicit trade of cultural property. The EU and how its directives and regulations interact with Member States' rules on the export of cultural property also have a role to play in this discussion. Moreover, international law plays a crucial role in protecting cultural heritage sites, but long standing political changes may affect how cultural heritage law operates in times of military occupation and in areas of contested sovereignty. Panelists will therefore adopt a comparative perspective and multidisciplinary examination of governmental actions, art history and law.

Room:

FD-101

Chairs:

Lorenzo Casini

Sabino Cassese

Presenters:

Clizia Franceschini:

The Role of the United Nations in Times of Political Change: the case of Jerusalem's Cultural Heritage Law

Anna Pirri Valentini:

Shaping the European Union's Control over the Export of Cultural Properties: from National to Supranational Legislations and Viceversa

Ted Oakes:

Borders and Brexit: Moving Cultural Property between Britain, Ireland and the European Union

100 Rule of law challenges in a time of criminal justice crisis Theoretical and constitutional issues 3

A series of three panels will explore some of the central challenges to the idea of the rule of law in the face of contemporary criminal justice. Tying criminal justice and state punishment to the rule of law has been traditionally understood as a necessary feature of modern liberal democracies. Contemporary criminal justice, however, seems to challenge many of the central features that rule of law thinking attributes to state action: it is selective, and not universal, the content of the rules applied are complex and thus not always easy to grasp, and administered by a variety of agents acting under very different frameworks. In the face of this reality, can criminal justice be reconciled with the rule of law? What issues arise out of these tensions? What roles do international human rights and constitutional law play in maintaining the rule of law?

Room:

Seminario 3

Chair:

Javier Wilenmann

Presenters:

Benjamin Berger:

Jury Nullification, Constitutional Pluralism, and Indigenous Reconciliation

Rocío Lorca:

What makes impunity a problem? Considerations on legality and international punishment

Andrea Galante:

Retroactivity in criminal adjudication: The flexibility-foreseeability dilemma

Alex van Weezel:

Bad Times for Legality Concerns in Criminal Law

101 Constitutional Preambles: At a Crossroads Between Law and Politics

This panel focuses on the role of preambles in constitutional law and politics, especially in times of change. Its springboard is Professor Justin Frosini's important 2012 book, *Constitutional Preambles at a Crossroads between Politics and Law*. Panelists will explore one or more of the book's themes, and their continuing salience in light of scholarship and events since 2012, such as the illiberal turn in constitutional politics and the aftermath of the Arab Spring. The panel will include Professor Frosini's response to panelists.

Room:

D304

Chair:

Donna Greschner

Presenters:

Ebrahim Afsah:

Symbols of Assertion and Rejection: Islamic Constitutional Preambles

Ghazaleh Faridzadeh:

The Iranian Preamble: A Narrative of Passion and Revolution

Pablo Riberi:

The Formal Character of Preambles and the Political

Donna Greschner:

Constitutional Preambles and Everyday Politics

Discussant:

Justin Frosini

102 Perspectives on Administrative Law

Panel formed with individual proposals.

Room:

Seminario 2

Chair:

Robert Siucinski

Presenters:

Verónica Pelaez, Antoine Claeys, Marta Franch & Juan Carlos Pelaez:

Administrative Law as an Anticipatory Law

Robert Siucinski:

Services Conference as an Example of Convergence of Administrative Procedural Law

Ana Luiza Calil:

The multiple meanings of Administrative Procedure: a case study of BRICS

Leonardo Ferrara:

Transformations of the Authority-Liberty Paradigm in Europe

103 Latin American constitutional reforms and constituent process in times of populism

Constituent processes and constitutional reforms in Latin America has been used in a practice known as abusive constitutionalism, which consists of employing this mechanism to eliminate or restrict aspects related to constitutional democracy, such as rule of law, division of powers, protection of rights and presidential term. Simultaneously, these processes have been presented within the framework of populism, a concept understood as the use of ideas for traditional politics renewal aiming to generate an abrupt rupture through the fight or corruption, the search of real democracy through a charismatic leader of an extreme ideology. Some of the topics are: how had these processes had been used in Latin America in the era of populism? How can they be understood as abusive constitutionalism? What has been the role of constitutional courts? What is the constitutional hard core that must be defended in order not to petrify the Constitutions and allow constitutional changes in transitional times?

Room:

D303

Chairs:

Yaniv Roznai

Sabrina Ragone

Presenters:

Iris Marin:

Consensus or polarization? constituent power versus populism

Gonzalo Ramirez-Cleves:

Towards a taxonomy of the use of constitutional reform and the constituent power in Latin America in the era of populism

Maria Cielo Linares:

Unconstitutional constitutional amendment: hyper presidentialism, indefinite re-election and democratic system

Jairo Néia Lima:

How unamendable is the Brazilian Constitution? Lessons from the past and guidelines for the present after 30 years of unconstitutional constitutional amendments

Neliana Ramona Rodean:

Electoral system - a lifeboat to constitutional changes in Latin America

Amilcare D'Andrea:

Participatory democracy in the Constitution of the Bolivarian Republic of Venezuela and the "undue external influence"

104 Constitutional Change and Democracy in Latin America

Different episodes of constitution making and constitutional reform in Latin America have brought to the center of public debate the need to rethink the traditional conceptions through which participants in the field of public law have historically approached the problem of constitutional change in its relation to democracy. What makes constitutional change democratic? Can public law realistically contribute to the democratization of constitutional politics in Latin America? What kind of constitutions are necessary to promote effective democratic participation at the level of fundamental political decisions? What risks does the practice of constitutional change pose to the advancement of democracy? Combining theory and empirical research, the participants in this panel will approach these questions through the detailed analysis of different episodes of constitutional change in countries like Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, and Venezuela.

Room:

D402

Chair:

Nicolás Figueroa García-Herreros

Presenters:

Helena Colodetti & Christian Schallennüller:

Constitutional Change as "Ordinary Politics": The Misfortunes of a Semi-rigid Constitution for Brazilian Democracy

María Cristina Escudero & Claudia Heiss:

Failed Constitutions: Winners and Losers in Chile's Constitutional History

Rodrigo Espinoza:

Protecting Rights or Hinderering Political Participation? Constitutional Rigidity and the Crisis of Representation in Consolidated Democracies

Nicolás Figueroa García-Herreros:

Constitution Making and the New Latin American Constitutionalism

Gerardo Ballesteros de León:

Las constituciones locales como fuente de interpretación de la constituciones nacionales: El caso de Jalisco, México

Johanna Cortés Nieto:

Discussant

105 Constitutional Experiments in Latin America: The Quest for Effective Constitutional Entrenchment Mechanisms – Part 2

Latin America is often perceived as a region where the rule of law is unstable and the constitutions are frequently replaced. However, Latin America also offers a rich—and many times under-researched—history of institutional experiments seeking to enforce the constitutions to guarantee relevant democratic principles. Some of those experiments are novel, and some are adaptations of European or American constitutional ideas. This panel is part of a larger symposium that seeks to identify the conditions that explain the success or failure of those constitutional experiments by examining case-studies from Brazil, Chile, Ecuador, Mexico, and Uruguay. This second part of the symposium will discuss case-studies focusing on particular entrenchment mechanisms of Ecuador, Uruguay, and Chile.

Room:

A101

Chair:

Joel Colon-Rios

Presenters:

Johanna Fröhlich:

The rhetorical straitjacket of constitutional amendment rules in Ecuador

Andrea Katz:

"La Suiza de América": Uruguay's Experiment with Popular Democracy under the Constitution of 1918

Sergio Verdugo:

The Chilean 1925 Supreme Court Doomed to Fail

Joel Colon-Rios:

Discussant

106 The Random Selection of Rulers? Ideas for the Refoundation of Modern Democracy

The vertical architecture of democratic systems diffuses the representation of the interests of the electors and prevents the accountability of the representatives. Many have proposed sortition as a democratization strategy. However, its possible institutional design has not been sufficiently studied from a constitutional perspective. This panel offers a look at sortition from four points of view: 1. A descriptive approach to the constitutional proposals of sortition, from mini publics to the most ambitious reforms of the legislative branch. 2. A position that defends sortition, based on the inclusion of minorities and the democratization of access to government. 3. A critical view of its democratic credentials in the legislative sphere, and its suitability in other areas and stages of the political process. 4. A discussion of the utility of sortition in the selection of judges and the incorporation of citizens in the administration of justice.

Room:

LLM92

Chair:

César Vallejo

Presenters:

César Vallejo:

El azar como elemento fundacional y necesario del sistema democrático

Andrea Celemin:

¿El sorteo como mecanismo para la conformación de instituciones políticas debilita la democracia representativa?

Felipe Paredes:

¿Podría la selección aleatoria de los representantes mejorar la democracia?

Felipe Rey Salamanca:

El sorteo y la justicia constitucional

107 Inequality, Instability and Constitutionalism

The increasing problem of economic inequality is linked to a number of serious socio-political issues, including populism, distortion of political communication even in advanced democracies, corruption, and market instability that threatens the social order in complex ways. This panel explores the relationship between economic inequality, the rule of law, and constitutionalism from various angles. Each paper is broadly concerned with the way in which central ideas, doctrines or practices in constitutional law are affected by, and may seek to address, the problems of economic inequality.

Room:

Auditorio E. Frei

Chair:

Jeff King

Presenters:

Tarunabh Khaitan:

Political Insurance for the (Relative) Poor: How Liberal Constitutionalism Could Resist Plutocracy

Jeff King:

Inequality, Instability and the Rule of Law

Colm O'Connell:

Plugging the Gap: Material Inequality and the Liberal Constitution

Julie Suk:

Constitutional Prohibition and the Destabilization of Gender Inequality

Richard Holden:

Discussant

108 Regulating the Economy I

Panel formed with individual proposals.

Room:

Seminario 1

Chair:

Paula Ahumada

Presenters:

Andrea Cristina Robles Ustariz:

Euro, dollarization and bitcoin: no place for monetary sovereignty?

Julian Barquin:

FinTech regulation: Can States actually achieve it? Limits and challenges from a Uruguayan perspective

Alexandr Svetlicinii:

Levelling the playing field: time to reconsider the treatment of China's state-owned undertakings in EU competition law?

Paula Ahumada:

Money and Sovereignty: The Chilean Case in the Twentieth Century

Krzysztof Krzystek:

Shifting Merger Policy in Mobile Telecoms – a Foreshadowing of the Emergence of the Common European Electronic Communications Market?

Francesco Farri:

Tax sovereignty in times of change: is the state still "useful" to the tax system?

109 Law and Technology in Context II

Panel formed with individual proposals.

Room:

Allende Bascuñan 2

Chair:

Mikolaj Barczentewicz

Presenters:

Jan Podkowik:

Accountability in the robotic era. Towards new effective remedies to protect individuals?

Magdalena Jozwiak:

Giving reasons: incompletely theorized agreements and incompletely explainable machines

Judit Sandor:

Harmful Inference

Mayu Terada:

Progress of Artificial Intelligence (AI) Technology and Transformation of Public Law

Ryszard Piotrowski:

The impact of new technologies on democracy: new human rights and the reinterpretation of separation of powers

Mikolaj Barczentewicz:

Using AI to predict outcomes of cases in UK public law

110 Primero ríos, después montañas y ahora la Amazonía: Derechos de la naturaleza en perspectiva comparada

In the last few decades, challenges that may reconfigure our relationship with our environment and the “things” that are part of it have burst onto the scene. Recent legislative and case-law precedents have recognized the legal rights of the Whanganui River and Taranaki Mountain in New Zealand, the Ganges River in India, the Atrato River and the Amazon region in Colombia. This tendency arises from an “ecocentric” approach that is based on a fundamental premise: humans do not possess the relationship with the earth - instead, humans are the ones who belong to the planet, not in terms of property, but as one part of the whole. In this panel we want to interrogate key features of the legal person model adopted in each of the mentioned cases and explore the challenges posed by those features in the local context - the efficacy of the models adopted to protect nature as legal entity - new approaches to the protection of the planet from climate change with strategic litigation cases.

Room:

D302

Chair:

Juan Camilo Herrera

Presenters:

Felipe Clavijo-Ospina:

Nature rights in perspective: beyond the ecocentric theory and the biocultural rights (Derechos de la naturaleza en perspectiva: más allá de la teoría ecocéntrica y los derechos bioculturales)

Tatiana Alfonso:

Who is going to help us now? Challenges of implementation in the new environmental rights (¿Y ahora quién podrá ayudarnos?. Los desafíos que plantea la implementación de los nuevos derechos de la naturaleza)

Juan C. Herrera:

Hacking the Law: Do “things” have rights?” (“Hackeando el sistema jurídico: ¿tienen derechos las “cosas”?)

Natalia Castro:

Climate change litigation and protection of collective entities (Litigio en cambio climático y protección de entidades colectivas)

Juan Ubajoa:

The legal personality of nature and its elements versus the constitutional duty to protect the environment (La personalidad jurídica de la naturaleza y de sus elementos versus el deber constitucional de proteger el medio ambiente)

111 “Gold-plating” and Law Making - An EU legal space odyssey

EU Institutions often claim that national governments often pass extra regulation, piling their own regulative purposes on top of EU goals, in excess of the requirements set forth in Brussels: this is labelled “gold-plating.” The purpose of this panel is to analyse this phenomenon, discussing how to assess “gold plating”, assessing the inefficiencies and wrongdoings entailed, the possible reaction by the EU, through the principle of sincere cooperation, and to identify legal drafting techniques to prevent red tape arising from gold plating both at EU and national levels. If national governments use EU legislation as a means to impose their own agendas, it blurs the purposes and goals of the EU legislation and of the EU itself. In the legal galaxy that is the EU, the fight against excessive burdening and for a sincere implementation of EU law by Member State should occupy a central role in academical discussion.

Room:

D401

Chair:

Patricia Popelier

Presenters:

Raquel Franco:

Gold plating and Law Making I – The overload menace

Manuel Cabugueira:

Gold plating and Law Making II – The last RIA

Rui Lanceiro:

Gold plating and Law Making III – The EU force awakens

João Tiago Silveira:

Techniques to avoid red tape resulting from gold plating: may the force be with us

Patricia Popelier:

Discussant

112 International Law and Human Rights

Panel formed with individual proposals.

Room:

Allende Bascuñan 1

Chair:

Samantha Velluti

Presenters:

Francisco Lobo:

'Here Be Dragons': Mapping the Legal Contours of Jus Cogens in International Law

Sanja Dragic:

Civil Society under Attack: Investigating the 'New Norms' Deployed to Fight Back

Sejal Parmar:

Guarding the Guardians? The evolving role of the international human rights system in protecting journalists and the media

Klaus D. Beiter:

More than a Battle of Acronyms: GATS, TRIPS, and FTAs Wreaking Havoc in Education in Africa – ETOs as an Antidote?

Samantha Velluti:

The Extraterritoriality of EU Law and Human Rights in Times of Change

Violeta Besirevic:

What future for Human Rights? Accommodating Human Rights Claims in International Investment Arbitration

113 Gender Equality and Political Participation

Panel formed with individual proposals.

Room:

Auditorio CAP

Chair:

Beverley Baines

Presenters:

Marjo Rantala:

Courts and non-discrimination law: Reinforcing or challenging gender norms?

Dmitry Kurnosov:

Ensuring Gender Equality in Parliaments: The Hidden Opportunities of Electoral Law

Bernardo Campinho:

Maternity, gender and the effectiveness of women's human rights in the Brazilian constitutional system: the contributions of the convention and the CEDAW committee

Rostam J. Neuwirth:

Non-Binary Gender and Binary Legal Thinking: The Birth of a New Legal Mindset?

Bárbara Bertotti & Ana Cristina Viana:

The third sector and the promotion of women's political participation in Brazil

Beverley Baines:

Women's equality rights times three

114 The Judicialization of Politics and Judicial Deference

Panel formed with individual proposals.

Room:

D405

Chair:

Vanice Lirio do Valle

Presenters:

Marina Bonatto & Leonardo Cabral:

Does Judicial Activism still matter in Brazil?

Vanice Lirio do Valle:

Judicial deference towards administrative choices in the social rights realm

Clemente José Recabarren:

Judicial review as deference to our constitutional lucidness

Nadja Lirio do Valle Marques da Silva Hime Masset:

Participation as a criterion for deference in Brazil

Guy Seidman & Gary Lawson:

What is Deference: An Introduction and Call for Collaboration

115 The multiples dimensions of Migration in Latin America: challenges, proposal and debates

The Latin-American region, at present, is facing important political changes and new challenges related to migration government. In this scenario, this panel aims at exploring some of the relevant debates raised from the necessity to face the challenges posed by migration in the region and to identify alternatives for an adequate migration government, by exploring aspects that are wrongly considered as secondary, but which are those that have a fundamental impact in the government of migration. Therefore, the papers that compose the panel investigate: the subtraction and restitution of minors in relation to the rights of the victims of domestic violence - the efforts to create a regional governance of migration, its challenges and failures - the challenges that imply the necessity to develop a comprehensive migration policy, and how the law works as an instrument of social transformation and empowerment for non citizens in situation of vulnerability.

Room:

Sala Reuniones LLM

Chair:

Juan Manuel Amaya Castro

Presenters:

Alexandra Castro Franco:

The bittersweet efforts for a regional governance of migration in Latin America

María Teresa Palacios Sanabria:

Migration government with a focus in human rights: a challenge for Colombian regions

Carolina Moreno Velasquez & Gracy Pelacani:

Legal empowerment of the migrant population: instruments for social transformation

116 What doesn't kill it makes it stronger? The resilience of the Inter-American human rights system in an age of backlash

The panel investigates the resilience of the Inter-American human rights system in the context of the ongoing backlash against human rights. By bringing together both scholarly and practical perspectives on the current challenges faced by the Inter-American human rights system, the panelists will discuss potentials and limits of various conflict management techniques.

Room:

Auditorio P. Aylwin

Chairs:

Alexandra Huneew

Silvia Steininger

Ximena Soley

Presenters:

Silvia Steininger:

Harder, better, faster, stronger: Conceptualizing the institutional resilience of international courts

Ximena Soley:

Defusing tensions in the Inter-American system: beyond formal institutional structures

Marie-Christine Fuchs:

Fighting back the backlash through dialogue and cross-fertilization - The Inter-American human rights system and its facilitators

Judith Schönsteiner:

Against closed-room diplomacy: Selecting judges and commissioners in the Inter-American human rights system

117 El ius commune y lo común de la crítica. Constitucionalismo transformador y el espacio jurídico latinoamericano

This panel reviews the emergence of the *Ius Constitutionale Commune en América Latina* (ICCAL). The first two presentations will begin discussing the concept of ICCAL from the doctrinal, jurisdictional, critical and normative point of view in order to identify the disagreements and the challenges that the project presents. The other two interventions will develop the Latin American legal space from the perspective of the role and impact of the Inter-American Court of Human Rights. In this part, the panelist will explain why this particular tribunal can be considered an example of transformative constitutionalism. Furthermore, the last intervention will introduce some fresh perspectives related to the principle of subsidiarity and its relation to the full effectiveness of fundamental rights in the different countries of the region.

Room:

A102

Chair:

Armin von Bogdandy

Presenters:

Miriam Lorena Henríquez Viñas:

*Tres triadas sobre el concepto *Ius Constitutionale Commune Latinoamericano**

Ana Micaela Alterio:

*En la búsqueda de lo común del *Ius Constitutionale Commune Latinoamericanum**

Cecilia Medina Quiroga:

El impacto transformador de la Corte Interamericana de Derechos Humanos

Juana Acosta:

*La subsidiariedad desde la mirada del *Ius Constitutionale Commune en América Latina*: ¿desaparición o renacimiento?*

118 Courts Under Extreme Pressures

Panel formed with individual proposals.

Room:

LLM94

Chair:

Ana Beatriz Vanzoff Robalinho Cavalcanti

Presenters:

Ana Beatriz Vanzoff Robalinho Cavalcanti:

Activism or Self-restraint: the role of Courts in Democratic Transitions and the case of Brazil

Francesco Biagi:

Constitutional Adjudication in North Africa and the Middle East following the "Arab Spring": Reforms, Challenges and Perspectives

Daniel Capecci Nunes:

Democracy's Destruction from the Inside: authoritarian rings and the role of constitutional interpretation in democratic backsliding

Marcin Szwed:

How to substitute a dysfunctional constitutional court? The case of Poland

Roberto Machado Filho & Paula Pessoa:

Political Parties in Turbulent Times: What Role for Constitutional Courts?

Wojciech Brzozowski:

The Constitutional Court as a Constitutional Zombie: Another Lesson from the Polish Crisis

119 Global bust, African boom? Africa's march towards democracy and multilateralism

Scholarship and global indices of democratic governance have warned of the future of liberal democracy, sparking concerns of a 'crisis' or 'retreat', especially in democracy's traditional bastions. Multilateralism has also faced unprecedented resistance and reversal, with Brexit and Trumpism. However, democracy and multilateralism, while presented as experiencing a global decline, are experiencing a relative boom in Africa. Recently, many African countries have seen peaceful democratic transitions to power, courts and other independent institutions have held political institutions to account and Africa is establishing the largest free trade area in the world. While challenges remain, Africa seems to be bucking the global crisis of democracy and multilateralism. This panel will explore the domestic and continental forces, mechanisms, public law norms and institutions that explain the emergence of the continent from the posterchild of authoritarianism to the face of democratic transitions.

Room:

Auditorio Claro

Chairs:

Iyiola Solanke

Adem Abebe

Presenters:

Adem Abebe:

African economic integration, constitutionalism, democracy, good governance and the role of civil society

Charles Fombad:

Transforming Constitutions and Constitutional Rights

Horace Adjolohoun:

The Role of the Judiciary

Janine Silga & Iyiola Solanke:

Comparing multilateralism in Africa and Europe

120 Constitutional Democracy in Europe

This panel explores the state of constitutional democracy in Europe, both with respect to the European Union and particular European states, most notably Hungary and Poland. Authors are concerned with democratic deficits, populism and the general crisis of constitutional democracy that appears to be engulfing the world.

Room:

A103

Chair:

Sujit Choudhry

Presenters:

Antonia Baraggia & Matteo Bonelli:

Rule of Law Conditionality and Constitutional Democracy Crisis in Europe

Timea Drinoczi & Agnieszka Bien-Kacala:

Constitutional Democracy in Hungary and Poland

Paul Blokker:

"Populist Constitutionalism: A Disease or a Symptom"

Kim Lane Scheppele:

Discussant

Grainne De Burca:

Discussant

121 Dialogic Constitutionalism II

Panel formed with individual proposals.

Room:

Sala Juicio Oral

Chair:

Daniel Bogéa

Presenters:

Nicola Lupo:

*About constitutionalism and parliamentarism: when
Constitutional Courts need the legislator*

Teresa Nascimento:

*Concrete review in Portugal as a case of weak-form judicial
review*

Daniel Bogéa & Pablo Holmes:

*Dialogue or Symbiosis? An evolutionary approach to
interbranch dynamics*

Antonio Maués & Breno Magalhães:

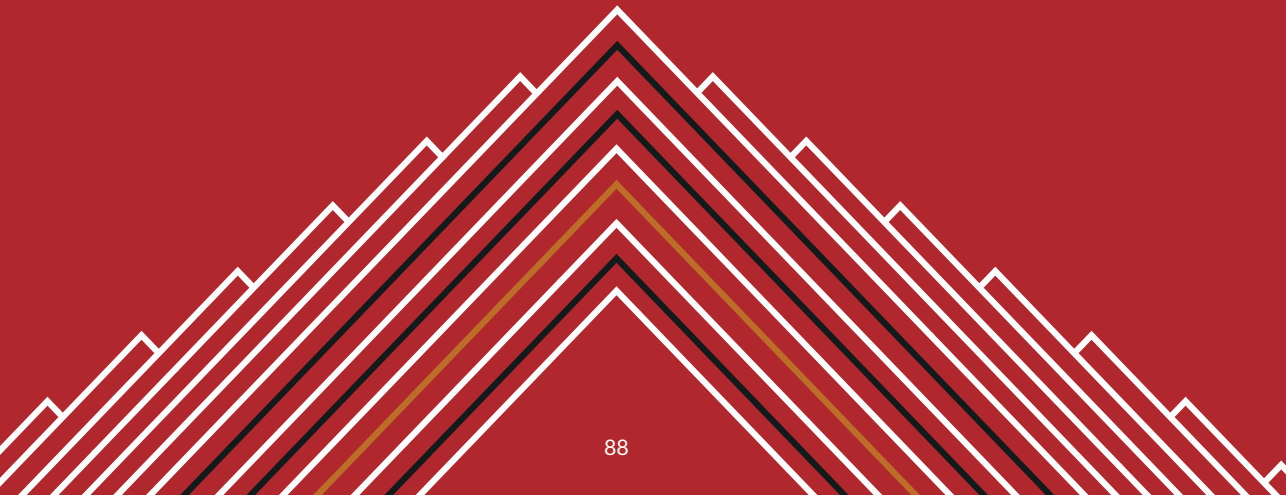
*Patterns of judicial dialogue between national courts and the
Inter-American Court of Human Rights*

Manuelita Hermes Rosa Oliveira Filha:

*The use of the European Court of Human Rights and the Inter-
American Court of Human Rights precedents by the Brazilian
Federal Supreme Court: a preliminary data research*

Tuesday
2 July 2019
16.50 – 18.25

Panel Sessions V



122 The State of Constitutional Democracy: Observations

This is a schmooze style panel that will explore developments in constitutional democracy over the past several years. Panelists will initiate a conversation with the audience in short (5-7 minute) presentations. Then audience members will be invited to share their reflections on the state of constitutional democracy in regimes or parts of the whole they are familiar with. Our goal is to begin the project of creating an inclusive community of younger and senior scholars interested in national, regional and global problems of constitutional democracy

Room:

D304

Chair:

Mark Graber

Roundtable featuring:

Michaela Hailbronner

David Law

James Fowkes

Antonia Baraggia

Mathias Moschel

Tom Ginsburg

123 The American Convention on Human Rights at 50

This panel explores some of the main developments and challenges that the American Convention on Human Rights —Latin America’s most important human rights treaty— faces as the treaty turns fifty, in November 2019. The American Convention was adopted at a time when other major international treaties, e.g., the Vienna Convention on the Law of the Treaties, and also a few years earlier the major human rights International Covenants, were shaping the then nascent law of international human rights. Fifty years after the adoption of the American Convention, the legal and political landscape of Latin America has gone into many directions: the endurance of the silent Cold War conflicts, the eruption of bloody dictatorships and civil wars, and the adoption of new constitutions, which granted the American Convention (and human rights law, generally) an enhanced legal status in domestic jurisdictions.

Room:

LLM94

Chair:

Jorge Contesse

Discussant:

Juana Acosta

Presenters:

Cecilia Medina:

Women's Rights in the Inter-American Human Rights System

Eduardo Vío:

The role of the Inter-American Court of Human Rights

Antonia Urrejola:

The role of the Inter-American Commission on Human Rights

René Urueña:

Reclaiming the Keys to the Kingdom: Evangelicals, Legal Activisms, and Human Rights in Latin America

Alexandra Huneeus:

When Illiberals Embrace Human Rights

124 La justicia constitucional en tiempos de cambio en América Latina

Constitutional courts in Latin America have gradually become key players in the region's politics. Certain Latin American countries have been labeled as hybrid regimes that use a sort of authoritarian or abusive constitutionalism. The Venezuelan example invites us to think on how to prevent judges from becoming mere pawns of their regimes. Countries like Mexico or Brazil have elected governments that invite us to think of the role of judges during election processes or during transformative announcements that may come with a populist discourse. Countries with mature judicial review experiences, like Costa Rica and Colombia, provide useful lessons for other courts. The role of the Inter-American Court of Human Rights is also relevant regarding the questions above, for example it has been questioned for not distinguishing the deliberative difference between the democratic processes that preceded decisions that were brought to trial in countries such as Uruguay.

Room:

Auditorio A. Silva

Chair:

Roberto Niembro

Presenters:

Roberto Gargarella:

Diálogo constitucional para democracias en problemas

Ana Micaela Alterio:

La Suprema Corte de México: entre lo viejo, lo nuevo y lo transformador

María Francisca Pou Giménez:

Cortes latinoamericanas: democracias dislocadas y la agenda de igualdad, libertad y pluralismo

Roberto Saba:

Justicia Constitucional y Cambio Social

125 Migration and Citizenship

Panel formed with individual proposals.

Room:

LLM91

Chair:

David Abraham

Presenters:

Martín Canessa Zamora & Tomás Pedro Greene Pinochet:
Blind states and invisible people: the sovereign denial to protect immigrant population.

Zachary Elkins:

In Defense of Birthright Citizenship

Jhuma Sen:

In the shadow of Partition: Legislating and Adjudicating Citizenship in India

María Elisa Zavala Achurra:

In Times of Massive Movement of People Across Borders: An Analysis of the Evolution of the Concept of 'Sovereignty' and 'Refugee'

Paula Almeida & Gabriela Hühne Porto:

Rethinking the Sources of Public International Law in Times of Change: The Governance Potential of the GCM

126 The State of Constitutional Democracy: Directions

This will be a schmooze style discussion of the directions for thinking about and research into constitutional democracy. Panelists will speak for no more than 5-7 minutes than the floor will be open for the audience to make their own contributions. We are particularly interested in gaining diverse perspectives on constitutional democracy research for a forming working group dedicated to constitutional democracy. We hope all that attend are prepared to think and share their research understandings and experience as citizens in diverse regimes.

Room:

D402

Chair:

Tom Daly

Presenters:

Heinz Klug:

Informal presentation

Mattias Kumm:

Informal presentation

Rosalind Dixon & David Landau:

Informal presentation

Vicki Jackson:

Informal presentation

Sujit Choudhry:

Informal presentation

Marcela Prieto Rudolph:

Informal presentation

127 Multi-Actor Global Governance and Human Rights

The panel aims to explore traditional state-centered and alternative, more informal and non-bureaucratic, global governance modes (including but not limited to: network-based governance, experimentalist governance, polycentric governance, and metagovernance) which are applied to regulate activities of state and non-state actors. Participants will discuss to what extent various global governance approaches may be engaged and complement each other in promoting the realization of human rights in the context of multi-level and multi-agent social, economic, political and legal relations. They will address the most topical and controversial issues of governance relating to sustainable development, migration, business, health, poverty, decent standard of living, and global justice.

Room:

Auditorio Claro

Chair:

Gráinne De Búrca

Presenters:

Elena Pribytkova:

Governance for Human Rights and Sustainable Development

Alicia Ely Yamin:

Democratizing Global Governance to Advance Health Rights and Global Justice

Maria Varaki:

The UN Global Compact on Migration - a blueprint for multilateral global governance?

Karen Solveig Weidmann:

Intrinsically Binding Norms as Trailblazers for Change

Claire Methven O'Brien:

Polycentrism, Experimentalist Governance, and the Future of Business and Human Rights Regulation

128 Frontiers of Law and Democratization

This panel will examine the role of law in democracy building or “democratization”. The panel will critically examine a number of legal questions in this field: how do we define the relationship between democracy and democratisation in the legal context? How do we practically democratize constitution-making in the present-day? What opportunities do internet platforms provide for participation in democratic constitutionalism, and how do such platforms affect constitutional rights? What are the opportunities and risks for popular participation in constitutional interpretation in the era of the network society? The panellists will bring a variety of interdisciplinary perspectives to the intersection of law and democracy, including sociology, anthropology and philosophy. The presentations will consider contemporary legal issues raised by democratisation, crowd-sourcing and use of digital tools. The discussion will explore the frontiers of law and democratisation, as an emerging field.

Room:

Sala Reuniones LLM

Chair:

Glenn Patmore

Presenters:

Glenn Patmore:

Defining Democracy and Democratisation: A Legal Critique

Felix-Anselm van Lier:

*An Ethnographic Analysis of a “Digital Pouvoir Constituant”:
Proposal for a Qualitative Research Framework*

Antoni Abat i Ninet:

Crowdsourcing for Constitutional Interpretation

Carlos Bernal:

Constitutional Crowdsourcing and Constitutional Rights

129 Judicial Review of Legislative Processes

In recent years, there has been an increasing trend for courts around the world to review legislative processes and not only outcomes, and an emerging body of comparative constitutional scholarship has arisen to study this practice. This panel contributes to this growing scholarly focus by exploring various dimensions of the phenomenon. It considers judicial review of legislative processes in four jurisdictions: Israel, the United Kingdom, South Africa, and the European Court of Human Rights. It addresses the empirical questions of how judicial review of the legislative process impacts legislative behavior and what are its costs, benefits, and consequences, as well as the normative one of its justification. It also analyzes one common doctrinal area for process review: the proportionality of legislative interference with rights. Finally, the panel looks at judicial review not only of the lawmaking process but also of the internal procedural rules of legislatures.

Room:

Auditorio E. Frei

Chair:

Stephen Gardbaum

Presenters:

Ittai Bar-Siman-Tov:

*The Impact of Judicial Review of the Legislative Process on
Legislative Behavior*

Stephen Gardbaum:

*Pushing the Boundaries: Judicial Review of Legislative
Procedures in South Africa*

Aileen Kavanagh:

The Promise and Perils of Process Review

Patricia Popelier:

*Procedural Rationality Review After Animal Defenders: A
Constructively Critical Approach*

130 Whitelash: Unmasking White Grievance in the Age of Trump

The law prohibiting discrimination sits within the constitutions of many legal systems around the world. This law traditionally focuses on individual actions and behaviour. Smith speaks to the conference theme of public law in a time of change by arguing in his book on Trump and his supporters, that the election of an explicit bigot to the US Presidency should be recognised as a collective act of racial discrimination by Trump voters. He raises the question of what acts should count as discrimination – why only acts by individuals when collective acts both poison and provide the backdrop to individual acts of discrimination? His questions are not limited to the USA. In the UK, it has been convincingly argued that the sub-text for the referendum vote in favour of Brexit was strongly influenced by racism. Equality law scholars from the UK, Brazil and the United States will comment upon how anti-discrimination law should respond to these new challenges.

Room:

D401

Chair:

Iyiola Solanke

Presenters:

Terry Smith:

Whitelash: Unmasking White Grievance in the Age of Trump

Thiago Amparo:

Discussant

Audrey MacFarlane

Discussant

Tanya Hernandez

Discussant

131 Book Roundtable on Advisory Opinions: Carissima Mathen, “Courts Without Cases” (Hart 2019)

This panel will be structured as a roundtable discussion on a recent book about advisory opinions in Canada: Carissima Mathen, “Courts Without Cases: The Law and Politics of Advisory Opinions” (Hart 2019). This book offers the first detailed examination of the role of Canadian courts, since 1875, to act as advisors alongside their ordinary, adjudicative role. This extraordinary function raises many questions about the judicial role, the relationship between courts and those who seek their “advice,” and also about the relationship between law and politics. Panelists will comment on the book and the author will respond to comments. All will then engage in a conversation about the book’s contributions to our learning in public law.

Room:

Auditorio P. Aylwin

Chair:

Richard Albert

Presenters:

Ran Hirschl:

Discussant on “Courts Without Cases”

Margot Young:

Discussant on “Courts Without Cases”

Jeff King:

Discussant on “Courts Without Cases”

Amelia Simpson:

Discussant on “Courts Without Cases”

Yasmin Dawood:

Discussant on “Courts Without Cases”

Carissima Mathen:

Author of “Courts Without Cases”

132 Collective Decision-Making in Constitutional Reasoning

The aim of this panel is to critically analyse the ways in which different collective decision-making mechanisms that are common in liberal democracies (e.g., public hearings and voting rules), and the values that underpin such mechanisms (e.g., 'public deliberation' and 'democracy'), influence the assessment of the constitutionality of legislation. By focusing on collective decision-making mechanisms and values, this panel hopes to provide some insights to improve constitutional control procedures in liberal democracies.

Room:

LLM93

Chair:

Virgilio Afonso Da Silva

Presenters:

Génévieve Cartier:

Administrative Deliberation and the Constitution

Tania Busch:

Audiencias Públicas y su Impacto en las Sentencias del Tribunal Constitucional Chileno

Rodrigo Kaufmann:

Democracy as Legitimacy: The German Understanding of the Democratic Principle

Pablo Grez:

The UK Parliament Joint Committee on Human Rights ('JCHR') before Convention Rights: Contradictory Pressures

Cristóbal Caviedes:

The Core of the Case for Supermajority Rules in Constitutional Courts

133 Global Constitutionalism in Crisis?

Global constitutionalism is now facing two major intertwined challenges: the global rise of populism followed sometimes with sighs of democratic backsliding, on one hand, and the global south critique, which doubts the compatibility of the liberal vision of global constitutionalism to countries that do not share the Western conception of rights, on the other hand. This panel situates most of these debates within the ambit of Proportionality, which has been the most powerful doctrinal feature of global constitutionalism, and examines to what extent it is equipped to deal with these challenges.

Room:

A102

Chair:

Jaclyn Neo

Presenters:

Moshe Cohen-Eliya & Iddo Porat:

Proportionality in the age of Populism

Kai Möller:

Defending liberal constitutionalism in times of crisis

Gila Stopler:

Semi-liberal Constitutions

Jamal Greene:

Discussant

134 Disputatio Medievale: ¿Un Giro Liberal en la Iglesia para Aproximarse a la Relación entre la Religión y el Estado?

The panel will discuss Julio Alvear Téllez's book, entitled "La Libertad de Conciencia y de Religión. El Problema de su Fundamento (Marcial Pons, 2013, Madrid)." The debate will focus on whether the Catholic Church has experimented a liberal turn in its understanding of the relationship between Religion and the State. The debate will be in Spanish.

Room:

Seminario 3

Chair:

Sergio Verdugo

Presenters:

Julio Alvear Téllez:

Presentation of the book's argument

Joseph Weiler:

Comments on the book's argument

135 Populism and Decision- Making Process: Between Representative Bodies and Judicial Authorities

Populism can be (also) defined as a pathology of representative democracy. Once in charge, the attitude of anti-élites movements is to constantly refer to the will of the people as their policies' primary source of legitimation. One of the victims of this trend is the decision making process. Whilst statute law plays a marginal role in populist regimes and the number of the executive's decrees increases, the use of direct democracy instruments as referendums rises dramatically. At the same time, if populist movements may be rather skeptical against non-majoritarian actors, namely courts and independent agencies, considered expression of the so-called establishment and key players before the risk of a rule of law backsliding, they may appear better equipped than legislatures to tackle systemic, intricate issues and to respond to the claims raised by petitioners to advocate their interests and the interests of their groups.

Room:

LLM92

Chair:

Benedetta Barbisan

Presenters:

Omar Makimov Pallotta:

Populism and direct democracy: an instrumentalist approach to constitutional law?

Paolo Bonini:

A Judicial-Oriented Decision-Making Process as the Essence of Populism

Benedetta Barbisan:

Courts Like Medieval Parliaments in the Crisis of Political Representation

136 The rise of memory laws in times of contestation

In recent years, memory laws have been adopted by governments to forward political agendas. The most recent provisions are often at odds with democratic values because they perpetuate official narratives, use exclusionary devices and engage in transnational memory wars. This panel will focus on the emerging practice of using the past as a political instrumentality through public law. It will challenge the traditional framework of punitive and non-punitive memory laws to account for the anti-establishment character of contemporary political contestation. Further, we will address the role of law in articulating or denying important events such as genocide. We will also take a comparative approach by examining cases from Western Europe, the post-Soviet space, Turkey and Latin America. Finally, the panel will offer new insights into the relationships between historical memory, democracy and the rule of law.

Room:

Seminario 2

Chair:

Dr Uladzislau Belavusau

Presenters:

Natalie Alkiviadou:

Memory, remembrance and reconciliation: words that matter: a glossary for journalism in Cyprus

Grazyna Baranowska:

Turkish and Russian memory laws in comparative perspective

León Castellanos-Jankiewicz:

The resurgence of amnesties in Latin America: between remembrance and renewal

Aleksandra Gliszczynska-Grabias:

Legal and political deployments of memory in Central and Eastern Europe

Ioanna Tourkochoriti:

Should the law regulate historical memory?

137 Judicial Methodology and Decision-Making I

Panel formed with individual proposals.

Room:

Seminario 1

Chair:

Dean Knight

Presenters:

Sebastian Lewis:

Can equity constrain the power of Constitutional Courts to invalidate the application of potential unconstitutional statutes?

Dean Knight:

Contextual review: the instinctive impulse and unstructured normativism in judicial review

Elena Drymiotou & Beverley Baines:

Equal protection as inclusive political participation and judicial review

Raquel Sarria & Jose Miguel Rueda Vásquez:

Judicial activism and the Rule of Law: an institutional paradox?

Anthony Tonio Borg:

The Perils of Positivist Thinking in Public Law

138 La jurisdicción constitucional en la construcción de la convencionalidad de los sistemas nacionales latinoamericanos

The current Latin American Constitutions have a common past, in many aspects, and, in addition, they try to have a Constitutional State. Consequently, importance has been given to the jurisdiction for the construction and effectiveness of the aspirational models of the regulations of the national systems. If we think that these systems are linked to international systems for the protection of human rights, this produces a process mediated between the normative and the democratic. The present table aims to develop a critical analysis around 4 central points. Beginning with the countermajoritarian objection - to continue with the limits that can be created in the generation of an open government model, to subsequently make the exhibition of the transformations suffered in the system of sources - and, finally, the interception of judicial work in the conventional and constitutional developments of Latin America will be addressed.

Room:

D302

Chair:

Diego Dolabjian
Gonzalo Ramírez

Presenters:

Carolina Machado Cyrillo da Silva:

Gobierno Abierto, participación popular y el Poder Judicial en el Estado Constitucional

Luz Eliyer Cárdenas Contreras :

La evolución en el sistema interamericano de la doctrina del margen de apreciación

Pablo Sebastián López Hidalgo:

El problema de la dificultad contramayoritaria en la Corte Constitucional ecuatoriana

María Lorena González Tocci:

Alcances, eficacia y autoridad del precedente constitucional

Edgar Hernán Fuentes Contreras:

Del Estado Constitucional al Estado Convencional de Derecho. El proceso de transformación de los modelos jurídico-políticos, en el contexto lus Constitutionale Commune en América Latina

139 Regulating the Economy II

Panel formed with individual proposals.

Room:

Allende Bascuñan 2

Chair:

Sebastián Soto

Presenters:

Sebastian Soto:

Constitutional balanced budget clauses: past, present... and future?

Ana Luiza Calil:

Public Planning as a tool for innovation in public sector

Nikolaos Vagdoutis:

Social rights constitutionalism through the concept of the economic constitution

Stephane Braconnier:

The economic freedoms facing social and economical crisis : the example of France

Adilkhan Turekhanov:

The Eurasian Economic Union (EAEU): new actor in International Law and sources of EAEU Law

Angelo Jr Golia:

Transnational Economic Actors and Legal Pluralism: 'Constitutional Disobedience' as an Instrument for the Internalization of Human Rights into Economic Legal Systems

140 Constitutional Shocks and Transitions I

Panel formed with individual proposals.

Room:

FD-101

Chair:

Fred Felix Zaumseil

Presenters:

Luis Claudio Martins de Araujo:

Constitutional resilience in democratic societies

Vera Chueiri:

Democracy, constitutionalism in times of crisis: the impeachment as a trap to turn a parliamentary coup into a regular constitutional procedure

Ebrahim Afsah:

Faith, Rationality and Legal Method: Islamic Public Law and its Role in Arab State Failure

Yuvraj Joshi:

Racial Transition in US Equality Cases

Zoé Vrolix & Christian Behrendt:

The production of legal provisions in period of emergency

141 Razonamiento Judicial y el Control del Poder

Panel formed with individual proposals.

Room:

Allende Bascuñan 1

Chairs:

Magistrado Eloy Espinosa-Saldaña

Cristián Villalonga

Presenters:

Cristian Villalonga:

Analizando el modelo de juez racional. Reflexiones sobre la teoría de la jurisdicción en el neoconstitucionalismo

André Saddy:

El concepto de apreciatividad en el Derecho administrativo: analogías y diferencias con la discrecionalidad administrativa

Miguel Saltos, Andrés De Gaetano & Federico Acheriteguy:

Hibridación y convergencia de los sistemas de control: del poder constituyente al juez constitucional

Benjamin Gajardo:

Jueces y democracia: rescatando la idea de imparcialidad judicial, hacia una justificación normativa de la autoridad dialógica

Abraham Bechara:

La carga de la argumentación jurídica, como modelo de adjudicación especial de los derechos fundamentales

Magistrado Eloy Espinosa-Saldaña:

La labor de los tribunales en la tutela de los derechos de los sectores más vulnerables: una aproximación a la luz de la jurisprudencia del Tribunal Constitucional peruano

142 Globalization of Public Law: Innovations and Trends of public law

This panel analyzes the most recent manifestations of the globalization of public law. Globalization is understood as a process which enhances interactions and interdependencies among different juridical regimes and which is implicated in transforming the processes and practices of law production. Experts, transnational networks of knowledge sharing, best practices, indicators, social movements, among other phenomena, are nowadays leading forces of law production, which does not mean that traditional processes of law generation have disappeared. Against this backdrop, how are processes of globalization transforming national and international public institutions? What are the new centers of public law production and dissemination? What are the rationales (logics) that animate and guide the new public law arrangements and institutions?

Room:

D405

Chairs:

Diana Valencia-Tello

Johanna Cortes Nieto

Presenters:

Helena Colodetti:

Instrumentalizing International Law: the Principle of Consistent Interpretation and the Creation of the European Union Constitutional Block

Juan David Duque Botero:

Investment Protection Treaties and Regulatory Cooperation in the Context of Public Procurement

Hugo Andres Arenas Mendoza:

Conventionality Control in the Colombian Council of State's Case Law in Cases of Tort Claims against the State for Extrajudicial Executions

Diana Carolina Valencia-Tello & Johanna Cortes Nieto:

Disciplining Public Procurement Law. The OECD in Colombia

143 The Public and Private Divide in the Digital World: What role for Public Law?

The increasing tension between the private/public divide in the digital world requires a multi-dimensional analysis. Rui Lanceiro and Francisco Duarte explore this from transnational governance, advancing the concept of corporate states as new transnational entities, challenging their epistemic legitimacy, impact on democracy and the limits of self-regulation. Vasiliki Kosta continues from the fundamental rights' perspective, by analysing the EC's proposal for a regulation on terrorist content online, discussing the use of internal market legislation as a burden-shifter from public to private parties. Raquel Franco advances an economics' analysis, on how intelligent nudging and AI are potential game-changers in behaviour economics. Domingos Farinho and Ricardo Campos propose a comparative review of the regulatory frameworks concerning social media platforms in Germany, Portugal, France and Italy, extracting key conclusions on their private/public roles. Sofia Ranchordas will discuss.

Room:

D404

Chairs:

Rui Lanceiro

Domingos Farinho

Presenters:

Rui Lanceiro & Francisco Duarte:

The Rise of "Digital States" in International Law

Vicky Kosta:

Online content regulation through internal market legislation: The proposed Regulation on preventing the dissemination of terrorist content online

Raquel Franco:

Will robots make you happier? Behavioral informed policies, intelligent nudging and freedom of choice

Domingos Farinho & Ricardo Campos:

The legal regulation of social networks across Europe

Sofia Ranchordas:

Discussant

144 Authority, responsiveness and democratic checks: the challenges of public law in the new constitutional landscape

The current era is marked by growing distrust of democratic institutions and traditional issues of public law become relevant again. These include limits on power, controls over the authority's decisions and the criteria under which the authority is accountable to the population. This panel will discuss them in theoretical and dogmatic levels. In the first place, there will be three papers that will refer to the need to reformulate the general theory of Administrative Law, in such a way that it manages to contain the overflows of authoritarian governments. We will try to answer how to articulate a system of control of the administration that is also capable of allowing it the flexibility it requires to control those of market actors. Linked to the above, the fourth paper will analyze the degree of autonomy that public law should recognize to the armed forces. Finally, the fifth paper will examine the compatibility between social protest and law.

Room:

A101

Chair:

Viviana Ponce de León

Presenters:

Guillermo Jiménez:

Bureaucracy and resistance to authoritarianism

Matías Guilloff:

Los límites de la responsividad

George Lambeth:

Financial Stability and Risk Regulation. A Normative assessment of unelected power as a limit case in Public Law

Pablo Contreras:

"Obedientes y no deliberantes": fuerzas armadas, autonomía y control democrático en Chile

Daniel Mondaca:

Derecho y protesta social: una tensión irresoluble

145 Comparative Administrative Law: Assessing the State of the Field

Comparative Administrative Law (CAL) has a venerable history stretching back to the nineteenth century and beyond. Over the last ten years, interest in the field has further intensified. The last decade has seen new monographs, new research handbooks (with more on the way), the organization of conferences, the creation of chairs focused specifically on CAL, as well as an increase in inter-disciplinary and inter-doctrinal linkages. The latter include research connecting CAL to comparative constitutional law, comparative policy analysis, global administrative law, international economic law, law and development, public administration, regional integration, and state formation, just to name a few areas. This panel, organized as a roundtable with significant audience interaction expected, will reflect on the last ten years as well as potential future directions in terms of geographical scope, methodologies, institutions, and research linkages with other fields, among other topics.

Room:

A103

Chairs:

Peter Lindseth

Mariana Prado

Roundtable featuring:

Yoav Dotan

Mariolina Eliantonio

Cheng-Yi Huang

Jud Mathews

Joana Mendes

Giulio Napolitano

146 New Approaches to Enduring Problems in Public Law

Panel formed with individual proposals.

Room:

Auditorio CAP

Chair:

Carolina Cardenas

Presenters:

Beke Zwingmann:

Domestic versus foreign affairs – an outdated dichotomy?

Maíra Almeida & Carlos Bolonha:

Is Thin Rationality Review a possibility in the Brazilian Administrative State?

Gustavo Buss:

Judiciary protagonism in the context of authoritarian governments

Ricardo Cruzat Reyes:

Regulating through litigation: the nature of regulatory rulings

Gisela Ferrari:

The Migration of Constitutional Ideas in Latin America: Dynamics, Underlying Assumptions, and Possible Improvements

147 The Roles of the People in Law and Politics

Panel formed with individual proposals.

Room:

R510

Chair:

Andres Biehl

Presenters:

Mauricio Wosniaki Serenato:

A bet on the people: strong democracy and weak constitutionalism in the context of constitutional democracies' tensions

Michael Da Silva & Daniel Weinstock:

Domestic Democratic Majorities and International Constraints: The Case of Language

Sarah Burton:

Locating The People: Non-Resident Enfranchisement and National Identity in a Globalized World

Hoai-Thu Nguyen:

Redefining the notion of 'free and fair' elections in the digital age

Andres Biehl, Francisco Urbina & Rodrigo Perez de Arce:

Voting as Ritual: an Account of the Communal Dimension of Elections

148 Developing International Law and Institutions

Panel formed with individual proposals.

Room:

Sala Juicio Oral

Chair:

Danielle Rached

Presenters:

Danielle Rached:

Authority in the Global Health Governance

Francisco Lobo:

Empire Strikes Back: Comparative Notes on Evolving Conceptions of Western Imperialism

Pablo José Castillo Ortiz & Carlos Closa:

Integration Clauses in Latin-American and Caribbean Constitutions

Nikos Vogiatzis:

Margin of appreciation and subsidiarity: The Strasbourg Court post-Protocol 15 ECHR

Elisabetta Morlino:

The power of the purse: the law of international organizations between social development and economic interests

Valentina Volpe:

The United Nations and Democracy Promotion. The Importance of Being Earnest

149 The Powers of Legislators and Legislation

Panel formed with individual proposals.

Room:

Sala Mediación

Chair:

Vanessa MacDonnell

Presenters:

Giovanni Piccirilli:

A Gesetzesvorbehalt for the European Union after the Treaty of Lisbon? The impact of the new category of "legislative acts" on the concept and aims of legislation

Maciej Pisz:

Challenges in the area of the sources of law in contemporary Polish constitutional law

Ivan Sammut:

In times of change – the evolution and the democratization of the European Union's agencies as the 'fourth' branch of government

Martijn van den Brink:

Justice, Legitimacy, and the Authority of Legislation within the European Union

Vanessa MacDonnell:

Quasi-Constitutional Legislation and Constitutional Pervasiveness

150 Changing Public Law through Cultural Heritage

Countries may delimit their own conceptions of “national cultural patrimony” according to their cultural sensibility, historical narratives and political strategies. This multidisciplinary panel examines how specific categories of new and emerging cultural heritage may affect the laws which purport to regulate the cultural interest in property. Fashion, for example, is a new and emerging category of cultural heritage. Classifying film as cultural heritage presents issues of copyright and freedom of expression. The destruction of cultural sites and monuments may or may not be allowed by cultural heritage and public law. How do these phenomena affect and change cultural heritage law and public law more broadly?

Room:

Aquiles Portaluppi

Chairs:

Lorenzo Casini

Sabino Cassese

Presenters:

Evgeniia Volosova:

Soviet Cinema in Changing Post-Soviet Copyright Law

Felicia Caponigri:

Fashion, Design and the Future of Cultural Heritage Law

Mariafrancesca Cataldo:

The (Public) Law of Cultural Heritage in the face of Terrorism and Diplomacy

Gabriela Atucha Rossi:

Intangible Cultural Heritage and its Protection in Chilean Law

151 The Unconstitutional Constitutional Amendment Doctrine

Panel formed with individual proposals.

Room:

D303

Chair:

Eduardo Moreira

Presenters:

Atagun Mert Kejanlioglu:

The “people” as an obstacle to an effective unconstitutional constitutional amendments doctrine: Lessons from Turkey

Ondrej Preuss:

The Eternity Clause – Lessons from the Czech Example (recent developments)

Eduardo Moreira:

The Implicit Limits of Constitutional Amendments

John Dinan:

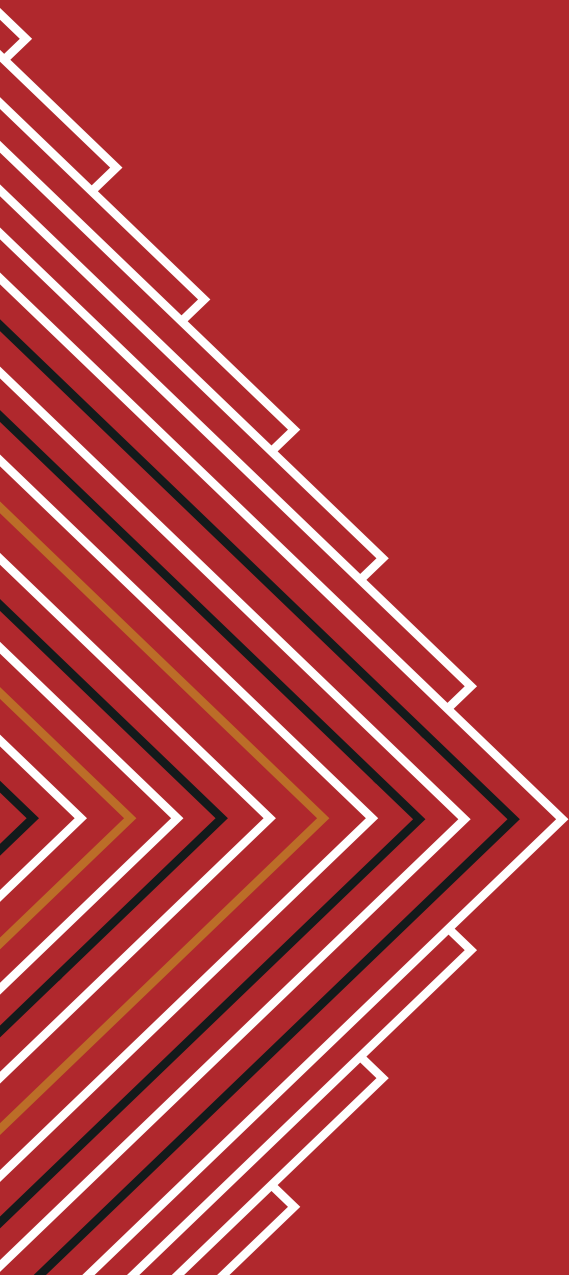
The Unconstitutional Constitutional Amendment Doctrine in the American States: State Court Review of State Constitutional Amendments in the U.S.

Katy Sowery:

Unconstitutional Constitutional Amendments: the case of the European Union

Wednesday
3 July 2019
08.20 – 09.55

Panel Sessions VI



152 Courts and Constitutions in Authoritarian Regimes

From Latin America to Africa to Asia, questions about the role of courts and constitutions in authoritarian regimes has become all the more urgent since the turn of the 21st century. This panel explores different problems faced by new democracies with a background of an authoritarian or a dominant political party in power. Some problems concern the challenges faced by judges and constitutional designers in the face of consolidated political power. Others concern how powerful incumbents themselves use constitutional strategies to entrench power. Different comparative perspectives will be offered along theoretical, empirical, and historical lines.

Room:

D303

Chair:

Mark Tushnet

Presenters:

Samuel Issacharoff:

Courts and Intralegal Oppression

James Fowkes:

Dugard's Question: South Africa, Latin America, and Judicial Complicity in Evil Regimes

Yvonne Tew:

Courts in Transition: Judicial Empowerment in Malaysia and Singapore

Po Jen Yap:

Authoritarian Regimes and Courts in Asia

153 Challenges to Freedom of Expression I

Panel formed with individual proposals.

Room:

Sala Mediación

Chair:

Cristian Román

Presenters:

Cristian Román:

#Twitter and @Administration (Government)

Cherian George:

Authoritarian contagion: the impact of Western disinformation laws on media repression in Asia

Fritz Siregar:

Disinformation and Black Campaign on 2019 Indonesia Election – Freedom Speech vs Protect Election Process

Uriel Silva:

From the mask to the hologram: on political representativeness and sovereign legitimacy after fake news

Magdalena Jozwiak:

The development on the EU approach to online privacy and brief history of online content moderation

154 Crime and Punishment I

Panel formed with individual proposals.

Room:

Sala Reuniones LLM

Chair:

Ike Chianaraekpere

Presenters:

Maksim Karliuk:

Against 'Punishment'

Ike Chianaraekpere & Azubike Onuora-Oguno:

Charting A New Course in Sexual Violence Prohibition and Protection in Nigeria: A Need To Reappraise Public Law Jurisprudence In Nigeria?

Herlambang P. Wiratraman:

Criminalising Justice: The use of law on 'ideological stigmatisation' for attacking human rights movement in Indonesia

Daniel Pascoe & Andrew Novak:

Longitudinal Constitutional Trends in Clemency since Sebba (1977)

Marcin Szwed:

Personal liberty v. positive obligations of the state – limits of preventive detention of dangerous offenders

155 DEBATE! Is there a regional ius commune in Latin America?

The term *Ius Constitutionale Commune en América Latina* (ICCAL) is an initiative coined by scholars who have been documenting, conceptualizing, and comparing the development of Latin American public law for more than a decade. It encompasses themes that transcend national borders and legal fields, involving constitutional law, administrative law, general public international law, regional integration law, fundamental rights, and investment law. For its critics, however, this project is the latest expression of competing agendas within the Latin American legal space. Its supposed strong Eurocentric and judicial inclination may present a normative straitjacket to the pluralist historiographies of the region, thus neglecting constructions from below. Moreover, conceptual, epistemological and democratic limits may blind the ICCAL project and hinder it from presenting a full account of Latin America's public law(s).

Room:

Auditorio A. Silva

Chair:

J.H.H Weiler

Presenters:

Arturo Villagran:

A Human Rights' Tale of Competing Narratives

Ximena Soley:

Struggles within the Human Rights Field: The Matter of Real and Supposed Competing Narratives

Alejandro Rodiles:

The ICCLA Project: Latin American Public Law or Global Public Law in Latin America?

Juan C. Herrera:

Transformative Constitutionalism: An Original Latin American Understanding of Public Law

156 International Economic Law and Transformative Constitutionalism in Latin America I: Framing the Issues

Two deep shifts have transformed the legal, political, and economic landscape of Latin America in the course of the last decades. On the one hand, the region has witnessed the emergence of a transformative constitutionalism in the form of a dense network of materials, institutions, and communities of legal practice whose interactions have given rise to a veritable *Ius Constitutionale Commune en América Latina*. On the other, Latin America has been subject to an equally dense network of trade and investment agreements as well as governance practices of international financial institutions, amounting to a regional complex of international economic law norms. Inevitably, both frameworks are increasingly interacting, thereby triggering conflicts, synergies, and unintended consequences. This panel examines the interactions between transformative constitutionalism and international economic law in the region, and explores the resulting challenges for human rights and democracy.

Room:

D304

Chair:

Armin von Bogdandy

Presenters:

Rene Uruena:

International Economic Law in the Inter-American Legal Space: Domestic Review and the Fair and Equitable Treatment Standard

Paulina Barrera Rosales:

*All Subjects Considered: the Role of Indigenous Peoples in the Relationship between the *Ius Constitutionale Commune en América Latina* and International Economic Law*

Judith Schönsteiner:

Business and Human Rights: Just a "Soft" Transformation?

Franz Christian Ebert:

International Financial Institutions and Transformative Constitutionalism in Latin America: The Case of the World Bank

157 Constitutional Foundations

The panel considers the foundations of constitutions - the rules that must be parts of a constitutional order, and the consequences of including rules in the foundations of the state. The identity of the state as social institution will be considered, the role of popular sovereignty examined, and the significance of a state's founding document surveyed.

Room:

LLM94

Chair:

Vanessa Macdonnell

Presenters:

Rivka Weill:

We the Territorial People: Popular Sovereignty as a Territorial Concept

Peter Oliver:

Canada's 'Constitution Similar in Principle to that of the United Kingdom': A Sustainable Jurisprudence of Constitutional Principles

Nicholas Barber:

Fundamental Rules of Constitutions

158 Constitutional politics and comparative institutional design

In the field of constitutional theory, normative questions such as the appropriate role of courts, the nature of constitutional adjudication and the appropriate approaches to interpretation are often discussed without any explicit reference to a specific institutional setting in which these normative answers are expected to obtain acceptance. But variations in institutional design can be linked to different answers in these questions: they can be shaped by different understandings, in that community, of the role of courts and of public law. Moreover, differences in institutional design can also help shape these understandings and normative expectations themselves. In this panel, the papers approach recurrent problems in constitutional theory and public law in a comparative fashion, or that contextualize and explain answers to these problems by means of case studies that make visible the possible connections between theory and variations in institutional arrangements.

Room:

D402

Chair:

Jaclyn Neo

Presenters:

Diego Werneck Arguelhes:

Transformative constitutionalism, institutional failure, and judicial populism

Jaclyn Neo:

Constitutional Amendment in Southeast Asia: Theory, Practice, and Reflection

Thomaz Pereira:

Constitutional Amendment in Latin America: Theory, Practice and Design

Fernando Muñoz:

Dictatorship, neoliberalism, and natural law: constitutionalizing the concept of discrimination in Chile (1973 - 1980)

Or Bassok:

The Schmitelsen Court: The Question of Legitimacy

159 Administrative Law and Automated Government Decision-Making

Several recent events have renewed debate in Australia about whether existing administrative law principles and institutions are fit-for-purpose in the modern era of technology-assisted government decision-making. The most controversial is the Commonwealth Government's use of technology to identify possible social security overpayments and generate notices requiring individuals to explain why they do not owe a debt, known as 'robodebt'. In 2017, the Government announced plans to automate visa processing - an area which has caused controversy and generated the bulk of judicial review cases for several decades. And in 2018 the Federal Court found that a computer-generated notice informing a taxpayer of the amount of their debt was not a 'decision' for the purposes of administrative law. This panel will explore the implications of these, and other, technological developments for administrative law, and ask how the law can adapt to the modern realities of government administration.

Room:

LLM91

Chair:

Janina Boughey

Presenters:

Maria O'Sullivan:

Automation: Developing Technological Procedural Fairness

Katie Miller:

Back to Basics: Who "decides" in automated government decision-making?

Janina Boughey:

Proving legal error in an age of Automated Decision-Making

160 Comparative Impeachment: Removing Executives

All presidential systems and many parliamentary systems have mechanisms for removing executives who have committed crimes or are incapacitated. These mechanisms vary widely, with important consequences for the political system. Recent experience in South Africa, South Korea, Pakistan, Korea, and Brazil shows that removal by impeachment is not uncommon, nor necessarily problematic for the system as a whole. This panel will explore recent cases to understand when removal mechanisms are used—and abused.

Room:

Auditorio Claro

Chair:

Tom Ginsburg

Presenters:

Aziz Huq & Tom Ginsburg:

Removing Presidents: A Comparative Exploration

Yoav Dotan:

Impeachment by Judicial Review: Israel's Odd System of Checks and Balances

Juliano Zaiden Benvido:

Behaviors Matter: Dilemmas and Side-Effects of the Brazilian Supreme Court's Behavior during President Dilma Rousseff's Impeachment

Commentator:

Sabrina Ragone

161 Challenges to Constitutional Democracy in Latin America

This panel explores the challenges to constitutional democracy in Latin America. Some papers are country specific, focusing on Brazil or Venezuela. Others look at more general problems in the region associated with human rights law or constitution making.

Room:

A101

Chair:

Ana Micaela Alterio

Presenters:

Luisa Netto:

Brazil: At risk of becoming an Illiberal Democracy?

Jorge Contesse:

"Human Rights Law and Constitutional Democracies in Latin America"

Joshua Braver:

ExtraOrdinary Adaptation: Popular Constitution-Making in Post-Cold War South America

Raul Sanchez-Urribarri:

High Courts and Autocratic Consolidation: The Venezuelan Supreme Court under Nicolas Maduro's Rule (2013-2018)

Ana Micaela Alterio:

Discussant

Tarunabh Khaitan

Discussant

162 The Relationship between Constitutional Democracy and a Janus-faced Civil Society

Courts and civil society are indispensable elements for the development of democratic constitutionalism. Indeed, they often work hand in hand to place strong checks with the government. Nevertheless, the rise of populism demonstrates another dimension of civil society. This panel aims to explore the dynamics between courts, civil society, and constitutional democracy. In her paper, Chang focuses on how the constitutional court and civil society in South Korea and Taiwan have placed their checks with the government and whether the constitutional court and civil society have –or have not– collaborated with each other. By contrast, Lin indicates that without correct and sufficient information, and genuine understanding and deliberation, civil society may have the potential to undermine democracy. Finally, Shaw argues that the concept of militant democracy is not the ideal starting point for safeguarding democracy in Taiwan when facing China’s threat.

Room:

Auditorio E. Frei

Chair:

Wen-Chen Chang

Presenters:

Wen-Chen Chang:

Constitutional Court and Civil Society in Constitutional Governance: South Korea and Taiwan in Comparison

Chun-Yuan Lin:

When democracy becomes its own enemy—the problems of 2018 Public referendum in Taiwan and possible proposals

Yung-Djong Shaw:

Countering “sharp power”: First thoughts on a theory of constitutional security

163 Transitional Justice: the new challenge for Mexico

For several years, Mexico has experienced a phenomenon of large-scale violence, marked mainly by forced disappearance, torture and massacres of the civilian population and, with this, serious violations of human rights. The crisis of violence and its consequences have not been addressed by the institutions and ordinary mechanisms of justice, and the design and implementation of a transitional justice policy has been discussed only in recent months. Transitional justice applies when you move from an authoritarian regime to a democracy or when you go from a state of civil war to one of peace. However, in the case of Mexico, transitional justice finds its root in serious human rights violations that afflict the country. A public policy of transitional justice for Mexico should clarify the facts that caused the violence and identify those responsible, reduce impunity, repair the victims for the damage suffered and rebuild the social fabric, as well as prevent the repetition of the facts.

Room:

Seminario 3

Chair:

Irene Spigno

Presenters:

Luis Efren Rios Vega:

Justicia transicional y la jurisprudencia de la Corte Interamericana de Derechos Humanos contra Mexico en los casos de desaparición forzada de personas

Juan Francisco Reyes Robledo:

Justicia Transicional en México: Contexto, Experiencias y Retos

Paloma Lugo Saucedo:

Femicidio en México. Diez años después del caso Campo Algodonero (González y otras)

164 Current Controversies in European Lawmaking

Panel formed with individual proposals.

Room:

Seminario 2

Chair:

Zsolt Szabó

Presenters:

Robert Siucinski:

Common European Heritage of Administrative Procedure

Marta Morvillo:

From contestation to accountability in EU pesticides regulation: the case of glyphosate

Martijn van den Brink:

Legislative Interpretation within the European Union: The Challenge of Legislative Intent

Zsolt Szabó:

Parliamentary committees of inquiry and rights of the opposition

Ute Lettanie:

The ECB's Performance under the ESM Treaty on a Sliding Scale of Delegation

165 Sistema de Justicia y Desafíos para la Protección de los Derechos

Panel formed with individual proposals.

Room:

Seminario 1

Chair:

Lautaro Ríos

Presenters:

Diego Gamarra:

Decisiones constitucionales sobre especificación de derechos. Contribuciones para un modelo más comprometido con la democracia

Francisco Bustos:

El Estatuto de Roma de la Corte Penal Internacional y su empleo por parte de los tribunales chilenos (1998-2018)

Lautaro Ríos:

El Principio Fundamental de Inexcusabilidad Resolutiva

Ariana Macaya:

Internacionalización del Derecho Constitucional y Judicialización de la política: el impacto del Sistema Interamericano de Protección de Derechos Humanos en la resolución de controversias socio-políticas en Costa Rica

Gaspar Jenkins Peña y Lillo:

La Acción de No Discriminación a la Luz de la Tutela Judicial Efectiva. Un Examen Práctico

Carolina Vergel:

Tecnología y derechos sexuales y reproductivos

166 Author Meets Readers: Democracy, category politics and anti- discrimination law

The law prohibiting discrimination sits within the constitutions of many legal systems around the world. This law traditionally focuses on individual actions and behaviour. Hernandez speaks to the conference theme of public law in a time of change by articulating the new challenges which anti-discrimination law must tackle, and how it must change – or not change – if it is to do so effectively. She focuses in her book on the elevation by policy makers and legislators of a new category of ‘mixed-race’ victims of discrimination. She considers whether this apparent extension of the protection from discrimination is in fact a retrenchment from the fight against discrimination, and the consequences of this. Hernandez writes in the American context but her questions are not limited to the USA. Readers from the United Kingdom, Brazil and the United States. will comment upon how anti-discrimination law should respond to these new challenges.

Room:

LLM92

Chair:

Iyiola Solanke

Presenter:

Tanya Hernandez:

Multi-racials and Civil Rights: Mixed-Race Stories of Discrimination

Audrey MacFarlane:

Discussant

Thiago Amparo:

Discussant

Terry Smith:

Discussant

167 Rise and Fall of Constitutions: Promises and Challenges

Modern society has turned the Constitution into a privileged locus of political struggle, as the conquest of constituent power came to be imagined as an irresistible and magic-like social force capable of purging a polity of all its vices. The rise of a Constitution is often portrayed as a time of hope and promise. Its depictions, both intellectual and imagined, are those of a new political dawn. And yet, more often than not, constitutions fail to deliver on its chant of redemption. Through a comparative analysis of the birth, growth and life of the 1975 Greek Constitution, 1988 Brazilian Constitution, 1997 South African Constitution and the 2014 Egyptian Constitution we will try to answer the following two questions: “what challenges do constitutions face at inception” - and “what forces lead to constitutional decay”? The countries chosen are meant to serve as snapshots of discrete constitutional moments in states with a tradition of institutional instability.

Room:

Auditorio P. Aylwin

Chair:

Ghazal Miyar

Presenters:

Ghazal Miyar:

Out of the Frying Pan? South Africa's Constitutional Inadequacies

Bruno De Sousa Rodrigues:

Brazil: constitutions in times of trouble

Eirini Tsoumani:

Rationality ruptures in austerity Greece and the Role of the Constitutional Judge

Mohamed Abdelsalam:

Do Egyptian Judicial Practices Constitute the Major Force to Protect the Rule of Law

168 Beyond Cake-Baking : Freedom of Expression, Freedom of Religion and Equality After Masterpiece Cakeshop and Ashers Baking Company

Two recent cases, *Masterpiece Cakeshop v. Colorado* [US] and *Lee vs. Ashers Baking Company* [UK] present, in stark terms, the potential clash between the commitment to equal protection (and antidiscrimination), and the commitment to free speech (and freedom of religion). In both cases the apex courts sided with the bakers (and thus de facto or de jure upheld their claim not to engage in what they saw as compelled speech), but the reasoning and the judicial strategy of the two courts for managing the conflict differs greatly. Moreover, each decision raise serious concerns in terms of its justification, coherence with principles underlying constitutional jurisprudence, and potential impact on speech and equality alike. The panel will closely examine these decision, critically analyze the reasoning of the two courts (and the courts below), and reflect on the potential significance of the decisions in the US, the UK, and transnationally.

Room:

Pedro Lira

Chair:

Mattias Kumm

Presenters:

Amnon Reichman:

Expressive Commerce, Anti-Discrimination and Freedom of Association: Lessons from the Old Common Law

Kai Möller:

Religious Objection, Compelled Speech, and Compelled Acts

Menaka Guruswamy:

Equal Protection, Justice and Speech

169 The Possibility of Regional Constitutionalism in Asia

Recent decades have witnessed the discussion and debate on the possibility of regional constitutionalism around the world, such as the Global South constitutionalism and the North American constitutionalism. Given Asia's ethnic, linguistic, religious, and cultural mosaic, however, whether there will be regional constitutionalism in Asia seems to be more problematic. This panel endeavors to provide a tentative answer on this puzzle. Yeh analyzes this question from three perspectives: tradition and transplant, transition and institution, and globalization and competition. Lin takes a more modest stance, suggesting that a dialogic model of judicial review may be one common ground despite the diversity of constitutionalism in East Asia. Finally, Su articulates Taiwan's chequered development of transitional justice, another buzzword of constitutionalism in East Asia given the region's horrible history of rights protection.

Room:

A102

Chair:

Jiunn-Rong Yeh

Presenters:

Chien-Chih Lin:

Dialogic judicial review and its problems in East Asia

Yen-Tu Su:

Transitional Justice and Political Compromise in Taiwan

Jiunn-Rong Yeh:

Regional Constitutionalism: Asia in Focus

170 Law and Violence: Structural Entanglements of Public/EU/Public International Law

Rather than focussing exclusively on how public law and regulation, at both the domestic and transnational levels, has or ought to respond to exogenous shocks, crisis and shifts, this panel instead examines the structural violence inherent in Public Law's substance and form and the (re-) production of that violence. Bringing together scholars from different legal disciplines, the panel will discuss both the heterogeneous forms of violence- whether 'locked-in'/produced by public law- and the varying temporalities of violence- whether reproducing imperial strategies or imagining new horizons of violence. In problematising the discursive and material presumptions and pretensions of public law at its different levels, the panel tentatively hopes to reveal a greater complexity in the question of 'how far can public law go in responding to' and perhaps begin to identify some of the endogenous problems of public law.

Room:

Allende Bascuñan 2

Chair:

Eva Nanopoulos

Presenters:

Maria Tzanakopoulou:

Market Discipline and the Constitution

Maria Ioannidou:

Digital Markets and Structural Violence: the role of competition law

Tanzil Chowdhury:

Continuities of Empire in UK Public Law

Eva Nanopoulos:

Discussant Paper: Theories of Legal Change

171 Constitutionalism, Democracy and Constitutional Change

The recent wave of populist leaders employ an array of means to erode democracy in a legal, gradual and incremental process. One mechanism at the service of those leading the process is formal constitutional change. Populist leaders reject 'intermediaries between the people and themselves', thereby often turn directly to the people in course of executing their agenda. Also, they often limit the power of the judiciary and simultaneously engage in court-packing. What is a legitimate exercise of 'the people', how can we ensure the legitimacy of popular mechanisms, such as constituent assemblies, and can popular mechanisms override formal constitutional procedures? Also, how should we respond to threatened, pressured or packed courts that have legitimated anti-democratic constitutional changes? And should we construct a new judicial role that would be tailor-made to face challenges to judicial independence in populist times of democratic erosion? This panel discusses these challenges.

Room:

Aquiles Portaluppi

Chair:

Francisca María Pou Giménez

Presenters:

Kim Scheppele:

The Fictional Legitimation of Constituent Assemblies

Richard Albert:

Discretionary Referendums in Constitutional Amendment

Rosalind Dixon & David Landau:

Abusive Judicial Review: Courts Against Democracy

Yaniv Roznai & Tamar Hostovsky Brandes:

Democratic Erosion, Populist Constitutionalism and The Unconstitutional Constitutional Amendments Doctrine

172 La constitucionalización de la teoría del derecho

The workshop seeks to generate a dialogue about the possibility of building a theory of law according to the new political and constitutional framework. A legal theory focused on the strengthening and defense of the social and constitutional State. In the construction of this theory mistakes are made, as starting from the constitutional literalism, or an epistemological reductionism that ends up transforming moral or political concepts into legal norms by the mere fact of being in the Constitution. This is not only a theoretical but a political task. Legislative and judicial legitimacy crisis requires the construction of conceptual tools that make feasible the defense of the Rule of Law. A constitutionalized theory of law is imperative, as the dialogue around the sources of law, the concept of standards from the principles, their application, interpretation and balancing, the incorporation of the constitutionality block, for an effective defense of the constitutional State.

Room:

D302

Chairs:

Milton César Jiménez Ramírez

Sergio Iván Estrada Velez

Jorge Ernesto Roa Roa

Presenters:

Juan Carlos Ospina:

La constitucionalización transitoria del derecho

Guillermo Otorola Lozano:

Razones de principio y razones de política en la Corte Constitucional de Colombia

Fabian Salazar:

El estándar de reparación integral: Más allá de las graves violaciones de Derechos Humanos

Diana Maria Molina portilla:

El impacto del constitucionalismo en la teoría social y económica de los derechos humanos en Colombia

Carolina Valencia Mosquera:

Educación al servicio del constitucionalismo "De cómo hacer cosas con la constitución y no desfallecer en el intento"

Alejandro Gomez Velasquez:

¿Separación con colaboración? Una propuesta en favor de la colaboración armónica entre poderes en los Estados contemporáneos

173 Judicial Methodology and Decision-Making II

Panel formed with individual proposals.

Room:

Allende Bascuñan 1

Chairs:

Eneida Desiree Salgado

Presenters:

Eneida Desiree Salgado, Renan Guedes Sobreira & Erick Kiyoshi Nakamura:

A menace in robes: judicial populism, democratic constitutionalism in jeopardy

Kenny Chng:

A Theory of Precedent in Constitutional Interpretation in Singapore

Shucheng (Peter) Wang:

Judicial documents as a robust basis for judicial decision-making by China's courts

Sebastian Lewis:

Should precedents bind or persuade? The pros & cons

Carolina Alves das Chagas:

The Perils of Judicial Avoidance: on deciding not to decide and the Rule of Law

Eszter Bodnar:

The Use of Comparative Law in the Practice of the Supreme Court of Canada: A Quest for Methodology

174 Constitutional Shocks and Transitions II

Panel formed with individual proposals.

Room:

FD-101

Chairs:

Oya Yegen

Presenters:

Cristian Eyzaguirre & Ventura Charlin:

A Century of Constitution-Making Processes in Latin America: An Inclusiveness-Based Comparative Analysis (1917-2016)

Davide Zaroni:

From legal certainty to legal resilience? New paradigms of legal transition in contemporary risk society

Nikolaos Skoutaris:

On Brexit and Secession(s)

Timothy Waters:

Partitioning Kosovo: Moral and Practical Grounds for Redrawing State Borders

Ayesha Wijayalath:

The 2018 constitutional coup of Sri Lanka: the role of the judiciary and the constitutional culture

Oya Yegen:

Turkey's Switch to Presidential System: Presidentialism à la Turca or Latin-American style of presidentialism?

175 Rights in Hard Times

This Panel intends to analyse, in a comparative perspective, the problem of the protection of fundamental rights in several legal systems. This protection is suffering from serious limitations in many countries, also due to the global economic crisis. Panelists will deal with the role of legislation and the Courts of justice. In particular, the growing intervention of judges can raise risks in terms of democratic balance but, in several cases, has brought about stronger guarantees in favour of individual and collective rights.

Room:

D405

Chair:

Bernardo Giorgio Mattarella

Presenters:

Marco D'Alberti:

Citizens' Rights and Public Administration: A Comparative Perspective

Francesca Pileggi:

Pros and Cons of Judicial Intervention

Diana Maria Castano Vargas:

The Inter-American Court of Human Rights

Peter Lincoln Lindseth:

Discussant

176 The Evolution of Public Law in Times of Democratic Transition: South Africa and Beyond

The conference theme recognises the ‘myriad of new challenges’ public law is facing around the globe. This context reflects high levels of corruption and maladministration - stunted efforts to realise the human rights project - and challenges in participatory democracy - particularly in states in transition to democratic government. As such, established public-law doctrines and principles have been forced to adapt to respond to these shifting politico-legal realities. This panel explores the dynamic and adaptive role that domestic and international public law principles, values and doctrines play in building and consolidating democracy, with particular focus on the South African experience. The panellists will explore these issues, each focusing on particular doctrines of domestic or international public law, to revisit what we understand by concepts such as justice and doctrines such as the separation of powers as tools for better government and thus enhanced individual liberty..

Room:

A103

Chair:

Hannah Woolaver

Presenters:

Raisa Cachalia:

Exploring the Relationship between Violent Protest and Procedural justice in South Africa’s Democratic Transition

Hannah Woolaver:

‘Democratic Participation and the Separation of Powers in Treaty Making in South Africa and Beyond’

Lauren Kohn:

‘Reconceptualising the Separation of Powers: Arguments for the Formal Constitutional Recognition of a Fourth Branch of State, “the Integrity Branch”

177 Pluralismo Jurídico y Desafíos para el Estado

Panel formed with individual proposals.

Room:

LLM93

Chairs:

Diana Valencia-Tello

Presenters:

Cristian Montero:

Derecho Administrativo en tiempos de transformaciones: breves notas sobre la ciencia administrativa como ciencia directiva

Sergio Estrada:

La Constitucionalización de la Teoría jurídica en el marco del Estado social y constitucional de Derecho

Gerardo Enrique Vega:

La desarmonía normativa provoca inestabilidad en el derecho público y afecta derechos de las personas

Hernán Correa-Cardozo:

Los límites del constitucionalismo a la democracia directa: El caso del plebiscito para el Acuerdo de Paz en Colombia

Diana Valencia-Tello:

Pluralismo Jurídico. Análisis de tiempos históricos

178 Litigation and Representation in the Public and Private Spheres

Panel formed with individual proposals.

Room:

R510

Chairs:

Sofia Ferrara

Presenters:

Eli Bukspan:

Business and Human Rights in the New Era: Class Actions and Public Class Actions' Fund as a Missing Link

Sofia Ferrara:

Corporate governance of State-owned enterprises

Ranieri Lima-Resende:

De Facto Quasi-Regulatory Agencies in Brazil: A Case Study on the Truckers' National Blockade

Ricardo Cruzat Reyes:

Regulating through litigation: possible advantages

Barry Solaiman:

The Fallacy of Lobbying Transparency: Towards a New Conception of Regulation in Democratic Politics

Diogo Alves Verri Garcia de Souza:

The limit of the public interest and the state agent's privacy before the State

179 Environmental Protection in Comparative Perspective

Panel formed with individual proposals.

Room:

Sala Juicio Oral

Chair:

Pasquale Viola

Presenters:

Justine Bendel:

Access to international courts and tribunals in environmental disputes: towards public interest litigation?

Juan Sebastián Villamil Rodríguez & Manuel Fernando Quinche Ramirez:

Civil Rights, Political Representation and Environment: The regressive effect of the decisions of the Constitutional Court of Colombia

Thuany de Moura Costa Vargas Lopes:

Environmental Democracy and Human Rights in Times of Political and Economic Crisis in Brazil

Ignacio Urbina:

Environmental Law Enforcement in the US and Chile: A Comparative and Functional Review

Shazny Ramlan:

God in Indonesia's Environmental Constitutionalism: An Untapped Resource in Times of (Climate) Change?

Pasquale Viola:

Post-development Paradigms from a Constitutional Top-down Approach: An Outline on Some Relevant Environmental Experiences in Asia and Africa
Comparative and Functional Review

180 Reforming the Chilean Constitutional Court: the complex voyage of the experts commission - discussion panel

This discussion panel explores the work conducted by a group of 16 constitutional academics and think tank researchers. Through January until May of 2019, this group conducted an in-depth analysis of the Tribunal Constitucional, in aspects such as composition and selection process of their judges, institutional functioning, exercise of its powers, institutional conflicts with the Congress and the Supreme Court, sentence effects, challenges of the regionalization process to its powers, among others. This group emerges in the middle of an important but polarized political debate in Chile during the last year around the role of the Tribunal Constitucional in our democracy, and the many institutional tensions that its action causes. Besides analyzing the final document it would be part of the discussion some aspects regarding the methodology of the work, the relation of the group with the key players of the reform and the impact of Comparative Constitutional Law.

Room:

D404

Chair:

José Francisco García

Presenters:

Gastón Gómez:

Chair of the group of experts, Presentation of the group's findings and proposals

Miriam Henríquez:

Discussant with particular consideration of the Constitutional Court powers

Patricio Zapata:

Discussant with particular consideration of justice's eligibility requirements and selection process

Arturo Fermandois:

Discussant with particular consideration of the impact of comparative constitutional institutions and experience in the group's reform proposals

181 Constitutional Asymmetry in Multinational Federalism

Federal systems, and multi-tiered systems in general, are in a permanent modus of change as a response to tensions between diversity claims and integrity requirements. These tensions are most extreme in multinational systems. In scholarship, constitutional asymmetry has been identified as a tool for multinational conflict management. At the same time, constitutional asymmetry is distrusted for threatening legitimacy and stability. The paradox of constitutional asymmetry, then, is that it simultaneously contains the seeds for stability and instability of multinational systems. In this panel, we discuss the link between asymmetry and multinational systems - we address the risks inherent to constitutional asymmetry - and we apply this to multinational systems world-wide, and to the European Union in particular.

Room:

Auditorio CAP

Chairs:

Patricia Popelier

Presenters:

Maja Sahadžić:

Constitutional asymmetry vs. legitimacy and stability

Erika Arban:

Constitutional Asymmetries in Italian Regionalism

Pieter Van Cleynenbreugel:

Asymmetry as a way to move forward with multi-tiered integration? Constitutional asymmetries in the European Union

James Gardner:

Discussion

182 Book Launch Panel: “Reconciling Indigenous Peoples’ Individual and Collective Rights Participation, Prior Consultation and Self- Determination in Latin America” (Jessika Eichler)

Categorical divisions between indigenous individual and collective rights regimes underlie international human rights law and its vernacularisation. Similarly, internal power struggles, vulnerabilities and intragroup inequalities go unnoticed, leaving persisting forms of neo-colonialism, neo-liberalism and patriarchy untouched. Integrating legal theoretical, political, socio-legal and anthropological perspectives, this book disentangles indigenous collective regimes by including women’s, elderly or young people’s rights, alongside intergenerational, intersectional and minority claims. Being relevant to indigenous collective rights, the piece is informed by indigenous rights to prior consultation and participation as inherent to self-determination constituting both an absolute norm and as transcending legal regimes. Self-determination also facilitates resistance enabling indigenous cosmovisions to materialize in the light of persisting patterns of epistemological oppression. Despite its focus on Bolivia, the Andes and Latin America, developments in the African and European human rights systems are considered.

Room:

COM103

Chair:

Dimitry Kochenov

Author:

Jessika Eichler

Jose-Manuel Barreto, Luiz:

Discussant

Luiz Guilherme Arcaro Conci

Discussant

Felix-Anselm van Lier

Discussant

Wednesday
3 July 2019
10.30 – 12.05

Panel Sessions VII



183 Poland's Constitutional Breakdown - Book Discussion

The panel discusses Wojciech Sadurski's book, entitled "Poland's Constitutional Breakdown" (Oxford University Press, 2019). The book explores the way the erosion of democracy has taken place in Poland since 2015 due to the actions of the Law and Justice Party (PiS). The arguments of the book seek to contribute to the literature on populist backsliding and illiberal democracy. The discussants and the author will debate the book's arguments.

Room:

Aquiles Portaluppi

Chairs:

Rosalind Dixon

Book discussants:

Samuel Issacharoff

Martin Krygier

Tom Gerald Daly

Sergio Verdugo

Marek Zubik

Book author:

Wojciech Sadurski

184 Challenges to Freedom of Expression II

Panel formed with individual proposals.

Room:

Sala Reuniones LLM

Chair:

Mary Anne Case

Presenters:

Bruno Silva:

Case Brown v. Plata: mass incarceration in California

Herlambang P. Wiratraman:

Disciplining Free Expression and The Rise of Authoritarianism in Indonesia

Cynthia Juruena & Renan Guedes Sobreira:

Fake Democracies: Democracy Undermined by Fake News

Mary Anne Case:

Sexualized Speech About Religion in the Jurisprudence of the European Court of Human Rights

Anderson Luis da Costa Nascimento:

The case Adler v board of education of New York City: Judgment of the Supreme Court of the United States, Mccarthyism and its correspondence to "school without party" in the political proposal for Brazilian education

Javier García:

The Public Law against the propagation of extremist discourses. Challenges to freedom of expression and learning from the European experience

185 International Economic Law and Transformative Constitutionalism in Latin America II: Trade and Investment (Duplicate)

Since the 1990s, Latin America has seen the emergence of a transformative constitutionalism in the form of a dense network of materials, institutions, and communities of legal practice related to human rights. This constitutionalism, which has given rise to a veritable *Ius Constitutionale Commune en América Latina*, is in constant interaction with international economic law. Trade agreements and investment protection treaties can conflict with a variety of constitutional provisions. Similarly, awards by investment tribunals can limit the policy space for advancing human rights, as provided for by the Pact of San José and the constitutions in the region. Conversely, some of these agreements have been subject to scrutiny by local constitutional courts. This panel explores the intersections between transformative constitutionalism and international trade and investment law in Latin America, emphasizing the challenges that this presents for democracy in the region.

Room:

LLM94

Chair:

Magdalena Correa Henao

Presenters:

Gustavo Prieto:

Cortes Constitucionales, Constitucionalismo Transformador y la Creación de Principios Comunes sobre Inversión Extranjera en América Latina (Constitutional Courts, Transformative Constitutionalism and the Creation of Common Principles for Investment in Latin America)

María Angélica Prada-Uribe:

ICCAL desde abajo: ¿democracia popular o protección internacional de la inversión? (ICCAL from Below: Popular Democracy or International Investment Protection?)

Federico Suárez Ricaurte:

Interés público capturado por inversionistas extranjeros en Colombia (Public Interest Captured by Foreign Investment in Colombia)

Pedro A. Villarreal:

La bifurcación del derecho en México: (Des)Integración económica norteamericana y constitucionalismo transformador latinoamericano (North American Economic (Dis)Integration and Latin American Transformative Constitutionalism: The Bifurcation of Mexican Law)

186 Crime and Punishment II

Panel formed with individual proposals.

Room:

Seminario 3

Chair:

Daniel Pascoe

Presenters:

Daniel Pascoe & Andrew Novak:

Best Practice in Executive Clemency Regulation

Melinda Rankin:

Extending the 'system' of international criminal and humanitarian law in response to organised violence: The case of the Commission for International Justice and Accountability (CIJA)

Erika De Wet:

How Did We Get Here? An Overview of the Rise and Demise of the International Criminal Court's Relationship With the African Union and its Member States

Aua Balde:

The International Criminal Court Prosecutorial Approach to Preliminary Examinations: Change or Continuity?

Mariana Cantu:

The Presence of Discretionary with Legal Interpretation: The Lack of Space of Public Claim in Criminal Matters in Risk Societies

Verónica Undurraga:

Translating empirical evidence into constitutional idioms

187 “Authoritarian Constitutionalism“ - Authors meet Critics

Editors and Authors of “Authoritarian Constitutionalism, Comparative Analysis and Critique“ (Edward Elgar Publishing, 2018) edited by Helena Alviar Garcia and Günter Frankenberg will discuss the book and respond to critique. The contributions to this book analyze and submit to critique authoritarian constitutionalism as an important phenomenon in its own right, not merely as a deviant of liberal constitutionalism. Accordingly, the fourteen studies cover a variety of authoritarian regimes from Hungary to Apartheid South Africa, from China to Venezuela, from Syria to Argentina, and discuss the renaissance of authoritarian agendas and movements, such as populism, Trumpism, nationalism and xenophobia. From different theoretical perspectives the authors elucidate how authoritarian power is constituted, exercised and transferred in the different configurations of popular participation, economic imperatives, and imaginary community.

Room:

Auditorio CLARO

Chair:

Eugenie Merieau

Gunter Frankenberg

Helena Alviar García

Presenters:

Günter Frankenberg:

Authoritarian Constitutionalism – Coming to Terms with Modernity’s Nightmares

Helena Alviar Garcia & Michael Wilkinson:

Neoliberalism as a Form of Authoritarian Constitutionalism

Eugénie Mériéau:

French Authoritarian Constitutionalism and its Legacy

Roberto Gargarella:

Authoritarian Constitutionalism in Latin America: from Past to Present

Norman Spaulding:

States of Authoritarianism in Liberal Democratic Regimes

Dennis Davis:

Authoritarian Constitutionalism – The South African Experience

188 Times of Change?: Views from Political Theory

At the 2017 and 2018 annual conferences of the Society in Copenhagen and Hong Kong respectively, members and friends of the Political Constitutional Theory (PolCon) network organised panels subtitled ‘A View from Political Theory’. In order to maintain continuity and to pinpoint the particularity of the network’s research agenda, the subtitle has been retained for ICON-S 2019 in Santiago, especially as political theory cannot be said to be over-represented in the contributions presented at the conferences. The panel includes contributions that deal with “change” in terms of thematic focus as socio-political phenomena as well as potential paradigm shifts in the study of constitutional phenomena.

Room:

LLM91

Chair:

Panu Minkkinen

Presenters:

W. Elliot Bulmer:

Civic Republican Constitution Building in Tuvalu

Massimo Fichera:

A Theory of the EU Judiciary in an Age of Constitutional Change and Populism

Katariina Kaura-aho:

The Aesthetics of Politics

Panu Minkkinen:

Seats of Power: Ethnographies of Constituted Space

189 Roundtable: Judicial Appointments in a Comparative Perspective II - The Kavanaugh Confirmation and Beyond

The judicial appointment procedure is understood as a key feature in the design of any constitutional democracy. Since judges determine the meaning of the constitutional text and exercise the (stronger or softer) power of judicial review, the control over the composition of the bench carries significant political, economic and legal consequences. Who appoints judges vested with constitutional powers, pursuant to which procedures, and subject to what forms of review or approval – are all significant questions, as a matter of political practice and theory. The Kavanaugh confirmation in the US and developments in other jurisdictions in liberal and less liberal constitutional democracies call for reflection on the state of the art. The roundtable will address these questions, consider the main challenges facing the appointment procedures in selected jurisdictions, and debate the lessons that may be learned from these developments [NOTE: This is the Second Part of the Roundtable]

Room:

Auditorio A. Silva

Chairs:

Mark Graber

Amnon Reichman

Vanessa MacDonnell

Presenters:

Michaela Hailbronner:

Discussant – Judicial Appointments: The German Perspective

Amnon Reichman:

Discussant – Recent Developments in Israel

Discussant:

Sanford Levinson

Carissima Mathen

190 What do we mean by “Transformative Constitutionalism” in Latin America?

Over the past decades, Latin America has gradually become a key player for the present and future of public law. Particularly the regionalization of constitutional law and the internationalization of constitutional law that are occurring in this region demonstrate relevant elements for comparative studies between regional and domestic systems. In our panel we will discuss some of the key developments that shape the emergence of an original Latin American path. This path consists of elements from various legal orders that are united by a common thrust, namely transformative constitutionalism, and linked to the project of a *Ius Constitutionale Commune en América Latina* (ICCAL). This enterprise links national and regional case law related to the American Convention on Human Rights, other inter-American legal instruments, the corresponding guarantees of national constitutions and the constitutional clauses that open domestic legal orders to international law and regional integration law.

Room:

LLM93

Chair:

Armin von Bogdandy

Presenters:

Sabrina Ragone:

Latin American Transformative Constitutionalism Through the Prism of European Constitutionalism

Cecilia Medina Quiroga:

The Battle of Rights and Transformative Constitutionalism

Javier Couso:

Transformative Constitutionalism: Evaluating Constitutional Strategies to Materialize Social Justice in Latin America

Juan C. Herrera:

The Taxonomies of the Latin American Corpus Iuris or How National Constitutions in the Region Open some Windows and Doors in favor of Regional Integration

191 Constitutional Present Challenges

The relationship between constitutionalism and democracy is now one more time challenged in Brasil. The rise of the new government model with authoritarian and antiliberal features put at risk many accomplishment of the 1988 constitutional system. One of the main reasons is that our pillars of democracy were not well prepared to avoid presidential overpower. The resilience and endurance of constitution in the times of authoritarians' threats will be the focus of the first panel. The alternative judicial methods for indians and non-regular situations is the subject of the second panel. The analyses of the new statutes and the cause and possible consequences of the new brazilian government will be discussed for the third panelist. The chair and fourth panelist will highlight the forms of democracy and bring the lack of a militant democracy in the brazilian constitution and the weakness of brazilian concern with inclusive democracy. Both risks can result in constitution dangers.

Room:

Seminario 2

Chair:

Eduardo Moreira

Presenters:

Luis Claudio Araujo:

Judicial Review and Constitutional Longevity

Cristina Gaulia:

The Itinerant Justice in Brazil: judges helping people to become citizens

Rodrigo Brandão:

The challenges faced by fundamental rights and democracy in the Jair Bolsonaro Government

Eduardo Moreira:

The Defense of Constitutional Democracy

192 Matices del Control Constitucional de la Ley

Constitutional law scholars around the globe are used to classify legal systems according to the way judicial review works. They are classified according to e.g. the possibility of abstract/concrete control of norms or the existence of a (de)centralized system of review. The more detailed configuration of a system is often not taken into account sufficiently. Yet, knowing the “shades of grey” helps to enhance the understanding of a specific legal system as well as of the classifications used. A closer look often unveils surprising facts and sometimes even anomalies. In this panel, we want to focus on such small, sometimes decisive, sometimes surprising characteristics of judicial review. Examples from different continents will allow to discuss the bigger question in comparative law on how to deal with (the necessary degree of) generalization without reducing comparison to a mere “some things are the same, some are different”.

Room:

LLM92

Chair:

Uladzislau Belavusau

Presenters:

Mathias Moeschel:

Diffuse Constitutionality Review in Germany

Maria Bertel:

Quorums as the decisive point on the scales?

Andreas Th. Mueller:

Self-restraint of the European Court of Justice vis-à-vis national constitutional courts - The demise of judicial activism?

César Landa:

The Mixed System of Constitutional and Conventional Control in Peru

193 Coercive human rights law: the impact of the ECHR on domestic criminal law (enforcement) and process

Traditionally, we would tend to think of human rights as protecting those facing the sharp edge of the criminal justice system. The European Court of Human Rights (ECtHR) has, however, hot on the heels of the Inter-American Court of Human Rights (IACtHR), infused the European Convention on Human Rights (ECHR) with duties to mobilise criminal law (enforcement) towards the protection, and redress for violation, of rights. The organizers of the proposed panel are editors of the book 'Towards a Coercive Human Rights Law? Positive Duties to Mobilise the Criminal Law under the ECHR' (forthcoming). The proposed panel will allow the co-organizers to present the main findings from this edited volume, as well as to explore outstanding issues for future research, such as the domestic implications of the ECtHR's coercive human rights jurisprudence. To this end, the organizers have invited key scholars in this area to further explore such implications on policing, prosecution and adjudication.

Room:

Seminario 1

Chairs:

Natasa Mavronicola

Laurens Lavrysen

Presenters:

Laurens Lavrysen & Natasa Mavronicola:

Critical issues within, and arising out of, the ECtHR's coercive human rights doctrine

Liora Lazarus:

Coercive human rights beyond the criminal law

Corina Heri:

Vulnerability-based coercive obligations as an impetus for more victim-oriented perspectives

Mattia Pinto:

Sowing a 'culture of conviction': what shall domestic criminal justice systems reap from coercive human rights?

194 Hate Speech in the Digital Era: a comparative analysis

Hate speech is one of the greatest problems of contemporary societies. In this sense, the multicultural and heterogeneous nature of contemporary societies has increased the tensions related to the coexistence of people with very different backgrounds, that have been faced with an extraordinary incapacity in promoting tolerance, both at the institutional level and at the social level. Moreover, the so called "great regression" attacks the fundamental values of pluralist democracy generating the effect of "brutalization of public discourse". It is a generalized "barbarisation" of social customs and conventions that contributes to the strengthening and spreading of a "culture of disrespect" towards the "other". In addition, in the digital era haters are protected by a screen and by a halo of irresponsibility justified by privacy. In this "liquid" and "barbaric" context, how can the problem of hate speech be addressed? The aim of this panel is to address this problematic.

Room:

D302

Chair:

Luis Efren Rios Vega

Presenters:

Irene Spigno:

How to deal with hate speech? A comparison between constitutional models

Elisa Bertolini:

Hate Speech, Fake News and Populism: the Dark Side of Social Networks

Palmina Tanzarella:

Hate Speech On Line in the European Context

195 A new dawn for the principle of effective judicial protection in EU law?

This panel aims at discussing a number of recent developments in the way in which the Court of Justice of the European Union understands and applies the principle of effective judicial protection. This principle (together with the principles of equivalence and effectiveness) functions as a limit to the national procedural autonomy of the Member States. However, its relationship with the twin principle of effectiveness is still subject to some debate. This topic will be discussed by Chiara Feliziani. The very nature of the principle of effective judicial protection and its 'constitutional' role will be tackled by Matteo Bonelli. A third question is linked to relationship between effective judicial protection and proportionality review, which is examined by Giuliano Vosa. Finally, Mariolina Eliantonio will discuss the role of the principle of effective judicial protection in the context of composite administrative procedures.

Room:

Allende Bascuñan 2

Chair:

Mariolina Eliantonio

Presenters:

Chiara Feliziani:

Principle of effective judicial protection: something new at the horizon?

Giuliano Vosa:

Effective Judicial Protection against 'Technical' Law-making: The Case for Proportionality and the European Central Bank at the European Court of Justice

Matteo Bonelli:

The evolving nature of the principle of effective judicial protection

Mariolina Eliantonio & Paul Dermine:

The evolution of the principle of effective judicial protection in the context of composite administration

196 Religion in the Crisis of Constitutional Democracy?

This panel examines the complex relationship between religion and democracy from the lens of democratic crisis. Drawing from developments around the world, panelists engage with recent scholarly attention on democratic degeneration, which has brought to fore crucial questions about the relationship between constitutional democracy and other social forces that may be in opposition to its underlying values. As religion is one such major social force, panelists will interrogate the role of religion in the crisis (or not) of constitutional democracy, raising questions that include how religious narratives can be used to undermine constitutional democracies - how religious claims can be seen as legitimate within certain types of constitutional democracies - whether the crisis talk presumes a liberal secular order - and furthermore whether the scholarly claim of crisis coheres with the internal perspective of the people - and why that may pose further problems for constitutional change.

Room:

COM103

Chair:

Moshe Cohen Eliya

Presenters:

Gila Stopler:

The Role of Religion in the Democratic Crisis in Israel

Jaclyn L. Neo:

Religion and Democratic Contestation in Mixed Constitutions

Peter Danchin:

Article 2 of the Egyptian Constitution and the "Crisis" of Constitutional Democracy?

Manoj Mate:

Beyond the 2019 National Elections: Secularism and the Future of India's Constitutional Democracy

Tarun Khaitan:

Discussant

197 Feminist constitutionalism in Latin America

The eruption of feminist constitutionalism in the academy is fairly new and it has not been significantly developed in the Spanish-speaking constitutional doctrine nor in the Latin American constitutional academic debate. The approach of feminist constitutionalism goes beyond the analysis of the constitutional or public precepts from a gender perspective. Feminist constitutionalism promotes a new understanding of the relation between gender and constitutional law at a critique and amendment of constitutional law. In this sense, it requires not just to rethink classical legal subjects from new perspectives, but also to propose new subjects, to introduce new questions and to have active participation in the challenge of encouraging a change of focus in the constitutional debate.

Room:

FD-101

Chair:

Lieta Vivaldi

Presenters:

Barbara Sepulveda Hales:

The legal construction of women's citizenship

Lieta Vivaldi:

Contentious objection in the interruption of pregnancy in Chile: a right threatened by the State

Melisa Sol Garcia:

The Need for a feminist approach on the Argentinian Constitution: equal opportunities in the workplace

Catalina Lagos:

Law 20.609: An useful tool for women? Analysis of the Chilean Law against discrimination from a gender perspective

198 Clergy, Collectives and Corruption: Inner Sanctions and Iran's Resistance Economy

Ever since its 1979 Islamic revolution, Iran has explicitly rejected much of the prevailing economic, administrative and legal canon of Western models of 'good governance.' At war or under formal sanctions for much of that period, the peculiar ideological preferences of its Islamist form of government have created a peculiarly distorted economic model, undergirded by a hybrid legal system pursuing incompatible normative goals. While most academic attention before and since the 2015 Nuclear Deal has been on the economic costs, legal form and the institutional challenges of dismantling external sanctions imposed by the United Nations and individual states against Iran, this panel focuses on the understudied self-inflicted wounds stemming from her domestic regulatory framework. We argue that these endemic shortcomings largely account for the relative failure of the Nuclear Deal even before the American withdrawal and the futility of current European efforts to salvage it.

Room:

Pedro Lira

Chair:

Ebrahim Afsah

Presenters:

Ebrahim Afsah:

Crony Trustafarians: The Role of Landed Trusts in Iran's Economic Underperformance

Ghazaleh Faridzadeh:

Public Law and Good Governance in Iran: Obstacles and Opportunities

Viktor Forian-Szabo:

Iran's insurance sector at the crossroads between Westernization and Islamization

199 Public Law Pathologies

Public law is aimed at setting up the structures where social life takes place and shapes itself. Public law certainly cannot be just anything or purport to do things in any form, yet it is not clear what are its ethical, social, individual and political constraints. Is the law constrained to be consistent with itself and its history? Is the law constrained to be consistent and attentive to every member of the society it rules? What happens when law works in a context that challenges the consistency of its demands or its aims? How can public law provide space for conflicting ethos and demands? In this panel we address these issues by looking into different spaces in which Public Law runs into trouble when trying to regulate a certain realm of public life. The aim is to try to illuminate the ethics, the ethos, the limits and possibilities of Public Law.

Room:

Allende Bascuñan 1

Chair:

Rocío Lorca

Emily Kidd White

Presenters:

Alberto Coddou:

Mapping Public Law: a critical account of Ius Commune Constitutionale in Latin America

Pablo Marshall:

The social and the individual in disability juridification

Rocío Lorca:

Do public legal institutions need to show moral integrity? The case of hypocrisy

Emily Kidd White:

The Public Law Vice of Hypocrisy

200 Constitutional Moment in Japan: Its Contextual and Universal Characters

When Prime Minister Shinzo Abe came into power in 2012, he officially announced the agenda of constitutional amendment on Article 9. His project aims at recognizing the constitutional status of the Self-Defense Forces (SDF), which were formally prohibited by Section 2 of Article 9. Furthermore, during the process of proposing amendments, the Liberal Democratic Party, i.e. the ruling party, also attempted to restore the SDF's capacity of engaging in international coalition, which was termed as "collective war power." However, after the general election of the House of Representatives in 2017, the LDP has slowed down its pace to promote the amendments. This panel includes four papers to analyze and delineate the trajectory of constitutional amendment in Japan. It attempts not only to articulate the peculiar background, mechanisms, politics, and history of constitutional amendment in Japan, but also the universal phenomenon between populism and constitutionalism.

Room:

Auditorio CAP

Chair:

Richard Albert

Presenters:

Keigo Komamura:

Constitutional Amendment as a Political Compensation for Democratic Defect: Prime Minister Shinzo Abe's Challenge and its Paradoxical Effects

Mayu Terada:

Unique and Universal Problems about the Proposal Process of Constitutional Amendment in Japan

Cheng-Yi Huang:

"Imposed People" and Political Leverage of Constitutional Amendment in Japan

Masahiro Kinoshita:

Economic Reform as a Constitutional Moment: Japanese Constitutional Economic Design After World War II

201 Comparative Public Law and International Investment Law Reform

Contemporary international investment law is facing challenges which have been labelled as the 'backlash' against international investment law. Three main tensions may be identified in contemporary investment law: contractualism vs unilateralism - economic rationality vs political rationality - flat world image vs diverse world image. As a result of the identified tensions, international investment law is undergoing a process of reform. This panel wants to contribute to the reform discussion of international investment law by making the claim that the reform discussion needs to be informed by the study of systems of domestic investment law and policy: the study of domestic investment laws becomes as important as the new field to be developed, that of comparative investment law. This discussion raises an even broader issue, namely on the more general relationship between domestic law – and the comparative law methodology – with international law.

Room:

Auditorio P. Aylwin

Chair:

Gráinne de Búrca

Presenters:

Peter Lindseth:

Theorizing Backlash: Supranational Governance and International Investment Law and Arbitration in Comparative Perspective

Joanna Jemielniak:

Lessons from the Battlefield: Comparative Analysis in Interpretation of Legal Instruments for Investment Relations

Georgios Dimitropoulos:

National Sovereignty and International Investment Law: Sovereignty Reassertion and Prospects of Reform

Maurizia De Bellis:

International Investment Law and EU Law: Conflicts, Compatibility, and Theoretical Paradigms in Recent Trends

Damilola Olawuyi:

Local Content Policies and their Implications for International Investment Law

202 New commitments in international trade agreements? An examination of Chilean negotiations

International trade negotiations have become an important forum for the formulation and implementation of new rules, with implications within and outside trade arena. Since the implementation of the WTO agreements and the rise of preferential trade negotiations new topics have arisen within trade negotiation, ie. intellectual property, labor or environmental standard, and recently, topics such as digital trade or gender-trade related aspects. These proliferation of new topics, and how they are being dealt with by governments in their external relations have impact on their internal regulations and laws. Therefore, this panel pretends, through the examination of Chile's new agreements, to review how developing economies are negotiating and implementing new regulations within four topics: services, intellectual property, gender and digital economy. This will allow us to understand the way in which international negotiations are shaping domestic regulations on new areas.

Room:

R510

Chairs:

Dorotea Lopez

Felipe Muñoz

Presenters:

Javiera Caceres, Dorotea Lopez & Felipe Muñoz:

Gender inclusion in Chilean free trade agreements

Dorotea Lopez & Felipe Muñoz:

Services Dimension in the Pacific Alliance

Felipe Muñoz, Dorotea Lopez & Bradly Condon:

The New Rules on Digital Trade in Latin American Regional Trade Agreements

Fabiola Zibetti, Javiera Caceres, Dorotea Lopez & Felipe Muñoz:

Intellectual Property commitments in the Pacific Alliance

203 The Future of Social and Economic Rights

Panel formed with individual proposals.

Room:

D405

Chair:

Luigi Bonizzato

Presenters:

Alessandro Liotta:

Can we prevent technological development from blowing up social rights? A tax law perspective

Diana María Molina Portilla:

Constitutionalism impact in theory of social and economic human rights in Colombia

Maria Clara Conde M. Cosati & Luigi Bonizzato:

Right to law expectation: Old debates, conceptions, new times and state and institutional arrangements

Pedro Hartung:

Taking Children's Rights Seriously in Brazilian Public Law: the absolute priority of children's fundamental rights and best interests

Joao Guilherme Walski de Almeida:

The right to strike as the "first right"

Aneta Tyc:

The Situation of Migrant Domestic Workers from the Perspective of the Protection of Labour Rights

204 The Relationship of the Constitution with the Past

We typically treat constitutions as codifying a break with the past, subjecting existing and future legislation to the constitution. In reality, however, constitutions have a more complex relationship with the past. This panel will discuss how the relationship of the constitution with the past affects constitutional interpretation, constitutional identity and dialogue between the branches of government. The discussion will be conducted along theoretical, historical, empirical and comparative lines.

Room:

A102

Chair:

Yvonne Tew

Presenters:

Jamal Greene & Yvonne Tew:

Comparative Approaches to Constitutional History

Rivka Weill:

The Theory and Practice of Constitutional Savings Clauses

Mattias Kumm:

Discussant

205 Comparative perspectives on the empirical study of judicial behavior

Although initially developed in the U.S., the empirical study of the judicial behavior has flourished in many jurisdictions. Studies on topics such as the attitudinal predictors of judges' behavior, judicial coalition formation, and strategic behavior, are already frequent around the world. This panel seeks to broaden our understanding on how judges behave in different jurisdictions and institutional settings, exploring from courts of last resort to administrative tribunals. We welcome multidisciplinary approaches, where lawyers, economists, political scientists, and other scholars, contribute to explain the drivers of judges' decision-making in different areas of law. We want to explore to what extent new empirical finding and methodological approaches in the field are helpful to explain judicial behavior in different jurisdictions.

Room:

Sala Juicio Oral

Chairs:

Diego Pardow

Alvaro Bustos

Presenters:

Diego Pardow & Flavia Carbonell:

Searching for the "Median Judge": A Study of Coalition Formation in the Third Chamber of the Chilean Supreme Court

Alvaro Bustos & Pablo Bravo-Hurtado:

Explaining difference in the quantity of cases heard by courts of last resort

Andres Pavon & Diego Carrasco:

Uneven powers in even-numbered courts: The impact of asymmetric tie-breaking power on judges' behavior

206 Populism, Fear of the People and Constituent Power

This panel will explore both the constructive and destructive aspects of constituent power through the prism of populism and 'fear of the people'. Is the perceived rise in 'populism' a real threat to constitutionalism or merely a manifestation of a fear of the democratic potential of The People? To what extent do please to the constituent power legitimate radical constitutional reform and to what extend is this creative or merely destructive? Papers will approach these questions by examining the role of constituent power in secession movements, feminist perspectives on constituent power and formation of 'the people', and the populist movements seen in the United States and across Europe. Is constituent power necessary to ensure a vibrant, responsive, and democratic constitutional order? Or do claims to constituent power and 'the will' of a narrow, homogenous conception of 'the people' legitimate constitutional destruction?

Room:

D404

Chair:

Alan Greene

Presenters:

Sarah Kay:

Populism, Fear of the People and Constituent Power

Ruth Houghton & Aoife O'Donoghue:

"She cuppeth the lightning in her hand. She commandeth it to strike": Imagining constituent power in feminist science fiction

Oran Doyle:

Constituent Power and Secession

207 Fiscal federalism, territorial inequalities and equalisation mechanisms: a worldwide overview

This panel aims to give a worldwide overview upon the different ways in which the States give an answer to the problems related to territorial economic inequalities. We will examine this issue from different points of view. At the beginning, we'll try to offer a preliminary theorization of economic asymmetries in public law and identify how federal constitutions can balance their unifying role while curbing economic inequalities. Later we will compare the equalisation mechanisms adopted in various European States and their functioning with the aim to identify which one could be considered a suitable instrument to face the problem of the economic inequalities inside the State. Subsequently, we will extend the comparison to the Latin American experiences, with a particular focus on Brasil.

Room:

A103

Chair:

Lorenza Violini

Presenters:

Erika Arban:

Federalism and socio-economic asymmetries

Claudia Marchese:

Fiscal federalism and economic inequalities: a comparative analysis of the European area

Horacio Guillermo Corti & Francisco Javier Ferrer:

Fiscal federalism in Europe and Latin America

Mauricio Conti:

Public debt and financial calamity: the fiscal irresponsibility and the drama of federalism in Brasil

Mariana Canotilho:

Discussant

208 Participatory democracy: a suitable solution to cope with the public law changes

The panel aims to analyze the principle of participatory democracy, from the perspective of both constitutional law and administrative law, identifying it as a useful and necessary principle in order to cope with the new challenges posed by public law and the change of legal systems and, particularly, with reference to EU countries. In the absence of dialogue between administrators can a solution be found in the instruments of participatory democracy? In Italy participatory culture is very low and the law on administrative procedure does not provide for advanced participation tools. We will look at the enforcement of participatory rights in regulatory processes by the administrative court and also by the laws of local authorities that, by adopting highly evolved participatory tools, show the gaps in national legislation. Neither the recent introduction of public debate has solved these problems, since it has a very low application field, unlike the French model.

Room:

Sala Mediación

Chair:

Anna Giurickovic

Presenters:

Giorgia Crisafi:

The evolution of the principle of participatory democracy at the international and European level

Nicola Berti:

Participatory practices in the governance of the territory in EU

Martina Condorelli:

Participation and democratic legitimation of independent authorities in Italy: myth or reality?

Anna Giurickovic:

From the "democratic crisis" to the "participatory democracy": the new Italian "public debate" and the French "débat public" as an inspiring model

209 Can public law research be scientific?

When we do research in public law, what is it that we do? What is it exactly that sets research in public law apart from other legal disciplines, methodology wise? Given that a (if not the) key reality regulated by public law is the political, on the one hand, one has to wonder whether conceiving public law as an autonomous realm might incidentally carry us away from what actually gives coherence to any sensible approach to it. On the other hand, the dynamics characterizing the political, and hence the object of study of public law, beg the question: On what grounds can we claim to study the law that regulates the political without submerging ourselves in the political ourselves? And more importantly, can we provide sufficient rationality to the legal study of the political? If we cannot do so, then our field can easily find itself on the verge of becoming a pseudoscience.

Room:

D304

Chairs:

Miriam Henriquez

Presenters:

Eduardo Aldunate:

Constitutional law as science: a proposal of some minimum conditions

Maria S. Pardo:

Philosophical cherry picking in the construction of constitutional concepts

Pablo Gres:

Materialist dialectics and constitutional form

Octavio Ansaldi:

Trust and mistrust as opposing approaches in constitutional law research

210 The Frontiers of Public Law

This panel displays papers dealing with issues that are at the frontiers of public law today. The first issue is compliance with judicial rulings and the different structures and strategies courts can (and in fact do) utilize to increase compliance, particularly in the context of constitutional courts. The second issue is the appropriate judicial posture towards foreign and national security affairs in a world where policymaking in those matters is constantly becoming both more administrative (i.e. led by administrative agencies) and individualized. The third topic is the tool of "court packing," which has become extremely relevant recently in countries as diverse as Turkey, Venezuela, and the US - what is the difference between each instance? Can we define clearer limits for the practice of packing? The final paper discusses more broadly the issue of constitutional norms or conventions. It explores how they change through time and what relevant players can do if they wish to better defend (or weaken) constitutional conventions. The panel seeks to illuminate common themes raised by the different papers and enhance our understanding of the perils and promises of courts in public law and the still largely mysterious role of constitutional conventions and norms.

Room:

A101

Chair:

Oren Tamir

Presenters:

Vicente F. Benitez-R.:

'Neither the sword, nor the purse': Judicial design and (non) compliance of constitutional court's decisions

Elena Chachko:

Administrative Foreign and Security Policy

Joshua Braver:

Court-Expansion in the U.S. and Abroad

Oren Tamir:

Primitive Law for Grown Ups, or: How to Do Things With Constitutional Norms

211 La constitucionalización de la teoría del derecho (II)

The workshop seeks to generate a dialogue about the possibility of building a theory of law according to the new political and constitutional framework. A legal theory focused on the strengthening and defense of the social and constitutional State. In the construction of this theory mistakes are made, starting from the constitutional literalism, or an epistemological reductionism that ends up transforming moral or political concepts into legal norms by the mere fact of being in the Constitution. This is not only a theoretical but a political task. Legislative and judicial legitimacy crisis requires the construction of conceptual tools that make feasible the defense of the Rule of Law. A constitutionalized theory of law is imperative, as the dialogue around the sources of law, the concept of standards from the principles, their application, interpretation and balancing, the incorporation of the constitutionality block, for an effective defense of the constitutional State.

Room:

D303

Chair:

Milton César Jiménez Ramírez

Sergio Iván Estrada Velez

Presenters:

Olga Carolina Cardenas Gomez & Milton César Jiménez Ramírez:

Políticas Públicas y Democracia Deliberativa

María Cristina Gomez Isaza:

La hermenéutica del dolor y los criterios para interpretar el derecho con sentido de reconciliación

Abraham Bechara Llanos:

La carga de la argumentación jurídica: un caso especial de interpretación y adjudicación de los derechos fundamentales

Sergio Ivan Estrada Velez:

Hacia una asamblea nacional jurisprudente

212 Comparative Administrative Law Dynamics: Diversity, Identity, and Technology in Multi-Level Governance

Administrative law is intimately bound up with multilevel governance, whether within or beyond states. This panel will examine, from a comparative perspective, how administrative law confronts multilevel governance from the perspective of the diversity of governmental units as well as the instruments and technologies available to deal with that diversity. The challenge, of course, is not simply functional -- what technologies or legal instruments are most appropriate in circumstance. Rather, the challenge is often also deeply political and cultural, in which history and identity weigh heavily on the origins of internal diversity, and administrative law must be sensitive to that political-cultural and historical context. The papers on this panel thus seek to explore, from several distinct perspectives, the complex interface between diversity, identity, technology, and administrative law in multilevel governance.

Room:

D402

Chair:

Carlo Columbo

Presenters:

Janina Boughey:

Technology-Assisted Decision-Making and Administrative Law

Geneviève Cartier:

The Dual Nature of Canadian Administrative Law

Juan Carlos Covilla Martinez:

Soft Law to Align Local Governments

Mary Liston:

Judicial Review of Indigenous Decision-Makers in Three Administrative Law Jurisdictions

Giorgio Mocavini:

Algorithms in Administrative Procedures: Insights from Italy

Jud Mathews:

Discussant

213 Implementación del Acuerdo de Paz con las FARC-EP en Colombia. Aspectos Constitucionales y Sociológicos

The Peace Agreement between the Government and the FARC-EP was signed in Bogotá at the end of 2016. After the signature and the decision related with the implementation procedure ("fast track") the Constitutional Court carried out the constitutional review of the constitutional reforms, laws and decrees for the implementation of the Agreement. Among the most important aspects of the review were decisions related to the special jurisdiction for peace, which would judge the most atrocious crimes committed during the conflict - the political participation of ex-combatants - the legal value of the agreements and aspects related to the peace in the territories, including the indigenous territories. The panel will analyze the constitutional and sociological aspects of the implementation of the Peace Agreement in Colombia with the special participation of Constitutional Court Judge Antonio José Lizarazo who participated in the Court in these decisions.

Room:

Auditorio E. Frei

Chairs:

David Landau

Joel Colon-Rios

Presenters:

Magistrado Antonio José Lizarazo-Ocampo:

Jurisprudencia constitucional sobre la Jurisdicción Especial para la Paz (JEP)

Gonzalo Ramirez-Cleves:

La participación en política de los ex miembros de la guerrilla de las FARC. Análisis de la Sentencia C-027 de 2018

Iris Marin-Ortiz:

El derecho a la paz y el valor jurídico de los Acuerdos de Paz

Laetitia Braconnier-Moreno:

Diálogos entre justicia local y justicia constitucional para la paz en Colombia. Caso "El control del territorio", Guardia indígena de Tacueyo, Cauca

Marcos Criado-De Diego:

Acceso a la Justicia en territorios de guerra después de la Paz: El caso de Guapi, Cauca

Tanya Hernandez:

Comentarista



V

ICON·S
Governance

The Presidency

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Dixon, Rosalind (co-President of ICON-S)

The Executive Committee

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Kumm, Mattias
Maduro, Miguel
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Micklitz, Hans-Wolfgang
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Napolitano, Giulio
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The Society's Council

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Kingsbury, Benedict
Koenig, Matthias
Kosar, David



VI

Services

VENUE

The 2019 ICON·S conference will be held at:

-
- » **Casa Central**
 - Faculty of Law**
 - Extension Center**
 - Faculty of Communications**
 - LLM Building**
 - Pontificia Universidad Católica de Chile, Santiago**
-

Plenary sessions will take place at the Extension Center, Campus Casa Central, Pontificia Universidad Católica. Coffee and lunch breaks and the opening reception will take place at the Foyer of the Extension Center. Parallel sessions will take place at the classrooms of the LLM Building, the Faculty of Law building, as well as adjacent buildings. For map, see p 142.

REGISTRATION

Registration is located at the Foyer in the Extension Center. See the map on p 142.

TRANSPORTATION

Pontificia Universidad Católica is located at Universidad Católica station of the local train (called Metro). The station is part of Linea 1 (red line).

When you arrive at the airport, you may take a taxi to get to the city center or the University. A taxi journey from the airport to the Faculty of Law takes approximately 30 to 45 minutes and costs around CLP 25.000 – 30.000. Taxis in Santiago accept cash, and do not take credit or debit cards. Most taxi drivers do not speak English. If you wish to commute by taxi, you are recommended to carry with you the above-mentioned address of the conference venue as well as the address of your hotel.

ATTENDANCE CERTIFICATES

Certificates verifying your attendance at the Conference will be included in your conference package, which you will receive upon registration.

CATERING

There will be coffee breaks as indicated in the schedule on p 8-10. On tuesday a light lunch will be provided at Plaza Central, Extension Center. On wednesday a light snack will be provided at Plaza Central, Extension Center. See map on p 142.

ATM

ATMs are located in the unpaid area of Universidad Católica station.

SUPERMARKETS

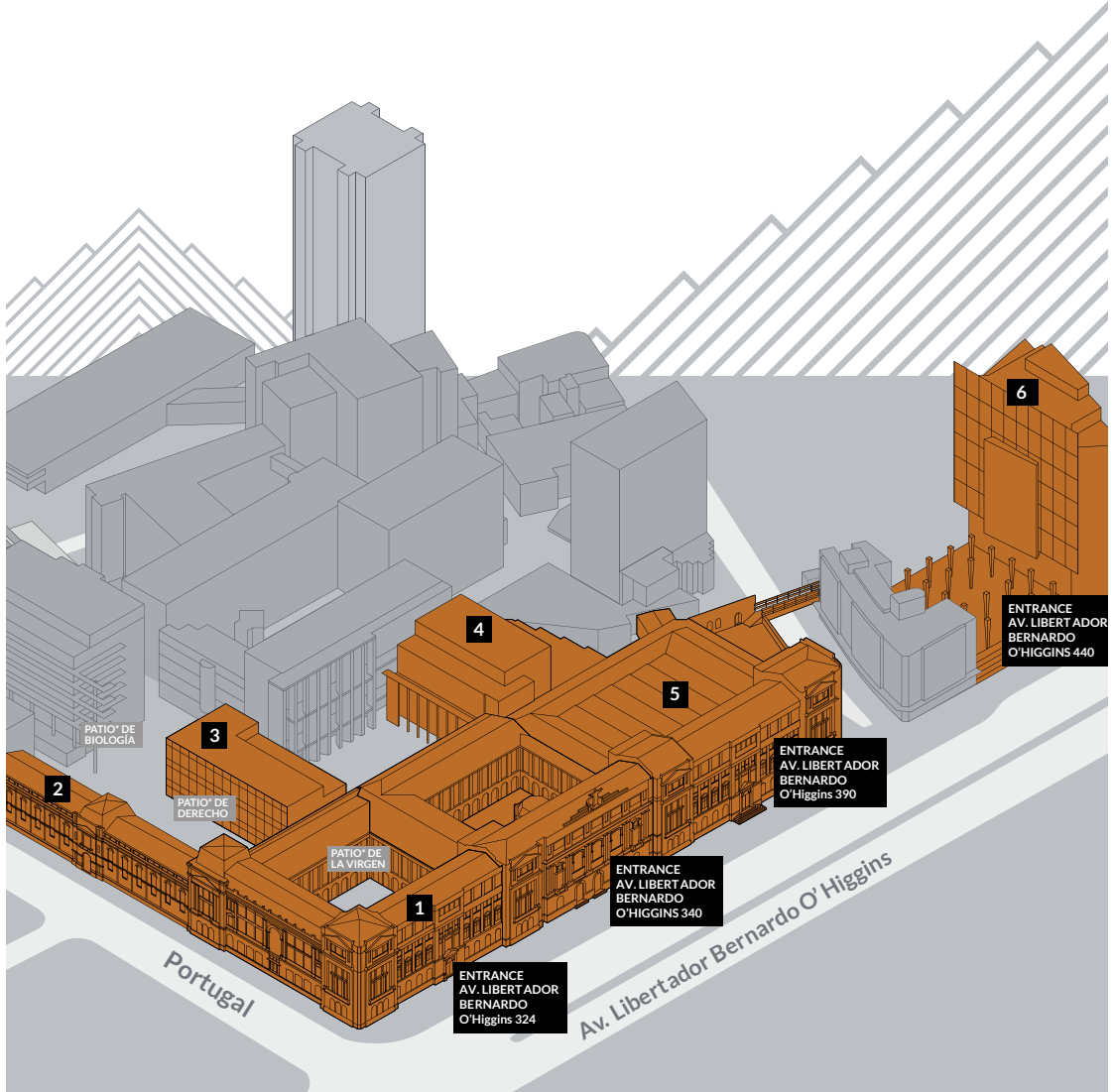
Nearby supermarket can be found at Portugal 56 (Unimarc, opening hours: 9am-9pm) and at Portugal 112 (Santa Isabel, opening hours: 8:30am- 10pm).

EMERGENCY SITUATIONS

Should you find yourself in an emergency situation with no immediate help available, you can call an ambulance by dialing **131**, the firefighters by dialing **132** and the policemen by dialing **133**.

VII

Map of Conference Venues



**Patio refers to an outdoor seating area*

Casa Central Campus Directory

1 Casa Central Building

PATIO DE LA VIRGEN

A101-103 Rooms, 1st Floor
Auditorio C. Oviedo, 1st Floor
Auditorio E. Frei, 1st Floor
Auditorio P. Aylwin, 1st Floor
Pedro Lira, 1st Floor
Auditorio C. Silva, 1st Floor

2 Casa Central Building

PATIO DE BIOLOGÍA / PATIO DE DERECHO

D302- 304, 3rd Floor
D401- 405, 4th Floor

3 Faculty of Law

Allende Bascañán 1, 3rd Floor
Allende Bascañán 2, 3rd Floor
Aguiles Portaluppi, 2nd Floor
Sala CAP, 3rd Floor
FD-101, 1st Floor
R510, 5th Floor
Sala Juicio Oral, 3rd Floor
Seminario 1, 3rd Floor
Seminario 2, 3rd Floor
Seminario 3, 3rd Floor

4 Faculty of Communications

COM103, 1st Floor

5 Extension Center

Auditorio Fresno, 1st Floor
Plaza Central, 1st Floor

6 LLM Building

LLM91 -94, 9th Floor
Sala Reuniones LLM, 9th Floor

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