

JURIS DIVERSITAS

7th GENERAL CONFERENCE / 7^e CONGRÈS GÉNÉRAL

9-11 June, 2021 / 9 au 11 juin 2021

Zoom Webinar



JURISdiversitas

The Dark Side of the Law

Is law inherently good, reasonable, just? Has it always been associated with positive values in all cultures, at all times? Has it always had that distinctive flavour of soundness / seriousness that we commonly associate with all things legal? Juris Diversitas invites you to a journey across the entire spectrum of uncommon legal epiphanies, seeking instances when the law has been or was believed to be evil, odd, bizarre, fantastic or absurd, ridiculous, esoteric, psychoactive or psychotopic – exploring the dark side of the law in time and space, to observe its many hidden facets.

La face cachée du droit

Le droit est-il intrinsèquement bon, raisonnable et juste? A-t-il de tout temps et dans toutes les cultures été associé à des valeurs positives? Se caractérise-t-il toujours par cette saine et sérieuse que l'on associe communément à tout ce qui est juridique? Juris Diversitas propose un voyage à travers le spectre des épiphanies juridiques qui sortent du commun, à la recherche de situations où le droit s'est manifesté ou a été ressenti comme mauvais, étrange, bizarre, fantastique ou absurde, ridicule, ésotérique, psychoactif ou psychotopique, une exploration du côté sombre du droit dans le temps et dans l'espace, pour observer ses multiples facettes cachées.

7th General Conference
ONLINE (ZOOM), 9-11 June 2021

7^eme Congrès Général
EN LIGNE (ZOOM), 9-11 juin 2021



JURISdiversitas

CROSSING BOUNDARIES

Juris Diversitas is the name of an association as defined in Article 60 et sequens of the Swiss Civil Code. The Association has its seat at the Swiss Institute of Comparative Law in Lausanne-Dorigny, Switzerland.

Juris Diversitas est une association régie par les articles 60 et suivants du Code civil suisse. Son siège est à l'Institut suisse de droit comparé, Lausanne-Dorigny, Suisse.

ALL TIMES ON THIS SCHEDULE ARE SWISS (LAUSANNE) TIME, SAME AS BERLIN, BRUSSELS, PARIS OR ROME

HEURE DE LAUSANNE, BERLIN, BRUXELLES, PARIS OU ROME

DAY 1 / 1^{re} JOURNÉE

Wednesday, June 9, 2021 / Mercredi 9 juin 2021

9:30—10:00 PLENARY SESSION — OPENING & WELCOMING ADDRESS [PL1]

- *Olivier Moréteau*, Louisiana State University (United States), President
- *Salvatore Mancuso*, University of Palermo (Italy), Vice President (Conferences)

10:15—11:45 PARALLEL SESSIONS I

I.A Dark Aspects in Selected Asian Legal Systems [PS1A]

Chair:

- **"The law be damned!"**. Hamao Shirō and the Problem of Legal Injustice in Modern Japan, *Giorgio Colombo*, Nagoya University (Japan)
- **Panchayati Raj and Local Governance: Tools and Processes of Negotiation in Jharkhand**, *Chiara Correndo*, University of Turin (Italy)
- **Rule of Law and Rule of Virtue in the Asian Legal Traditions**, *Gianmatteo Sabatino*, University of Trento (Italy)

I.B Legal Philosophy and its Hidden Dimensions [PS1B]

Chair:

- **The [Many] Facets of Law**, *Elina N. Moustaira*, National and Kapodistrian University of Athens (Greece)
- **Archetypal Structures and the Myth of Law**, *Fabrizio Sciacca*, University of Catania (Italy)
- **Reason as the Dark Side of the Law: A Leibnizian Perspective**, *Ekaterina Yahyaoui*, National University of Ireland Galway (Ireland)

10:15—12:00 PANEL 1 – Drivers of Change and Drawbacks of Post-Soviet Law: The Odd Evolution of Constitutionalism, Political Power and Market Economy [PA1]

Coordinated by: *Cristian Collina & Cristina Poncibò*

- **Russia’s Two-Headed Eagle: Policy Transfer Towards the Future while Transplanting Laws from the Past. The Case of Complex Dynamics in Regulating Constitutional Rights and Freedoms in RF,**
Nina Belyaeva, Higher School of Economics, (HSE) (Russia)
- **Restoration, or Eclipse? What Shadow does the Continuing Soviet Legacy Continue to Cast over Restoration of the Great Legal Reforms of 1864, and Russia’s Future in the Council of Europe?**
Bill Bowring, Birkbeck College, University of London (United Kingdom)
- **The Legacy of the Socialist Leviathan? State Re-Building and Constitutionalism in Post-Soviet Russia,**
Cristian Collina, University of Turin (Italy)
- **Private Property and Political Power in post-Soviet Russia,**
Cristina Poncibò, University of Turin (Italy)
- **The Transplant of European Competition Law in The Russian Federation,**
Tatiana Shaburova, University of Turin (Italy)

16:00—17:30 PARALLEL SESSIONS II

II.A La face cachée de la responsabilité civile et pénale

[PS2A]

Présidence :

- **L’article 282 du Code pénal nigérien : entre torts et travers,**
Bachir Chaibou Dan Inna, Université de Zinder (Niger)
- **Les décisions collectives sur la face cachée du droit de la responsabilité**
Olivier Moréteau, Louisiana State University (États-Unis)
- **Revisiter le droit des contrats et le droit de la responsabilité français,**
Dimitra Tsiaklagkonou, Université d’Athènes (Grèce)

II.B Dark Sides of Family Law

[PS2B]

- **What Makes ‘Good Law’ in the Context of Religious Marriages?**
Waheeda Amien, University of Cape Town (South Africa)
- **Family in Tax Systems,**
Annalisa Pace, University of Teramo (Italy)
- **The Dark Side of Family Law,**
Rosamaria Tristano, University of Palermo (Italy)

18:00—19:30 PARALLEL SESSIONS III

III.A Le droit caché dans la littérature

[PS3A]

Présidence :

- **L'inconscient, la loi et la jouissance**, *Dario Alparone*, Université de Catane (Italie)
- **Le droit d'auteur comme avatar des rites pacificateurs**,
Arnaud Billion, Université de Lyon (France)
- **La face cachée de l'œuvre et de la vie d'Oscar Wilde : fondement d'une pensée critique tragi-comique du droit**,
Yves Goguen, Université de Moncton (Canada)

III.B Comparative Law on the Dark Side?

[PS3B]

Chair:

- **Church Law without Dark Sides? Comparing Catholic and Protestant Positions in Germany**,
Burkhard J. Berkmann, Ludwig-Maximilian-University Munich (Germany)
- **Understanding the Benefits of Global Law: Class and Expertise in Anglophone Jurisprudence**,
Joseph P. Garske (United States)

17:50—19:30 PANEL 2 – “Waiting for someone or something to show you the way”: the Legacy of the Dark Side of the (Comparative Legal) Moon

[PA2]

Coordinated by: *Pasquale Viola*

- **“And after all, we're only ordinary man.” The Narrative of Diversities in Comparative Law**,
Pasquale Viola, University of Campania *Luigi Vanvitelli* (Italy)
- **“Breathe in the air ... don't be afraid to care”. Comparative Law and the Epistemic Revolution of Environmental Constitutionalism**,
Domenico Amirante, University of Campania *Luigi Vanvitelli* (Italy)
- **Any Colour You Like. The State Monopoly of Indigeneity as an Agenda of Internal Colonialism in Plurinational Bolivia, and the Hilado Abigarrado (Multicolored Fabric) of Mestizo Identities**,
Enrico Buono, University of Campania *Luigi Vanvitelli* (Italy)
- **“No one told you when to run, you missed the starting gun.” The Extension of *locus standi* and the Value of Time in the Trial: Comparative Suggestions from Indian Social Action Litigation**,
Maria Sarah Bussi, University of Campania *Luigi Vanvitelli* (Italy)

DAY 2 / 2^e JOURNÉE

Thursday, June 10, 2021 / Jeudi 10 juin 2021

08:30—10:00 PARALLEL SESSIONS IV

IV.A Clarifying Dark Privacy Issues

[PS4A]

Chair:

- **Snoopers at Work: Surveillance and the Right to Privacy,**
Douglas Mark Ponton, University of Catania (Italy)
- **One App a Day Keeps the Virus Away. Digital Contact Tracing as a Tool to Handle the Pandemic,**
Vera Lucia Raposo, University of Macau (China)
- **The European Data Protection Spectrum: Testing the Free Flow of Information Principle on the GDPR's Market Side,**
Giulia Schneider, Bocconi University, Milan (Italy)

IV.B Darkness, Fakeness, Lights and Shadows

[PS4B]

- **Law and Mind Control Between Fact and Fiction: The Case of 'Fake News',**
Rostam J. Neuwirth, University of Macau (China)
- **The Dark Side of the Law as a Mirror of the Dark Side of Man,**
Andreas Rahmatian, University of Glasgow (United Kingdom)

10:30—12:00 PARALLEL SESSIONS V

V.A The Blind Spots of International Law

[PS5A]

Chair:

- **'Jus in bello' as the New 'Jus ad bellum'. A Possible Pathology in International Public Law,**
Giovanni Barbieri, University of Tampere (Finland) / Università Cattolica, Milano (Italy)
- **The Dark Side of the BRICS: The Lack of a Legal Definition,**
Marta Bono, University of Palermo (Italy)
- **Power, Law and Place in the Shadow of the Occupation: A Legal-Geographical Examination of the Transformation of the Susya Area (Shafa Yatta شفا يطة) 1967 to 1998) in the Occupied Palestinian Territories,**
Quamar Mishirqi-Assad & Alexandre ('Sandy') Kedar, University of Haifa (Israel)

V.B Minorities Beyond Borders and Identities [PS5B]

Chair:

- **Improving Access to Justice for LGBTI People: The Role of Legal Clinics,**
Laura Bugatti, University of Brescia (Italy)
- **The Dark Side of Law and Identity,**
Nir Kedar, Bar-Ilan University, Ramat Gan (Israel)
- **At the Outer Limits of the Rule of Law: Borders, Cities and the “Gypsies”,**
Alessandro Simoni & Giacomo Pailli, University of Florence (Italy)

10:30—12:00 PANEL 3 – Le clair-obscur de la transgression des valeurs (l’obscure clarté) [PA3]

Coordination : *David Marrani*

- *David Marrani, Institute of Law (Jersey)*
- *Pascal Richard, Université de Toulon (France)*
- *Sophie Perez, Université de Toulon (France)*

16:00—17:00 PLENARY SESSION – GENERAL MEETING OF JURIS DIVERSITAS [PL2]

Chair: *Olivier Moréteau, President of Juris Diversitas*

17:15—18:45 PARALLEL SESSIONS VI

VI.A Liability on the Dark Side [PS6A]

Chair:

- **Liability for Sophisticated Robots: Lights and Shadows,**
Livio Corselli, University of Palermo (Italy)
- **Devil’s Advocates. The Enforcers of Judicial Terror: Fouquier-Tinville, Vyshinsky, Freisler,**
Emmanuel Didier, Ottawa (Canada)
- **Causation, Proofs and Science: The Dark Side of Numbers,**
Bruno Tassone, Universitas Mercatorum, Rome (Italy)

VI.B Addressing Human Darkness [PS6B]

Chair:

- **The Law and Economics of Vice Regulation: Sex, Drugs, Rock & Roll and the Limits of the Law,**
John M. Church, Louisiana State University (United States)
- **The Dark Side of the Law Between Legislative Expectations, Jurisprudential Uncertainties and Dialogue Between the Courts,**
Daniela Mainenti, YMCA Foundation - UniNettuno University, Rome (Italy)

- **Judicial Wrongs and Miscarriages of Justice in a Comparative Perspective,**
Domitilla Vanni di San Vincenzo, University of Palermo (Italy)

VI.C Loi, religion et minorités : ombre et lumière

[PS6C]

Présidence :

- **La face cachée de la codification : Modernisation et altération de l'esprit du droit musulman,**
Harith Al-Dabbagh, Université de Montréal (Canada)
- **La face noire de la loi en Chine, hier et aujourd'hui,**
Christine Chaigne, Aix-Marseille Université (France)
- **Quand le droit international nuit à la protection d'une culture minoritaire,**
Denis Roy, Université de Moncton (Canada)

17:15—20:00 PANEL 4 – Darkness after Law

[PA4]

Coordinated by: *Mario Ricca*

- **Seeing Each Other Plain? Law and Identity in the Miserable Darkness of Hugo,**
Melissa Vazquez, University of Rome La Sapienza (Italy)
- **Defective Law,**
Daniele Anselmo, Kore University of Enna (Italy)
- **Cyberlaw and Affectiveness: A Private Law Perspective,**
Mirzia Bianca, University of Rome (Italy)
- **Lights and Shadows of Multilingualism on EU Citizenship,**
Elena Ioriatti, University of Trento (Italy)
- **Darkness and Clarity in the Legal Domain: The Nightmare and the Noble Dream,**
Silvia Zorzetto, University of Milan (Italy)
- **After the Cave: The Dark Screen of the Norm,**
Paolo Heritier, University of Piemonte Orientale Torino (UPO), Italy
- **The Unknown Between Vagueness of Law and Legal Certainty - Apophatic and Cataphatic Strategies in the Imagining of the New Legal Frontiers,**
Peter Petkoff, Brunel University, London (United Kingdom)
- **The Shadow of Legal Word: the 'Phrastic' in Law and Its Semiotic Exceedance,**
Mario Ricca, University of Parma (Italy)

DAY 3 / 3^e JOURNÉE

Friday, June 11, 2021 / Vendredi 11 juin 2021

08:30—10:00 PARALLEL SESSIONS VII

VII.A Clarifying Competition

[PS7A]

Chair:

- **Digitalization: The Dark Side of the Art Form,**
Raffaele Aveta, Vanvitelli University, Caserta (Italy)
- **Antitrust Political Side,**
Andrea Piletta Massaro, University of Turin (Italy)
- **Leniency Policy: The Dark Side of EU and French Competition Law,**
Anne M. Tercinet, emlyon business school, Lyon (France)

VII.B How Humans Deal with Animals, Viruses and Other Things

[PS7B]

Chair:

- **A Look at the Interactions and Management of the Coronavirus Pandemic,**
Lucia Di Costanzo, Vanvitelli University, Caserta (Italy)
- **The Legal Status of Animals Between Anthropomorphization of Law and Dehumanization of Society,**
Fiore Fontanarosa, University of Molise, Campobasso (Italy)
- **The Dark Side of the Law of Praedial Servitudes, Easements, and Restrictive Covenants,**
Asya Ostroukh, University of the West Indies, Cave Hill (Barbados)

10:30—12:00 PARALLEL SESSIONS VIII

VIII.A Legal History as a Tool for Clarification

[PS8A]

Chair:

- **Natural (out)Law: A Stowaway Carried by Modern Civil Law,**
Emmanuel Araguas, Saintes (France)
- **“Electromagnetic Interferences” in the Realm of the Law? A Legal-Historical Exploration of Language as a Means to Dissociate Law from Society,**
Agustín Parise, Maastricht University (Netherlands)
- **The Public Humiliation of the Debtor: The Dark Side of Insolvency in the Italian Historical Experience,**
Alessandra Pera, University of Palermo (Italy)

10:20—12:00 PANEL 5 – Judgement: Perspectives from Law and Philosophy [PA5]

Coordinated by: *Alessio Lo Giudice*

- **The Possibility to Imagine a “General Theory of Legal Judgment”, Inspired by Arendt’s and Kant’s Remarks on Discernment,**
Alessio Lo Giudice, University of Messina (Italy)
- **A Critique of the Distinction Between “Hard” and “Easy” Cases,**
Angela Condello, University of Messina (Italy)
- **Fact-Finding and Adjudication in Criminal Trials: Reconstruction, Transfiguration and Projection of Human Behavior?**
Stefano Ruggeri, University of Messina (Italy)
- **Moral Particularism, Jurisprudence and Justice in Concrete Cases,**
Paulo de Sousa Mendes, University of Lisbon (Portugal)

16:00—17:30 PARALLEL SESSIONS IX

IX.A Shedding Light on Dark Aspects of Contract Law

[PS9A]

Chair:

- **Language and Culture in International Arbitration: The Impact on Parties’ Due Process Right,**
Ornella Guarino, University of Palermo (Italy)
- **The Dark Side of Contract Law: The Temptation to Condone Bad Faith,**
Rosalie Jukier, McGill University, Montreal (Canada)
- **The Dark Side of the Law in Digital Contracts: The Case of Smart Contracts,**
Sara Rigazio, University of Palermo (Italy)

IX.B Clarifications of Colonial Obscurities

[PS9B]

Chair:

- **Coloniality and the Future of Laws in sub-Saharan Africa,**
Anthony C. Diala, University of the Western Cape, Cape Town (South Africa)
- **Monumental Trees and British Colonial Environmentalism in Malta,**
Mary Muscat, University of Malta, Valetta (Malta)
- **King Tom’s Plague Police: Extra-Legal Governance in British Malta,**
David Zammit, University of Malta, Valetta (Malta)

18:00—19:30 PARALLEL SESSIONS X

X.A The Dark Side of Human Rights

[PS10A]

Chair:

- **Populism, Democracy and the Legislative,**
Fulvia Abbondante, University of Naples (Italy)
- **The Dark Side of Human Rights Procedure – Is it a Breach of Substantive Human Rights’ Law?**
Ivan Sammut, University of Malta, Valetta (Malta)
- **Deconstructing State-Centric Legal Spaces in Europe: The Legacy and Implications of the ECtHR’s Molla Sali Case,**
Kyriaki Topidi, European Centre for Minority Issues (ECMI), Flensburg (Germany)

X.B Casting Light on U.S. Law

[PS10B]

Chair:

- **Charting the Frontiers of Corporate Rights in the U.S. Legal System: Towards a Full-Fledged Personhood Status Paradigm?**
Biagio Andò, University of Catania (Italy)
- **Mixing the U.S. Constitution, the Common Law, and Private Civil Law: Louisiana, Puerto Rico and the Philippines,**
John S. Baker, Louisiana State University (United States)
- **The U.S. Criminal Justice System Seen through the Lens of Law and Order: SVU,**
Nora V. Demleitner, Washington and Lee University, Lexington (United States)

18:00—19:30 PANEL 6 – L’action précède le droit ou l’injustice institutionnalisée? [PA6]

Coordination : *Célia Berger-Tarare*

- **L’action précède le droit ou l’injustice institutionnalisée ? L’exemple de la *fiducia* en droit romain,**
Caroline Decoster, Université de Franche-Comté (France)
- **L’action précède le droit ou l’injustice institutionnalisée ? L’exemple de l’*use* en droit anglais,**
Célia Berger-Tarare, Université de Franche-Comté (France)
- **L’action précède le droit ou l’injustice institutionnalisée ? L’exemple de la surveillance dysfonctionnelle des dons aux fins d’intérêt général en droit français,**
Anne-Sophie Hulin, Université Panthéon-Assas Paris II (France)

19:40—20:00 PLENARY SESSION – CLOSING REMARKS

[PL3]