



THE ATHENS INSTITUTE FOR EDUCATION AND RESEARCH

# Abstract Book

**19<sup>th</sup> Annual International Conference on  
Law  
11-14 July 2022, Athens, Greece**

**Edited by  
David A. Frenkel & Olga Gkounta**

2022



19<sup>th</sup> Annual International  
Conference on Law  
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Edited by David A. Frenkel &  
Olga Gkounta

First published in Athens, Greece by the Athens Institute for Education and Research.

ISBN: 978-960-598-516-5

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9 Chalkokondili Street  
10677 Athens, Greece  
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## Preface

This book includes the abstracts of all the papers presented at the 19<sup>th</sup> Annual International Conference on Law (11-14 July 2022), organized by the Athens Institute for Education and Research (ATINER).

A full conference program can be found before the relevant abstracts. In accordance with ATINER's Publication Policy, the papers presented during this conference will be considered for inclusion in one of ATINER's many publications only after a blind peer review process.

The purpose of this abstract book is to provide members of ATINER and other academics around the world with a resource through which they can discover colleagues and additional research relevant to their own work. This purpose is in congruence with the overall mission of the association. ATINER was established in 1995 as an independent academic organization with the mission to become a forum where academics and researchers from all over the world can meet to exchange ideas on their research and consider the future developments of their fields of study.

To facilitate the communication, a new references section includes all the abstract books published as part of this conference (Table 1). I invite the readers to access these abstract books –these are available for free– and compare how the themes of the conference have evolved over the years. According to ATINER's mission, the presenters in these conferences are coming from many different countries, presenting various topics.

**Table 1.** *Publication of Books of Abstracts of Proceedings, 2010-2022*

Year	Papers	Countries	References
2022	37	16	Frenkel DA and Gkounta O (2022)
2021	26	14	<a href="#">Papanikos (2021)</a>
2020	27	14	<a href="#">Papanikos (2020)</a>
2019	46	22	<a href="#">Papanikos (2019)</a>
2018	31	17	<a href="#">Papanikos (2018)</a>
2017	34	13	<a href="#">Papanikos (2017)</a>
2016	25	13	<a href="#">Papanikos (2016)</a>
2015	47	15	<a href="#">Papanikos (2015)</a>
2014	52	25	<a href="#">Papanikos (2014)</a>
2013	60	20	<a href="#">Papanikos (2013)</a>
2012	43	17	<a href="#">Papanikos (2012)</a>
2011	52	13	<a href="#">Papanikos (2011)</a>
2010	61	12	<a href="#">Papanikos (2010)</a>

It is our hope that through ATINER's conferences and publications, Athens will become a place where academics and researchers from all over the world can regularly meet to discuss the developments of their disciplines and present their work. Since 1995, ATINER has organized more than 400 international conferences and has published over 200 books. Academically, the institute is organized into 6 divisions and 37 units. Each unit organizes at least one annual conference and undertakes various small and large research projects.

For each of these events, the involvement of multiple parties is crucial. I would like to thank all the participants, the members of the organizing and academic committees, and most importantly the administration staff of ATINER for putting this conference and its subsequent publications together. Specific individuals are listed after the Editors' Note.

**Gregory T. Papanikos**  
**President**

## **Editors' Note**

These abstracts provide a vital means to the dissemination of scholarly inquiry in the field of Law. The breadth and depth of research approaches and topics represented in this book underscores the diversity of the conference.

ATINER's mission is to bring together academics from all corners of the world in order to engage with each other, brainstorm, exchange ideas, be inspired by one another, and once they are back in their institutions and countries to implement what they have acquired. The 19th Annual International Conference on Law accomplished this goal by bringing together academics and scholars from 16 different countries (Australia, Brazil, China, Croatia, Hungary, Ireland, Israel, Italy, Latvia, Portugal, Romania, Russia, South Africa, Turkey, UK, and USA), which brought in the conference the perspectives of many different country approaches and realities in the field.

Publishing this book can help that spirit of engaged scholarship continue into the future. With our joint efforts, the next editions of this conference will be even better. We hope that this abstract book as a whole will be both of interest and of value to the reading audience.

**David A. Frenkel & Olga Gkounta**  
**Editors**

**19<sup>th</sup> Annual International Conference on Law, 11-14 July  
2022, Athens, Greece**

**Organizing & Scientific Committee**

All ATINER's conferences are organized by the Academic Council. This conference has been organized with the assistance of the following academic members of ATINER, who contributed by reviewing the submitted abstracts and papers.

1. Gregory T. Papanikos, President, ATINER & Honorary Professor, University of Stirling, U.K.
2. David A. Frenkel, LL.D., Adv., FRSPH(UK), Head, Law Unit, ATINER & Emeritus Professor, Law Area, Guilford Glazer Faculty of Business and Management, Ben-Gurion University of the Negev, Beer-Sheva, Israel.
3. Michael P. Malloy, Director, Business and Law Division, ATINER & Distinguished Professor & Scholar, University of the Pacific, USA.
4. Assaf Meydani, Academic Member, ATINER & Professor and Former Dean of the School of Government and Society, The Academic College of Tel-Aviv-Yaffo, Israel.
5. Kurt Olson, Academic Member, ATINER & Professor, Massachusetts School of Law at Andover, USA.
6. Jorge Emilio Núñez, Academic Member, ATINER & Senior Lecturer, Manchester Law School, UK.
7. Anna Chronopoulou, Academic Member, ATINER & Senior Lecturer in Law, Westminster Law School, University of Westminster, UK.
8. Elena-Ana Iancu, Dean, Agora University of Oradea, Romania.

# FINAL CONFERENCE PROGRAM

19<sup>th</sup> Annual International Conference on Law, 11-14 July 2022, Athens, Greece

## PROGRAM

### Monday 11 July 2022

09.00-09.30  
Registration

09:30-10:00

#### Opening and Welcoming Remarks:

- **Gregory T. Papanikos**, President, ATINER
- **David A. Frenkel**, LL.D., Head, Law Unit, ATINER & Emeritus Professor, Law Area, Guilford Glazer Faculty of Business and Management, Ben-Gurion University of the Negev, Beer-Sheva, Israel.
- **Michael P. Malloy**, Director, Business, Economics and Law Division, ATINER & Distinguished Professor & Scholar, University of the Pacific, USA.

#### 10:00-12:00 TIME SLOT 1 - MORNING PRESENTATIONS

**Coordinator: Elias Grivoyannis**, Associate Professor, Yeshiva University, USA.

1. **Athanasios Mihalakas**, Professor, The University of Arizona, USA.  
*Title: A New Approach to Global Governance for Climate Change.*
2. **Claudio Sarra**, Associate Professor, University of Padova, Italy.  
*Title: Biometric Data in Artificial Intelligence Based Recruitment Procedures. The Need for a Delicate Interpretative Balance.*
3. **Molly Townes O'Brien**, Honorary Associate Professor, Australian National University, Australia.  
*Title: Teaching Human Rights in Australia.*
4. **Aisegül Akkoyun**, PhD Candidate, Koç University, Turkey.  
*Title: Clash of Protection and Limitation: Putting a Liability Limit on Human Life?*

#### 12:00-14:00 TIME SLOT 2 - MORNING/NOON PRESENTATIONS

**Coordinator: Athanasios Mihalakas**, Professor, The University of Arizona, USA.

1. **Elias Grivoyannis**, Associate Professor, Yeshiva University, USA.  
**Constantine H. Grivoyannis**, M.H.A., M.R.M., M.S. (Taxation) Associate, Forensic Economic Damages, LLC, USA.  
*Title: Punitive Damages: A Forensic Economics Method to Internalize the Social Cost of Harm when the Probability of Detection of Wrongdoing is Low, and the Objective is Deterrence.*
2. **Alexander Szívós**, PhD Student, University of Pécs, Hungary.  
*Title: The Taxation of Cryptocurrency.*
3. **Lavinia-Olivia Iancu**, Associate Professor, Tibiscus University, Romania.  
*Title: The Access Conditions of the Natural Person to the Insolvency Procedure.*

14:00-15:00  
Lunch

#### 15:00-16:30 TIME SLOT 3 - AFTERNOON PRESENTATIONS

**Coordinator: Mr. Kostas Spyropoulos** (ATINER Administrator).

1. **Maria Luisa Chiarella**, Associate Professor, Magna Graecia University of Catanzaro, Italy.  
*Title: Digital Service Act (DSA) and Digital Markets Act (DMA): New Rules for Digital Platform.*
2. **Rinat Kitai-Sangero**, Professor, Zefat Academic College, Israel.  
*Title: Police Deception: How Lies and Undercover Operations Contribute to False Confessions.*

3. **Ger Coffey**, Lecturer, University of Limerick, Ireland.  
*Title: Assessing the Contours of the Entrapment Defence in the Criminal Law.*
4. **Norbert Varga**, Associate Professor, University of Szeged, Hungary.  
*Title: Cartel Private Law in the Interwar Period in Hungary.*
5. **Eleanor Lumsden**, Professor, GGU School of Law, USA & Consultant, NOVA School of Law, Portugal.  
*Title: Technology, Inequality, and the Modern State: A Tale of Two Cities.*

**16:30-18:30 TIME SLOT 4 - AFTERNOON PRESENTATIONS**

**Coordinator: Mr. Kostas Spyropoulos** (ATINER Administrator).

1. **Larissa Pochmann da Silva**, Professor, Estácio de Sá University, Brazil.  
*Title: Incident of Resolution of Repetitive Claims and Group Litigate Order: A Comparative Perspective for Mass Claims.*
2. **Michely Vargas del Puppo Romanello**, Professor, São Paulo University, Brazil.  
**Jose Geraldo Romanello Bueno**, Professor, Mackenzie Presbyterian University, Brazil.  
*Title: The Unborn Child as a Liability Subject of the Legal Tax Obligation.*
3. **Jose Geraldo Romanello Bueno**, Professor, Mackenzie Presbyterian University, Brazil.  
**Michely Vargas del Puppo Romanello**, Professor, São Paulo University, Brazil.  
*Title: The Right to Succession of the Child Conceived by Post Mortem Artificial Insemination.*
4. **Michael P. Malloy**, Director, Business, Economics and Law Division, ATINER & Distinguished Professor & Scholar, University of the Pacific, USA.  
*Title: Russia-Ukraine Economic Sanctions: Legal Responses to a Crisis.*
5. **Ronald Griffin**, Professor, Florida A&M University, USA.  
*Title: Essay about Privacy.*

**20:30-22:30**  
**Greek Night**

**Tuesday 12 July 2022**

**TIME SLOT 5 - MORNING PRESENTATIONS**

09:30-11:30 Time Slot 5a	08:00-11:00 Time Slot 5b
<p><b>Coordinator: Mr. Kostas Spyropoulos</b> (ATINER Administrator).</p> <ol style="list-style-type: none"> <li>1. <b>Robert Smith</b>, PhD Candidate, University of New England, Australia. <i>Title: Use and Abuse of Social Media in Myanmar between 2010 and 2022.</i></li> <li>2. <b>Jorge Nunez</b>, Reader, Manchester Metropolitan University, UK. <i>Title: Territorial Disputes and a Multidimensional Approach.</i></li> <li>3. <b>Mihaela Elvira Patraus</b>, Associate Professor, University of Oradea, Romania. <i>Title: European Union Fundamental Rights Reflected In Tax Procedures. The Key for Tax Harmonization inside the European Union?</i></li> <li>4. <b>Murat Can Pehlivanoglu</b>, Assistant Professor, Istanbul Kent University, Turkey. <i>Title: Tunnelling: a Just Cause for Involuntary Dissolution of Corporations.</i></li> <li>5. <b>Rutvica Rusan Novokmet</b>, Assistant Professor, University of Zagreb, Croatia. <i>Title: The International Law Commission and the Codification of Crimes Against Humanity - Has the Time</i></li> </ol>	<p><b>Old and New-An Educational Urban Walk</b></p> <p>The urban walk ticket is not included as part of your registration fee. It includes transportation costs and the cost to enter the Parthenon and the other monuments on the Acropolis Hill. The urban walk tour includes the broader area of Athens. Among other sites, it includes: Zappeion, Syntagma Square, Temple of Olympian Zeus, Ancient Roman Agora and on Acropolis Hill: the Propylaea, the Temple of Athena Nike, the Erechtheion, and the Parthenon. The program of the tour may be adjusted, if there is a need beyond our control. This is a private event organized by ATINER exclusively for the</p>

<p><i>Come for the Adoption of an International Convention?</i></p> <p>6. <b>Aleksejs Jelisejevs</b>, PhD Candidate, Turība University, Latvia. <i>Title: Doctrinal Assessment of Banks' Interests as an Element of Consumer Rights Protection when Banks Unilaterally Close Accounts.</i></p>	<p>conference participants. Some participants have videotaped the event. <a href="#">Click here</a> for an example.</p>
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#### 11:50-13:30 TIME SLOT 6 – MORNING/NOON PRESENTATIONS

<p><b>Coordinator: Emmanuel Nartey</b>, Lecturer, Cardiff Met University, UK.</p> <ol style="list-style-type: none"><li>1. <b>Arzu Balan</b>, Researcher, Hacettepe University, Turkey. <i>Title: Crimes of Danger and Conflict with the Principle of the Liberal Constitution.</i></li><li>2. <b>Gerson Leite De Moraes</b>, Researcher, Universidade Presbiteriana Mackenzie, Brazil. <i>Title: The Concept of Dignity, Labor Relations and the Struggle for Recognition in Brazil.</i></li><li>3. <b>Selin Türkoğlu</b>, Research Assistant, Galatasaray University, Turkey. <i>Title: Self Defense and Domestic Violence: An Analysis of Turkish Criminal Law Practice.</i></li></ol>
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#### 13:30-15:00 TIME SLOT 7 – Human Rights Law towards State Practice

<p><b>Coordinator: Professor Assaf Meydani</b>, Academic Member, ATINER &amp; former Dean of the School of Government and Society, The Academic College of Tel-Aviv-Yaffo, Israel.</p> <ol style="list-style-type: none"><li>1. <b>Priscilla Moyo</b>, LLD Student, Nelson Mandela University, South Africa. <i>Title: The Role of International Law in the Adjudication of the Right to Adequate Housing in Zimbabwe.</i></li><li>2. <b>Emmanuel Nartey</b>, Lecturer, Cardiff Met University, UK. <i>Title: Rohingya Crisis: A Critical Analysis of International Law and Human Rights Law.</i></li><li>3. <b>Assaf Meydani</b>, Academic Member, ATINER &amp; former Dean of the School of Government and Society, The Academic College of Tel-Aviv-Yaffo, Israel. <i>Title: Gender Segregation on Orthodox Buses : The Case of the Israeli High Court of Justice ruling on the "Segregation Lines" 2011.</i></li></ol>
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15:00-16:00

Lunch

#### 16:00-17:30 TIME SLOT 8 – AFTERNOON PRESENTATIONS

<p><b>Coordinator: Mr. Kostas Spyropoulos</b> (ATINER Administrator).</p> <ol style="list-style-type: none"><li>1. <b>Steven Sekirya Serumaga-Zake</b>, Senior Lecturer, University of North West, South Africa. <i>Title: A Search for Justification: Russia's Military Invasion of Ukraine. An International Law Perspective.</i></li><li>2. <b>Máté Pétervári</b>, Senior Lecturer, University of Szeged, Hungary. <i>Title: The Compulsory Non-Bankruptcy Settlement in the Hungarian Bankruptcy Practice During the First World War.</i></li><li>3. <b>Kristóf Szívós</b>, Assistant Lecturer, University of Szeged, Hungary. <i>Title: The Comparative Analysis of Avoiding Undue Delay in the History of Austria.</i></li><li>4. <b>Yongliang Yan</b>, Assistant Professor, Beijing Jiaotong University, China. <b>Yiwen Yang</b>, Undergraduate Student, Beijing Jiaotong University, China. <b>Weize Ning</b>, Undergraduate student, Beijing Jiaotong University, China. <i>Title: Capacity Building in Space Law and Policy in China: Status Quo, Shortcomings and Possible Ways Out.</i></li></ol>
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#### 17:30-19:00 TIME SLOT 9 – AFTERNOON PRESENTATIONS

<p><b>Coordinator: Mr. Kostas Spyropoulos</b> (ATINER Administrator).</p> <ol style="list-style-type: none"><li>1. <b>Vladimir Orlov</b>, Professor, Herzen State Pedagogical University of Russia, Russia. <i>Title: Legal Aspects of Corporate Governance in Russia.</i></li><li>2. <b>Paola Chiarella</b>, Associate Professor, Magna Graecia University of Catanzaro, Italy. <i>Title: Bleak House: The Right to Housing in Times of Pandemics.</i></li></ol>
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3. **Marta Picchi**, Associate Professor, University of Florence, Italy.  
*Title: Combating Violence against Women and Domestic Violence: The Recent Proposal of the European Commission.*
4. **Boaz Sangero**, Professor, Spair Academic College, Israel.  
*Title: Applying the STAMP Safety Model to Prevent False Convictions Based on Forensic Science Evidence.*

19:30-21:00

Dinner

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Wednesday 13 July 2022  
Educational Islands Cruise  
Mycenae Visit

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Thursday 14 July 2022  
Delphi Tour



**Aisegül Akkoyun**

PhD Candidate, Koç University, Turkey

**Clash of Protection and Limitation:  
Putting a Liability Limit on Human Life?**

This paper examines the limitation of liability posed by Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 concerning the carrier and claimant. It explores the limitation of liability for the death or personal injury to passengers that have been raised by the Protocol 2002, and the debates on the limitation of liability stipulated in the Convention will need to be addressed in parallel with the developments in the maritime industry. The paper completes that the Convention's ratification might consider the abolition of the limitation of liability regime to address the unfair applications.

**Arzu Balan**

Researcher, Turkey

## **Crimes of Danger and Conflict with the Principle of the Liberal Constitution**

Hazard crimes are a special and important area of criminal law and criminal procedure law. Particularly dangerous crimes contradict liberal Constitutional law principles. Unfortunately, the conflict seems likely to continue in the future, as liberal theories of crime have been replaced by reforms in technology, sociology, and economic structure.

The new age and its structure are being changed by neoliberal economic policy. All fields, especially sociology, psychology, economy and technology, are transforming within themselves, and law and legal policy are also transforming.

This influence on criminal law theory is seen in endangerment crimes. As a result of neoliberalism, liberal principles in criminal law have differentiated. Many different crimes, such as cyber-crimes, crimes for the protection of personal data, have been added to the criminal laws. For example, according to neoliberalism and criminal law policy, the principle of legality of crime has been transformed into criminal and fault liability. In the presentation, liberal constitutional principles of criminal law accepted in the continental European legal system will be included and it will be explained how they have changed with the danger crimes. Criminal law is no longer ultima ratio. In addition, fault liability and the principle of legality are not strictly enforced.

**Maria Luisa Chiarella**

Associate Professor, Magna Graecia University of Catanzaro, Italy

## **Digital Service Act (DSA) and Digital Markets Act (DMA): New Rules for Digital Platform**

The *Proposal for a regulation on contestable and fair markets in the digital sector* (known as DMA “*Digital Market Act*”) sets clear rules for large online platforms. It aims to ensure that no large online platform that is in a “gatekeeper” position - to many users - abuses that position to the detriment of businesses wishing to access those users. The most innovative elements of the Proposal are the introduction of the legal figure of the “gatekeeper” and the provision of specific duties imposed on the same. The *Proposal for a Regulation on a Single Market for Digital Services* (known as DSA “*Digital Services Act*”) introduces a common set of rules on intermediaries obligations and accountability across the single market, with the purpose to ensure a high level of protection to all users. This paper aims to analyze the new provisions introduced by the reforms in the frame of the market regulation policies.

**Paola Chiarella**

Associate Professor, Magna Graecia University of Catanzaro, Italy

## **Bleak House: The Right to Housing in Times of Pandemics**

In times of pandemic, the need to limit the spread of the infection from COVID-19 has imposed the obligation to stay at home and avoid social contacts. Suddenly everyone had to reorganize one's family and working life in the confined space of private homes. Unfortunately, not everyone could face properly the legal requirements not having comfortable and safe homes.

A lockdown in an unhealthy, small, inadequate home is not the best condition for dealing with a health crisis. Think in particular, of the dramatic conditions of the slums, such as illegal, precarious, crumbling settlements, exposed to violent, unhealthy and fragile incursions to the forces of nature.

The international discipline with the expression "adequate housing" means the synthesis of: security of possession (protection from forced eviction, harassment and other forms of threat); availability of services, materials and infrastructures (drinking water, toilets and energy in the kitchen, heating and lighting); cheapness (costs that do not sacrifice the enjoyment of other human rights); habitability (physical security, sufficient internal space, protection from atmospheric agents, other health threats and structural risks); accessibility (consideration of the needs of disadvantaged or marginalized groups); location (proximity to job opportunities, health services, schools, nursery schools and distance from polluted or dangerous areas), as well as cultural adequacy (expression of cultural identity).

In times of pandemic, the right to housing proves to be even more fundamental as a subjective right and as a precondition for the enjoyment of other fundamental rights as health and education. In this paper, some reflections on the pandemic are accompanied by the normative analysis of the right to housing in Italy and abroad in order to highlight how fundamental it is especially in time of crisis.

**Ger Coffey**

Lecturer, University of Limerick, Ireland

## **Assessing the Contours of the Entrapment Defence in the Criminal Law**

The difficulties encountered by law enforcement agencies in the detection, investigation, and prevention of 'consensual crime' may necessitate the practice of undercover operations as an intelligence-led policing strategy. Consensual crime is not easily identifiable as it is unlikely that participants would report the offence to law enforcement authorities.

Undercover investigative techniques practiced by law enforcement agencies may be necessary and proportionate in the detection, investigation, and prevention of serious crime. Proactive intelligence-led investigative techniques employed by law enforcement officers to combat serious crime is an accepted practice and generally complies with human rights standards. The investigation of perceived criminal activity through undercover operations based on reasonable suspicion of guilt must be consistent with fundamental rights protections. Merely creating an opportunity or circumstances through passive intervention for suspects believed to be engaged in criminal behaviour to commit offences would not constitute entrapment. Unlike creating an opportunity through passive intervention, entrapment might be raised as a procedural defence where the law enforcement agent has incited or caused the commission of an offence with the intention that the suspect would be prosecuted.

The inherent power of the courts to prevent an abuse of process and stay criminal proceedings, or exclude unlawfully obtained evidence, may be necessary to preserve the integrity of the criminal justice process and uphold the rule of law (which requires laws to be accessible, intelligible, clear, and predictable with legal certainty and avoidance of arbitrariness). The role of the courts in reviewing allegations of entrapment is to balance competing interests. The public interest in the detection, investigation and prevention of crime sometimes yields to the practicalities of the means necessarily employed during undercover operations, which must be balanced with fundamental constitutional due process and ECHR fair trial rights. There must be clear, adequate, and formal oversight mechanisms delimiting undercover operations to safeguard the integrity of the criminal justice process and the rule of law. It is a truism that ends do not justify the means employed in the investigation of crime and apprehension of suspects. Moreover, the complexities associated with

the investigation of consensual crimes can has the potential to blur the line between creating the opportunity (legitimate infiltration) and causing (incitement) the commission of an offence.

This paper evaluates the common law procedural entrapment defence with reference to seminal jurisprudence from major common law jurisdictions, and relevant ECtHR jurisprudence, which provides an interpretative analysis on evidential and procedural issues raised with the defence.

**Ronald Griffin**

Professor, Florida A&M University, USA

### **Essay about Privacy**

Privacy is a realm in the public domain. It is a refuge from other people's gaze. It is the muscle between your ears (the brain) where the owners demand peace and quiet and freedom from noxious materials. It is the body, a woman's procreative engine, and body parts---fortresses rimed with guards to keep unwelcomed visitors out. At times privacy is different things for different people at different times. This paper explores all this with stories, cases, and statutes.

**Elias Grivoyannis**

Associate Professor, Yeshiva University, USA

&

**Constantine H. Grivoyannis**

M.H.A., M.R.M., M.S. (Taxation) Associate, Forensic Economic

Damages, LLC, USA

**Punitive Damages: A Forensic Economics Method to Internalize the Social Cost of Harm when the Probability of Detection of Wrongdoing is Low, and the Objective is Deterrence**

Court decisions in the USA and the legal literature have provided little guidance as to when punitive damages should be awarded, and if so, how much they should be. The courts have only stated in general terms that the goals of punitive damages are *deterrence* and *punishment*.

There is an extensive literature on required criteria for imposing punitive damages and on approaches for establishing a benchmark of the “right” amount. Since punitive damages, as an instrument for deterrence, are expressed in dollars, the problem of how much money would be “significant” to the defendant wrongdoer, as well as what sum would be large enough to serve as a deterrent, falls also on the expertise of Economists, Accountants, and Financial analysts.

A Forensic Economics consulting firm, engaging the expertise of economists, accountants, and financial analysts, may be used to assist the jury to set an appropriate amount of punitive damages to generate the right level of deterrence. The objective of this paper is to show how this is done.



**Lavinia-Olivia Iancu**

Associate Professor, Tibiscus University, Romania

## **The Access Conditions of the Natural Person to the Insolvency Procedure**

The COVID-19 pandemic, installed at the beginning of 2020 in Romania, is already showing its negative effects. As expected, the hardest hit was taken by the ordinary citizens who woke up overnight with reduced wages or no jobs at all. Moreover, the year 2021 has brought price increases in all areas, from basic foodstuffs to electricity, gas, fuels. The over-indebtedness of a large number of individuals was natural in the above conditions.

The insolvency proceedings law of individuals seemed to be a solution for their over-indebtedness situation, but we found out that it is not used to its true potential.

In addition to an excessive form requested from the simple citizen, we appreciate that the access conditions to the insolvency procedure of the natural persons can be simplified and improved.

Given the economic conditions in Romania, but also the decrease of the living standard, the legislator will have to give priority to the possible legislative solutions that will offer to the indebted ones a fresh start.

**Aleksejs Jelisejevs**  
PhD Candidate, Turība University, Latvia

## **Doctrinal Assessment of Banks' Interests as an Element of Consumer Rights Protection when Banks Unilaterally Close Accounts**

As an element of the author's suggested "good faith-based approach", this paper continues his doctrinal research to assess the conflicting interests of consumers and banks when banks close accounts unilaterally. It now focuses on banks side and shows that despite a complex combination of factors, the account closure is almost always connected with banks' costs directly or indirectly arising from their unnatural function of acting as analysts in the fight money laundering and terrorist financing, which was imposed upon them by the state under the threat of very harsh sanctions. Nevertheless, this examination evinces that such banks' behavior is against the principle of *pacta sunt servanda* and could not be justified by banks' freedom to conduct business at their discretion. Besides, it is unsuitable for achieving legitimate goals concerning money laundering and terrorist financing. Per contra, this can indirectly contribute to the commission of such crimes.

That is why following the good faith principle, a court should have the authority to preclude the bank from exercising its subjective right to withdraw from the contract unilaterally if the conflicting interests of the consumer take priority under the circumstances of the particular case. When assessing the parties' interests, it is crucial to understand whether there have been significant and unpredictable changes in the ratio of the parties' obligations, which worsened the contractual position of the bank in comparison with its counterparty. Next, you should determine whether the bank has taken all the necessary measures to adapt the terms of cooperation with this consumer to preserve their contractual relationship, considering the objectively arising changes. Finally, it is required to determine whether the consumer himself fulfilled his obligations to the bank reasonably to protect the bank from possible damage in connection with the unpredictable changes that have arisen.

**Rinat Kitai-Sangero**  
Professor, Zefat Academic College, Israel

## **Police Deception: How Lies and Undercover Operations Contribute to False Confessions**

A confession made to a police officer during an interrogation plays a key role in criminal proceedings. Obtaining a suspect's confession during questioning is a specific objective of police interrogations. The manner of police interrogation and detention that often accompanies the interrogation frequently succeeds in extracting confessions from suspects. Despite the fact that evidence points to the efficacy of other forms of interrogation, most police interrogations in other countries go to great lengths to obtain confessions from suspects.

The paper addresses two troubling aspects of police investigations: when police lie to suspects and the role of undercover state agents. It argues that the use of lies about incriminating evidence and the role of undercover state agents, who create false narratives and exert pressure on suspects to inform their account of events, undermines the privilege against self-incrimination and may lead to false confessions and wrongful convictions.

When police agents create a false reality through lies about the existence of incriminating evidence or when undercover state agents pose as fellow detainees, it forces suspects to shape their defense. In turn, this harms the suspect's ability to make informed decisions and to respond coherently to the accusations leveled against them. It assumes the suspect's guilt and creates a false impression that silence is futile.

**Gerson Leite De Moraes**

Researcher, Mackenzie Presbyterian University, Brazil

&

**Jose Geraldo Romanello Bueno**

Professor, Mackenzie Presbyterian University, Brazil

## **The Concept of Dignity, Labor Relations and the Struggle for Recognition in Brazil**

The present work intends to make a historical and philosophical investigation of the concept of dignity. The Latin term *dignitas* has always been linked to republican ideas since Ancient Rome, but it was in the Middle Ages that legal science closely linked to theology formulated one of the pillars of the theory of sovereignty, namely, the perpetual character of political power. Dignity was then emancipated from its bearer and converted into a fictitious person, a kind of mystical body that stands next to the real body of the magistrate. In Modernity, from Kant onwards, dignity is based on autonomy, presupposing the presence of a moral legislating will, in which every human being needs to feel submitted to reasonable and internally coercive moral demands. Since then, the concept of dignity appears in the Constitutions of many countries, including the Federal Constitution in force in Brazil since 1988. Despite being embodied in national legislation, dignity ends up suffering setbacks by interference from the political world, in this sense, the Labor Reform 2017, with its promises to improve employment and income in Brazil, ended up violating the basic principles of the notion of dignity. Critical Theory and the works of Axel Honneth are fundamental for thinking about the precariousness of labor relations in Brazil and the possibility of overcoming these obstacles by the working class through the struggle for recognition.

**Eleanor Lumsden**

Professor, GGU School of Law, USA & Consultant, NOVA School of  
Law, Portugal

### **Technology, Inequality, and the Modern State: A Tale of Two Cities**

Economic inequality is one of the scourges of modern history that shows no signs of abating. Technology, often touted as a solution to global problems writ large and small, has brought tremendous progress but is no panacea. National and city governments allow international corporations like Airbnb virtually unfettered access to the public in the hopes that technology can sustainably usher in a new era of progress and innovation that ultimately uplifts more boats than it sinks. As modern states race to capitalize on the globalization of the tech wave, some boats are rising, but many more are sinking. Cities from Lisbon to San Francisco are betting on tech yet are home to some of the worst inequality in the world. Is the bet misplaced? Does technology create more problems than it solves? Or is it simply an inadequate answer for intractable social problems that may still require traditional governmental responses? Cities like San Francisco and Lisbon can remain beacon cities, but they must first acknowledge the drivers of such inequality—technology among them—and devote more legal resources to studying and finding solutions that empower their most vulnerable residents.

**Michael Malloy**

Distinguished Professor, University of the Pacific, USA

### **Russia-Ukraine Economic Sanctions: Legal Responses to a Crisis**

The use of economic sanctions—governmental restrictions on the economic activity of other nations, their officials, and often their general population—is an increasingly prevalent feature of contemporary international law and practice. Unavoidably, sanctions have a significant impact on the socio-economic interests of many individuals and organizations. Taking the recent developments with respect to the Ukraine crisis as a focus, his presentation argues that persons operating in a transnational context cannot rest upon the assumption that the imposition of sanctions is an extraordinary and unusual event that is unlikely to have an impact upon their rights and obligations.

I begin by offering historical context for the dramatic changes in economic sanctions practice in the contemporary business environment. I then consider the prevalence of economic sanctions programs in the current transnational business sector, as illustrated by the unilateral, regional, and multilateral economic sanctions imposed in response to the Russian invasion of Ukraine. Analyzing the details of the current sanctions, I argue that, while sanctions have specific, technical objectives that create heightened risks for those involved in transnational transactions, sanctions alone are not capable of resolving the current crisis.

**Assaf Meydani**

Academic Member, ATINER & Professor and Former Dean of the  
School of Government and Society, The Academic College of Tel-Aviv-  
Yaffo, Israel

**Gender Segregation on Orthodox Buses:  
The Case of the Israeli High Court of Justice Ruling on the  
“Segregation Lines” 2011**

NOT AVAILABLE

**Athanasios Mihalakas**

Professor, The University of Arizona, USA

## **A New Approach to Global Governance for Climate Change**

The current climate change crisis has exposed the inabilities of the global governance system to address such a calamity, and further highlight the importance of multilateralism in dealing with global challenges as well as the need to reform the global governance system. Climate change which is caused by greenhouse gas (GHG) emissions is very much like a cancer that has been growing for a century and could lead to the extinction of the human race if it's not addressed seriously and immediately. The United Nations (UN), born out of the aftermath of a global economic depression and a World War, is now 75 years old. Our current global governance system has undoubtedly failed us. It is time to consider amending the UN, in order to better address climate change.

This paper will outline the current challenges of reforming the UN, looking into the current international legal system which places paramount importance on national sovereignty and unanimity, and prioritizes humanitarian disasters; genocides, poverty/hunger, civil wars, natural disasters, etc.

Then the paper will consider the UN reforms needed to better address climate change. They include reforms on the way the UN General Assembly makes decisions, reviving the UN Trusteeship Council, and reforming the format and function of the UN Security Council.

The ultimate objective should be to make the UN responsible for the protection of the global commons: the Oceans, the Polar Caps, the Air (atmosphere), and maybe even the large forest ecosystems (like the Amazon). This will require redefining Sovereignty.

Finally, this paper will consider the role of small island nations in the Pacific and the Atlantic which might have the power to force change, because their very sovereign could be harmed by climate change.



**Priscilla Moyo**

LLD Student, Nelson Mandela University, South Africa

## **The Role of International Law in the Adjudication of the Right to Housing in Africa**

The right to housing has been codified in major international treaties. Article 11(1) of the International Covenant on Economic Social and Cultural Rights (ICESCR) provides everyone with a right to adequate housing. State parties who have ratified the ICESCR commit themselves to adopt measures aimed at respecting and realising the rights in the Covenant. Zimbabwe ratified the ICESCR in 1991 meaning that it is under a duty to ensure that everyone in Zimbabwe is afforded a right to adequate housing. Notwithstanding, neither the Constitution of Zimbabwe Amendment Act 20 of 2013 nor legislation guarantees a justiciable right to housing. This article assesses the extent to which international law can be relied upon to enforce a right to housing where neither the Constitution nor legislation provides for such a right. To ascertain this objective, this article will set out the provisions of international law that guarantee the right to housing. Thereafter the position in Zimbabwean law regarding the right to housing and the status of international law in Zimbabwe will be discussed. Finally, the article will endeavor to answer the question of whether international law can play a meaningful role in the adjudication of the right to housing in Zimbabwe.

**Emmanuel Nartey**  
Lecturer, Cardiff Met University, UK

**Rohingya Crisis:  
A Critical Analysis of International Law and Human Rights  
Law**

This article reviews the human rights violation in Rohingya in 2017 and assesses the effectiveness of the international community's response to the crisis. The article reviews United Nations Security Council's (UNSC) response to the crisis. Therefore, concluded that under the principle of ethics and integrity in international law and human rights law, there should have been investigations into the crimes committed against Rohingya Muslims in accordance with the judgement given by the ICC's Pre-Trial Chamber. This argument underlines the fundamental principle of international law. Despite Myanmar's refusal to adopt the Rome Statute, the principle of ethics and integrity in international law should have allowed the international community to act in accordance with the international doctrine of human rights. It is concluded that the UN's failure to carry out its obligations was solely due to Russia's political ties with Myanmar, which also resulted in Russia using its veto power and obstructing the UN Security Council's statement on the situation. The banal approach to the implementation and enforcement of international law and human rights has paralysed the principle of ethics and integrity. Thus leaving the issue unresolved. In this light, the article affirmed that the UN and international law have failed to observe its fundamental principles and their duties to protect and uphold international law and human rights.

**Jorge Nunez**

Reader, Manchester Metropolitan University, UK

## **Territorial Disputes and a Multidimensional Approach**

Territorial disputes are highly intricate because of their multi-subjective, multi-contextual, multi-faceted and multi-dimensional nature. The differences in the Americas present that intricacy. Therefore, this monograph introduces a common set of conceptual and hermeneutical tools to explore and evaluate territorial disputes in the continent.

Historically, states in the region have been able to resolve their differences peacefully. There are still, however, some ongoing disputes such as the Falkland/Malvinas Islands and the San Andres and Providencia cases. Furthermore, there is actual and potential controversy with issues like the Mexico-United States border, Antarctica and indigenous rights that share some resemblance to territorial disputes.

In Núñez 2017 the author conducted a theoretical experiment in which challenger and challenged agents in a sovereignty conflict over a populated third territory were assumed to have certain characteristics. The author too assumed certain elements related to the procedure they would follow and particular characteristics in defining the representatives of each population in presupposed negotiations. However, the author made clear the goal was only to come up with an ideal solution no reasonable party could reject.

The author's next step with Núñez 2020 aimed to bring together some key conceptual elements and review them in the context of several ongoing real territorial disputes, including a dedicated chapter that briefly introduced the ones in the Americas.

This paper introduces a novel methodology. Instead of applying a unidimensional analysis in the assessment of global situations such as territorial disputes, the author developed a multidimensional approach that acknowledges pluralism of pluralisms. Therefore, any comprehensive analysis of territorial disputes should include different agents (e.g., individuals, communities and states) acting in their different roles (i.e., hosts, participants, attendees and viewers) as well as consider their interrelations in the domestic, regional and international contexts. Moreover, these agents and players interrelating in different contexts should be examined simultaneously by application of a set of conceptual and hermeneutical tools common to different disciplines such as law, political sciences and international relations.

**Vladimir Orlov**

Professor, Herzen State Pedagogical University of Russia, Finland

## **Legal Aspects of Corporate Governance in Russia**

Corporate governance in Russia is subject to the presented civil law provisions, contained in the Civil Code and laws regulating different forms of corporations, including companies, enacted in accordance with it, which concern governing bodies and decision-making procedures. The supreme governing body of the company is the general meeting of its participants, and the issues, which are within its exclusive authority, are enlisted in the law. A company must have an executive body that represents it. It may have also a collegiate executive body and a colligate governing body for controlling the executive bodies. The members of the governing bodies are presupposed to act in good faith and reasonably, and they bear liability for negligence. The liability is personal as well as solidary (joint and several), but the persons who did not take part in the administration (or voted against) is not to bear liability. Characteristic for the liability of executives and representatives of company is, that their liability is to be realized simply at the moment when their duty to act in good faith and reasonably is violated.

**Mihaela Elvira Patraus**

Associate Professor, University of Oradea, Romania

&

**Tudor Dumitru Vidrean - Capusan**

University Assistant, Babeş-Bolyai" Cluj – Napoca University, Romania

## **European Union Fundamental Rights Reflected in Tax Procedures: The Key for Tax Harmonization Inside the European Union?**

Although it has an internal market with the aim to obtain full tax harmonization, the European Union is still struggling to provide a common standard for 27 different tax systems. Because there are almost no European Union tax procedural regulations, after the entry into force of Lisbon treaty the fundamental rights of the EU have begun to play a more and more active role inside the European Union.

Therefore, the European Union Court of Justice is more often required to deliver decisions related to the compatibility between national tax procedures and the rights guaranteed by the EU Charter of Fundamental Rights. The present article aims to make a presentation of the most important decision delivered by the Court of Luxembourg and to analyze the way in which these decisions can support the European project of tax harmonization.

**Murat Can Pehlivanoglu**

Assistant Professor, Istanbul Kent University, Turkey

## **Tunnelling: A Just Cause for Involuntary Dissolution of Corporations**

Tunnelling refers to activity of controlling shareholders of a corporation to exploit minority shareholders by transferring the corporation's economic resources to controlling shareholders. A shareholder who is accused of tunnelling is in fact generally accused of extracting pecuniary private benefits from the corporation. Tunnelling is often structured and effectuated by way of related party transactions. While related party transactions are not prohibited and may even be beneficial for the corporation, it is also a convenient method for tunnelling as it normalizes a transaction that would otherwise be illegal. For example, when a corporation distributes dividends, it does the distribution to every shareholder of the corporation, including controlling and minority shareholders, in absence of any privileged or preferred shares, in the amount and from the sources statutorily prescribed. In case the controlling shareholder does not want to share the profit with the minority shareholders due to any reason, controllers can cause the corporation to transfer all its profit to the controlling shareholder through an indirect but simple sales or rental contract priced above market prices, leaving behind no remaining distributable profit for the minority shareholders. Corporate, capital markets and tax laws rules are structured to constrain such transactions, but loopholes are still present, and tunnelling transactions are often detected after they are completed. While aggrieved minority shareholders of closely held corporations may sue the controlling shareholder, the corporation, and its managers for their direct damages, alleging that a concealed dividend distribution took place; the minority's claim will be most likely treated as a derivative damage claim, and their direct recovery would be impossible. To circumvent this legal technicality, minority shareholders may request the involuntary dissolution of the corporation, demonstrating the tunnelling activities as a just cause for the dissolution and its alternative remedies, such as the buy-out of the minority's shares. This study uses 6102 numbered Turkish Commercial Code as a statutory example and evaluates whether tunnelling may satisfy the just cause ground for involuntary dissolution of closely held corporations. It opines that while tunnelling is indeed a satisfactory just cause, the last-resort nature of the involuntary dissolution statute limits this remedy's direct applicability, especially in absence of prior litigation history.

**Máté Pétervári**

Senior Lecturer, University of Szeged, Hungary

## **The Compulsory Non-Bankruptcy Settlement in the Hungarian Bankruptcy Practice during the First World War**

The Hungarian government declared a moratorium at the beginning of the First World War, therefore the Hungarian economy provisionally slowed down. The economic actors got some respites for payment from the government during the wartime. But the war dragged on for several years therefore the government wanted the economy to restore; however the political elite strove to avoid the massive wave of bankruptcies because of the stopping the moratorium. For this reason, the government introduced a new institution, the compulsory non-bankruptcy settlement by decree. This procedure aimed filling the role of the bankruptcy procedure. The debtor was able to escape from his debts with these new proceedings, if he agreed with his creditors on their claims. It was a special legal measure because it was one of the first steps of the state intervention in the economy.

In my lecture, I would like to examine this procedure through the judicial practice, therefore I researched the archive material of Royal Regional Court of Kalocsa and Royal Regional Court of Appeal of Szeged. The Royal Regional Court was the first instance in the compulsory non-bankruptcy settlement procedure, therefore I would like to analyse the practice of Royal Regional Court of Kalocsa. I chose this court because the documents of this court survived fully which is a special value of this material, and very rare in Hungary, thus we can examine the efficient and the quantities of these cases. Royal Regional Court of Szeged was the second level in the compulsory non-bankruptcy settlement procedures. In the practice of this court, we can examine the regional tendencies of this new institution. This procedure introduced at the end of 1915, in my lecture I would like to present the appearance of this insolvency procedure in the Hungarian legal system. Besides I search the answer for this question whether this procedure was able to solve the financial problem in the economy what the goal of the government was. Now, in my lecture I would like to present three years (1916, 1917 and 1918) of the court's practice which the first years of the new institution in the Hungarian legal system, and the period of the First World War.

**Marta Picchi**

Associate Professor, University of Florence, Italy

## **Combating Violence against Women and Domestic Violence: The Recent Proposal of the European Commission**

The Council of Europe Convention *on Preventing and Combating Violence Against Women and Domestic Violence*, known as the Istanbul Convention, is the most important international instrument containing rules requiring States which have ratified it to adopt internal provisions to prevent violence against women, to protect the victims and to punish those responsible. This Convention was signed by 34 countries although only 12 have ratified it.

The European Union signed the Istanbul Convention on 13 June 2017 but has not yet completed the accession process, despite the fact that the European commitment to the protection and promotion of women's rights must be a priority of European action so that women can realize freely and safely their life projects within the European Union. Recently, the European Parliament adopted, by a large majority, a resolution (of 28 November 2019 *on the EU's accession to the Istanbul Convention and other measures to combat gender-based violence*, P9\_TA(2019)0080) calling on the European Council to complete the ratification of this Convention by the European Union and urging six Member States (Bulgaria, the Czech Republic, Hungary, Lithuania, Latvia, Slovakia) that have signed the Convention to ratify it without further delay.

The need to prevent and combat violence against women, protecting victims and punishing offenders, was announced in President von der Leyen's Political Guidelines as a key priority of the European Commission and is part of the Gender Equality Strategy 2020-2025.

In this context, the European Commission recently proposed the introduction of rules to combat violence against women and domestic violence in the European Union (proposal for a Directive of the European Parliament and of the Council of 8 March 2022 *on combating violence against women and domestic violence*, COM(2022) 105 final). In particular, the proposed directive would make it possible, on the one hand, to overcome the gaps existing in some Member States and, on the other hand, to standardise the various national legislations with a single discipline valid in all the countries of the European Union.



This contribution aims to analyse the contents of the European Commission's proposal by highlighting and reflecting on the key points.

**Larissa Pochmann da Silva**  
Professor, Estácio de Sá University, Brazil

## **Incident of Resolution of Repetitive Claims and Group Litigate Order: A Comparative Perspective for Mass Claims**

In the contemporary scenario, with the advancement of globalization, urban concentration, standardized contracts, combined with the intense flow of information, goods and people, mass injuries are multiplied, capable of causing damage to a large number of individuals. Seeking to avoid the overwhelmed of the legal system and the dispersal of jurisprudence, Brazilian civil procedural law presented, from the Code of Civil Procedure of 2015, the development of a new mechanism, the incident of resolution of repetitive claims. Notwithstanding the exhibition of reasons for the clear influence of the German mechanism of *Mustverfahren*, the Brazilian Institute was also influenced by several experiences. This research focused on the comparison with the British Group Litigation Order (GLO), precisely in view of the growing relevance of the Anglo-Saxon scenario in Brazilian law, specially binding precedents, and because it is also an older mechanism than the Brazilian one. It aims to seek proposals to improve the collective redress in Brazil, in a comparative perspective, considering the incident of resolution of repetitive claims and Group Litigation Order (GLO), specially the requirements, who has standing, registration, procedure and the judgment, costs and the consensual solution of conflicts involving repetitive issues. Despite the relevance of Brazilian mechanism, the treatment given to repetitive claims can still be improved and a comparative perspective is important to realize the purpose.

**Michely Vargas del Puppo Romanello**

Professor, São Paulo University, Brazil

&

**Jose Geraldo Romanello Bueno**

Professor, Mackenzie Presbyterian University, Brazil

&

**Victor Vinicius Allegretti Scabello**

Lawyer, Brazil

## **The Unborn Child as a Liability Subject of the Legal Tax Obligation**

The present work aims to analyze the possibility of the unborn child being a passive subject of the tax legal relationship, given the lack of express legal provision in the Brazilian legal system. The Brazilian National Tax Code, in its article 134, I, makes it possible for a minor child to be a taxpayer, with their parents appearing as taxpayers. However, nothing is available in relation to the unborn child. In addition, it is important to analyze what the doctrine of Civil Law advocates in relation to the beginning of the legal personality of the natural person - whether this would occur with live birth or with conception and, if the unborn child would, consequently, have legal personality. Thus, the main problem of the research is to verify the possibility of the unborn child being a taxable person of the tax obligation. In addition, would the lack of legal provision mean that the unborn child does not have taxpayer status, even in the face of a taxable event in which the unborn child had a personal and direct relationship? What tax repercussion would have a donation made to an unborn child who was not born alive? Therefore, the research uses the deductive and qualitative approach method. Given the doctrinal nature of the research, the investigation techniques were centered on Brazilian Tax, Civil and Constitutional Law.

**Jose Geraldo Romanello Bueno**  
Professor, Mackenzie Presbyterian University, Brazil  
&  
**Michely Vargas del Puppo Romanello**  
Professor, São Paulo University, Brazil

### **The Right to Succession of the Child Conceived by Post Mortem Artificial Insemination**

This paper discusses assisted human reproduction techniques and their impact on Brazilian Succession Law. The objective of the research is to analyze whether the conception of the individual through *post-mortem* artificial insemination makes him illegitimate or legitimate to succeed the inheritance of the deceased father. Given the lack of regulation and doctrinal divergences, the regulations of the Brazilian Code of Ethics and the Brazilian Federal Council of Medicine and the scarce legal provisions existing in the Brazilian Civil Code are analyzed. Therefore, the research uses the deductive and qualitative approach method. Given the doctrinal nature of the research, the investigation techniques were centered on Brazilian Civil and Constitutional Law. The main conclusion is that the child conceived through the assisted reproduction technique can be considered heir of the deceased father. However, for this to become possible, the express consent of the author of the inheritance, manifested in life, through an authentic act or by testament, is necessary. In addition, it is necessary that the spouse or survivor is a widow or has not formed another stable relationship after the event, in order to make paternity clear. With that, the article 1597, item III, of the Brazilian Civil Code, rise the presumption of paternity. In this sense, it is understood that the child conceived by *post-mortem* artificial insemination has equal family and succession rights.

**Rutvica Rusan Novokmet**

Assistant Professor, University of Zagreb, Croatia

## **The International Law Commission and the Codification of Crimes Against Humanity - Has the Time Come for the Adoption of an International Convention?**

In the focus of this research is the analysis of the codification process led by the International Law Commission on the issues of prevention and punishment of crimes against humanity. With the aim of preparing a legal basis for a universal convention on crimes against humanity, similar to conventions prohibiting some other international crimes, such as the crime of genocide and the crime of torture, after a five-year work the ILC has formulated the Draft Articles on Prevention and Punishment of Crimes against Humanity in 2019. The author of this research critically analyses and compares the definition of crimes against humanity, the obligations of States not to engage in the commission of such crimes, to prevent and punish crimes against humanity and other elements of the codification with theoretical reflections and the jurisprudence of international courts and tribunals concerning crimes against humanity. Special attention is given to the influence of the Rome Statute of the International Criminal Court on the definition of crimes against humanity as well as to comments of States on the ILC's Draft Articles on Prevention and Punishment of Crimes against Humanity. In light of the reactions and suggestions made by States and the recommendation of the ILC to the UN General Assembly to consider convening an international conference with the aim of elaborating an international convention on crimes against humanity, the author concludes that the adoption of a legally binding document is necessary for the finalization of the codification process. Moreover, the conclusion of a widely accepted convention would be crucial for the improvement of inter-State cooperation in the prevention and punishment of crimes against humanity because impunity for these crimes must be put to an end.

**Boaz Sangero**

Professor, Spair Academic College, Israel

## **Applying the STAMP Safety Model to Prevent False Convictions Based on Forensic Science Evidence**

Using DNA comparisons, the Innocence Project has shown that people are occasionally convicted based on flawed forensic science evidence. The American National Academy of Sciences (NAS) report determined many areas of forensic science lack sufficient scientific foundation, and the forensic science system does not function properly and must undergo significant changes. These changes should stem from interdisciplinary thinking, a combination of current scientific knowledge, NAS recommendations, and the law, together with advanced safety methods. To minimize the injustice of false convictions based on flawed forensic science evidence, this Article recommends applying the Systems-Theoretic Accident Model and Process (STAMP) safety model to forensic science evidence and using it in the criminal justice system in general. The Article provides detailed implementation suggestions.

**Claudio Sarra**

Associate Professor, University of Padova, Italy

## **Biometric Data in Artificial Intelligence Based Recruitment Procedures: The Need for a Delicate Interpretative Balance**

“Biometrics” is defined as the set of identification measurement techniques applied to the human being through the detection of certain physical and behavioral characteristics which are translated into mathematical sequences and stored in electronic databases (Italian National Bioethical Committee, 2010).

In what has been called “the first generation biometrics” (North-Samardzic, 2020), the use of biometric data has so far been considered with reference to two main types of procedures:

1. biometric identification (the individual template is compared with those stored in various databases to see if it is included: a “one to many comparison”);
2. identity verification (the individual template created at the moment is compared with another stored individual template: a “one to one comparison”).

But nowadays, with the advent of the so called “data driven society” a different kind of use is becoming prominent, and a “second generation of biometrics” is on the rise. Here, through aggregation of huge amount of data, including biometric ones, and the use of big data analytics the ideal profile of a worker is elaborated, in order to rank the candidates according to the probability of matching it. There are several issues about the use of biometric data in this context, such as (to name just a few):

- a) the legitimacy of their extraction and use;
- b) the justification of the link between a biometric feature and the competences and skills required for the job;
- c) the actual universality of the physical or behavioural trait considered;
- d) the temporal stability (some physical traits are supposed to change during time);
- e) the ability to detect a natural deviation from the anthropological, anatomical, physiological reference standard, or a voluntary alteration of physical or behavioral traits;
- f) the resilience of the system with respect to alterations or to elimination of relevant data.

The recent proposal for a European Regulation on Artificial Intelligence (April, 2021) relies on the definition and the restrictive discipline of biometrical data provided for in the General Data Protection Regulation which in turn, when it comes to labour law, relies also on national laws. As the proposal introduces an exemption to the general prohibition to the use of sensitive data for the purposes of monitoring, detecting and correcting distortions of the high-risk AI System, it needs to be coordinated with the GDPR and the national labour law to prevent the depletion of the protection for workers' rights. In this talk I try to suggest an interpretative coordination between these sources of law.



**Steven Sekirya Serumaga-Zake**

Senior Lecturer, University of North West, South Africa

## **A Search for Justification: Russia's Military Invasion of Ukraine: An International Law Perspective**

The Organization for Security and Co-operation in Europe (OSCE) to which Russia is a signatory is another Regional agreement embracing the principles of peace as advocated for by in the UN Charter.

The Helsinki Conference (1 August 1975) established the respect of borders in Europe and gave birth to the OSCE, of which Russia is a member.

It establishes the principles of inviolability of borders, territorial integrity of states, peaceful settlement of disputes, non-intervention in internal affairs, but also respect for human rights and minorities, equal rights

Russia is a member state to amongst others, The United Nations (UN) the Organization for Security and Co-operation in Europe (OSCE), and the Treaty of London (although it is yet to ratify it). In the founding documents of these international and regional organizations, there are regulations and protocols that govern the maintenance of peace and security within Europe as a region and the World at large. Furthermore, the constitutive documents, decisions of relevant judicial organs, resolutions and conventions of these organizations make it clear that respect for state sovereignty through non-intervention in the internal and external affairs of one state by another is cardinal to preserving international relations. Despite the above positions, the mid of February 2022 saw Russia sending thousands of military personnel to the Russia-Ukraine boarder. On the 21 of February 2022, the online Guardian news agency reported that Putin had ordered the soldiers to enter Russia controlled areas of South Eastern Ukraine under the guise of keeping peace. Today we are having a full blown war between the two countries inside Ukraine. This paper will analyze the international legal framework related to the decision of the Russian government to invade Ukraine. It will investigate whether there is any legal international justification for Russian president Mr. Vladimir Putin's decision to violate Ukraine's sovereign territorial integrity. The main finding of the article is that Mr. Putin and his Russian government are in breach of the basic agreements related to international relations and the sovereign integrity of another state in this context.

**Robert Smith**

PhD Candidate, University of New England, Australia

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**Nucharee Smith**

Assistant Professor, Thailand

## **Use and Abuse of Social Media in Myanmar between 2010 and 2022**

Myanmar or Burma as it was previously known has been under almost most continuous military rule since 1962 except for a brief period from 2016 until 1 February 2021. The military started the transfer of power to a civilian government in 2010 with the government of Aung San Sui Chi until the military staged a coup on 1 February 2021. The country has essentially been in a state of various civil wars since its independence in 1948. The period from 2010 saw the opening up of telecommunications sector and a rapid uptake in social media. Regulation was under the Telecommunications Law (2013) which provided for imprisonment for “extorting, coercing, restraining wrongfully, defaming, disturbing, causing undue influence or threatening any person using a telecommunications network (Section 66(d)).” The Act has been used and misused since that time until an even more draconian Act was released by the military for comment in early 2022.

Whilst the spread of smart phones has opened up communication to the masses and provided them with access to information it has also been used for the Myanmar Military (the Tatmadaw) to spread disinformation. These campaigns are used to uphold the state, people and religion. To the military this essentially means the Bamar majority, the Buddhist religion and the unitary state (with the military as its guardian). Any opposition must be crushed. For instance, they use social media to vilify minorities such as Muslims and Rohingya. In many of these endeavors they have been supported by non-state actors such as militant Buddhist monks. Since the military takeover social media has also been used by the resistance, particularly young people and the many ethnic armed groups, officially called “ethnic armed organisations” (EAOs) by the government of Myanmar to coordinate activities. Unfortunately, many of the young activities appear to not be aware of the surveillance of social media by the Tatmadaw or the perils of posting even from the Thai side of the Myanmar border. The replacement Cybersecurity Law is draconian and for Myanmar citizens it has extraterritorial application. Its definitions are so broad that any activity that criticizes the Tatmadaw, the political situation and even

the current social deprivation of the people can be considered to be a criminal offence as is having a Virtual Private Network (VPN) on your mobile device.

The paper will also provide a detailed analysis of the Telecommunication Law and its replacement, the Cybersecurity Law, identify deficiencies, and how they violate human rights norms. It will also provide verified examples of misuse of social media by state and non-state actors and the response by social media platforms such as Facebook.

**Alexander Szívós**

PhD Student, University of Pécs, Hungary

## **The Taxation of Cryptocurrency**

Blockchain technology is a closely followed topic in the financial technology industry. Even though cryptocurrency has been around for a few years now, it still seems not to be well-defined. The global crypto market capitalization has passed 2 trillion dollars, however, there is much uncertainty in the regulation regime worldwide. To some, cryptocurrency is an investment, to others it is property, and some may even say it is a commodity. The governments' attitude towards cryptocurrencies, and in particular towards the underlying technology are very diversified. Different jurisdictions, different approaches. More and more regulators are worrying about criminals who are increasingly using cryptocurrencies for illegitimate activities like money laundering, terrorist financing and tax evasion. It is essential to create favorable conditions for the establishment and development of the sector, while protecting all market participants' interests. Cryptocurrencies require a special tax structure of their own, especially because their decentralized nature was built specifically to ensure non-compatibility with overarching revenue siphoning methodologies. In other words, nations need to consider this futuristic digital asset as a stand-alone economic element that deserves a taxation structure of its own. The paper identifies key tax policy considerations of cryptocurrencies by overviewing some of the major country treatments focusing on the USA, Latin-America and Europe. The author also examines the typical "lifecycle" of a unit of virtual currency, emphasizing the key stages in which tax consequences may arise. Last, but not least the paper highlights common challenges and emerging issues in taxing virtual currencies.

**Kristóf Szívós**

Assistant Lecturer, University of Szeged, Hungary

## **The Comparative Analysis of Avoiding Undue Delay in the History of Austria**

Avoiding undue delay has always been a main aim of civil procedural codification. It was the case in the 19<sup>th</sup> century as well. The legislators wished to create a civil procedure that is based on the principles of orality, immediacy, and publicity. Apart from that, they did not intend to apply the principle of contingent cumulation which had had an essential role in the German common law (*ius commune*). Oral procedure has a different mentality, and judges have a more important role than in written procedures. After the reforms, the judges had the sovereignty to avoid undue delay. One of the main tools became the so-called case management. The paper focuses on the main tendencies of reforms of the history of German, Austrian and Hungarian civil procedures in the 19<sup>th</sup> century.

**Molly Townes O'Brien**

Honorary Associate Professor, Australian National University,  
Australia

**Cancel Culture Australian Style**

Cancel culture is not merely an American issue. I taught law for more than 25 years. I was an Associate Professor until several students filed complaints with the administration of the university, based on what I had said in a Human Rights Law in Australia course. I was teaching a case that I had taught for more than ten years. No one had ever complained before. In December 2020, several students were offended about my saying the name of a case brought by an Indigenous person, who had sued to have the name of the “Nigger Brown Stand” declared racially offensive.

A process was initiated to decide what steps should be taken. An investigator was hired. I was put on administrative leave and required not to talk about the complaint with my colleagues. After several months, I was informed that university Human Resources would proceed with allegations of “serious misconduct”, unless I took the “opportunity” to leave teaching without a fight and accept a voluntary redundancy package. In other words, I was cancelled. To help other law professors and academics avoid similar situations, I will present the details of what happened.

**Selin Türkoğlu**

Research Assistant, Galatasaray University, Turkey

## **Self Defense and Domestic Violence: An Analysis of Turkish Criminal Law Practice**

The violence against women has been a highly critical issue in Turkey in recent years, as it is worldwide. Due to lack or inefficacy of legal remedies in some cases, domestic violence becomes systematic, and might even lead to the murder of perpetrator by the victim. When there is no current aggression towards the victim, in other words, when the victim of violence acts out of fear of aggression, it might be controversial whether self-defense will be applied or not. This brings with it the question whether the conditions of self-defense can be examined from a gender-based perspective.

The conditions of self-defense are defined article 25/1 in Turkish Criminal Code. The unlawful act carried out by victim of domestic violence might be considered lawful when they are subjected to an unjust aggression at the same time as the defense. The aggression must be ongoing, or its occurrence or repetition must be certain. In the case of systematic domestic violence, the aggression can be considered "certain", and consequently this act might be accepted as lawful in terms of the Criminal Code. There have been diverse judgments on this issue by the Court of Cassation. While in some cases existence of self-defense can be accepted, sometimes the acts fall within the ambit of unjust provocation. This paper examines Turkish law practice in the light of criminal law principles and approaches to the prevention of violence against women.

**Norbert Varga**

Associate Professor, University of Szeged, Hungary

### **Cartel Private Law in the Interwar Period in Hungary**

The most significant aspect of the cartel movement of the 20<sup>th</sup> century lies within the paradox of free competition, for mandates regulating free competition came to be as the result of free competition itself in Europe. The only line of defence for the interests of consumers against the aforementioned mandates was the guarantee of the freedom of competition. As a part of the European codification process, the regulation of Hungarian cartel law, basically cartel public law was introduced by the 20<sup>th</sup> Act of 1931, in which the emphasis was put on national intervention efforts. A unified regulation of cartel private law was scrapped, and due to its omission the general rules of private law, especially commercial law served as guidelines for the practitioners of law. In the field of cartel private law, various other problems could arise apart from the ones the law did not have clauses for, for the act's only concern was cartel public law. This resulted in a fundamental legal uncertainty in cartel law, therefore it would have been easier to regulate cartel private law as well. In this case, judicial legal practice became the decisive factor, for by taking into the general rules of private law, it shall deal with any legal problems that arise within the field of cartel private law. In my presentation I would like to examine the codification background of the Hungarian cartel public and private law, after that I will present some legal cases, cartel agreement based on archive sources.

The regulation of economic relations within the Cartel Act happened in order to protect public interests, however, it did not interfere with the development of free competition and economic development.



**Yongliang Yan**

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**Yiwen Yang**

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**Weize Ning**

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## **Capacity Building in Space Law and Policy in China: Status Quo, Shortcomings and Possible Ways Out**

China has achieved great achievements in space science, technology, and application over the last several decades as compared to many other spacefaring nations. Thus far, however, China has not had an independent national space law document that can provide a legal foundation for the Chinese exploration and use of outer space, while some governmental rules and regulations have been in place to regulate some space activities in China. Over the last two decades, China's government attaches much importance to the development of space policy and has updated its national space policy five times. A careful analysis of these five Chinese space white papers is conducted in this research to classify a possible development model. This model could be one of the possible references for other emerging spacefaring and non-spacefaring countries to develop their national space policy. It is noteworthy that the drafting of the Chinese national space law has entered into the legislative agenda (one of the Class II Projects) of the National People's Congress (NPC) of the People's Republic of China in 2018. A case study is adopted in this research to review the development of the Chinese current space law and policy, including their status Quo and shortcomings. In addition, this research adopts a comparative study of China and other countries with national space laws and policies, such as the USA, Japan, and Canada in developing space laws and policies, in an attempt to find a possible development model for other emerging spacefaring and non-spacefaring countries to enhance their capacity building in space law and policy. There are many reasons for adopting an independent national space law document in China currently. First, China is the contracting party to the Outer Space Treaty, the Rescue and Return Agreement, the Liability Convention, and the Registration Convention. Thus, China is responsible to adopt national space laws to implement these international treaties. Second, the development of the Chinese space commercial activities and international space trade between China and other countries increases the need for establishing a sound legal

environment by adopting a national space law. Third, there are many legal lacunae regarding the regulation of the conduct of governmental and non-governmental sectors in China. Apart from that, an in-depth analysis of the international and national legal framework for establishing the Chinese national space law is provided to identify some possible elements of the Chinese national space law document. In the end, this research discusses some possible suggestions regarding the development of the Chinese space law and policy, focusing on an in-depth analysis of the main elements of the Chinese national space law document based on some academic discussions provided by some Chinese authors.

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