THE ATHENS INSTITUTE FOR EDUCATION AND RESEARCH

Abstract Book

21st Annual International Conference on Law
15-18 July 2024, Athens, Greece

Edited by
David A. Frenkel & Olga Gkounta

2024

Abstracts
21st Annual International Conference on Law
15-18 July 2024, Athens, Greece

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9 Chalkokondili Street
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(In Alphabetical Order by Author's Family Name)

Preface

This book includes the abstracts of all the papers presented at the *21st Annual International Conference on Law* (15-18 July 2024), 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 Abtracts of Proceedings, 2010-2024*

Year	Papers	Countries	References
2024	88	26	Frenkel and Gkounta (2023)
2023	32	16	Frenkel and Gkounta (2023)
2022	37	16	Frenkel and Gkounta (2022)
2021	26	14	Papanikos (2021)
2020	27	14	Papanikos (2020)
2019	46	22	Papanikos (2019)
2018	31	17	Papanikos (2018)
2017	34	13	Papanikos (2017)
2016	25	13	Papanikos (2016)
2015	47	15	Papanikos (2015)
2014	52	25	Papanikos (2014)
2013	60	20	Papanikos (2013)
2012	43	17	Papanikos (2012)
2011	52	13	Papanikos (2011)
2010	61	12	Papanikos (2010)

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.

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 21st Annual International Conference on Law accomplished this goal by bringing together academics and scholars from 26 different countries (Argentina, Armenia, Brazil, Bulgaria, Canada, Chile, China, Croatia, Czech Republic, France, Germany, Hungary, India, Indonesia, Italy, Latvia, Poland, Portugal, Romania, Slovenia, South Africa, Spain, The Netherlands, Türkiye, UK, 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

21st Annual International Conference on Law, 15-18 July 2024, 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 Research 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 Research Division, ATINER & Distinguished Professor & Scholar, University of the Pacific, USA.
4. Georgios Zouridakis, Research Fellow, ATINER.

FINAL CONFERENCE PROGRAM

21st Annual International Conference on Law, 15-18 July 2024, Athens, Greece

PROGRAM

Monday 15 July 2024

07.45-08.30
Registration
08:30-09:00
Opening and Welcoming Remarks:

- **Gregory T. Papanikos**, President, Athens Institute.

09:00-10:30 Session 1

Session 1a **Moderator: David A. Frenkel**, LL.D., Head, Law Unit, Athens Institute & Emeritus Professor, Law Area, Guilford Glazer Faculty of Business and Management, Ben-Gurion University of the Negev, Beer-Sheva, Israel.	**Session 1b** **Moderator: Ronelle Prinsloo**, Lecturer, Vaal University of Technology, South Africa.	**Session 1c** **Moderator: Elisabete Ferreira**, Assistant Professor, Catholic University of Portugal, Portugal.
1. **Helen Fenwick**, Professor, Durham University, UK. **Daniel Fenwick**, Senior Lecturer, Northumbria University, UK. ***Title**: Relying on Human Rights Treaties to Establish Access to Same-Sex Marriage and Registered Partnerships – Confronting the Question of Cultural Sensitivities.* 2. **Andreea Draghici**, Associate Professor, The National University of Science and Technology Politehnica Bucharest, Romania. ***Title**: The Consequences of Bullying on the Child and on the Rights of Personality.* 3. **Razaana Denson**, Senior Lecturer, Head of Private Law Department, Nelson Mandela University, South Africa. **Glynis Van der Walt**, Senior Lecturer, Nelson	1. **Claudio Sarra**, Associate Professor, University of Padova, Italy. ***Title**: Artificial Intelligence in Decision-making: A Test of Consistency between the "EU AI Act" and the "General Data Protection Regulation".* 2. **Franaaz Khan**, Senior Lecturer, University of Johannesburg, South Africa. ***Title**: A Discussion of the Effects of Artificial Intelligence and Negligence in the Law of Delict (Tort) In South Africa.* 3. **Jennifer Graham**, Lecturer, Liverpool John Moores University, UK. ***Title**: Examining the Governance of Artificial Intelligence: Making the Case for Rights-Based Impact Assessments in AI Regulation.* 4. **Elise Nicoleta Valcu**, Associate Professor, The National University of	1. **Barbara Jelonek-Jarco**, Assistant Professor, Jagiellonian University in Kraków, Poland. ***Title**: Franchise Agreement – The European and Polish Perspective.* 2. **Alberto Iglesias Garzon**, Assistant Professor, CUNEF University, Spain. ***Title**: The Role of Multinational Corporations in Supporting the EU Rule of Law: The Appeal to Democratic Values in Corporate Sustainability and Responsibility (CSR).* 3. **Daniela Iancu**, Lecturer, The National University of Science and Technology Politehnica Bucharest, Romania. ***Title**: Press Freedom in Romania: Regulation, Realities, and Expectations in the Context of Adopting New European Regulations.*

Mandela University, South Africa. ***Title**: The Right to Die when the Right to Live has Been Taken Away: South African Law and the Islamic Perspective.* 4. **Eimys Ortiz-Hernandez**, Tenure-eligible Lecturer "Serra Húnter", University of Lleida, Spain. ***Title**: The (Neglected) Rohingya Dilemma and Systematic Infringements of Human Rights: A Call for Global Accountability?*	Science and Technology Politehnica Bucharest, Pitesti University Center, Romania. ***Title**: Crowdfunding Platforms, An Innovative Way of Providing Crowdfunding Services in The Age of Artificial Intelligence. Eu Legislative Implications. Applicability in Romania.*	
10:30-12:00 Session 2		
Session 2a **Moderator: Ori Igwe**, Senior Lecturer, University of West London, UK.	**Session 2b** **Moderator: Claudio Sarra**, Associate Professor, University of Padova, Italy.	**Session 2c** **Moderator: Tshilidzi Knowles Khangala**, Lecturer, Tshwane University of Technology, South Africa.
1. **Francisca Rendich**, Professor, Pontifical Catholic University of Chile, Chile. ***Title**: Exploring the Intersection of Law and Literature: Insights from Classic Works of Universal Literature.* 2. **Nomthandazo Ntlama-Makhanya**, Professor, University of Fort Hare, South Africa. ***Title**: "Self-policing" or "Independence" of the Judiciary in Transformative Adjudication in Africa?* 3. **Qingmin Guo**, Lecturer, Southwest Petroleum University, China & Postdoctoral Fellow, University of Oxford, UK. ***Title**: Legal Protection of Fertility Support under the New Adjustment of Family Planning Policy in China.* 4. **Dane Ally**, Associate Professor, Tshwane University of Technology, South	1. **Bongani Khumalo**, Senior Lecturer, University of South Africa, South Africa. ***Title**: Sidonselwa Iholo Ngokungemthetho: 'No Work, No Pay', Lawful Deductions or Employer's Self-Help, in Search for Practical Guidelines.* 2. **Katlego Arnold Mashego**, Lecturer, Tshwane University of Technology, South Africa. ***Title**: Possible Contribution by BRICS to the AfCFTA: Towards Economic Development and Consequently the Enforcement of Socio-Economic Rights in Africa.*	1. **Domenico Bilotti**, Professor, Magna Graecia University, Italy. **Francesco Iacopino**, Lawyer, Union of the Italian Criminal Law Chambers (UCPI), Italy. ***Title**: Criminal Law Needs, Constitutional Opportunities and Law & Religions Ethical Contributions.* 2. **Mehmet Ertan Yardim**, Associate Professor, Kadir Has University, Türkiye. ***Title**: Recourse Procedure in Mandatory Mediation.* 3. **Noemi Suri**, Assistant Professor, Research Fellow, Pázmány Péter Catholic University, Ferenc Mádl Institute of Comparative Law, Hungary. ***Title**: Hungarian Model of the Restructuring Process – National Report.* 4. **Elisabete Ferreira**, Assistant Professor, Catholic University of

Africa. ***Title**: The Reasonable and Progressive Alleviation of Homelessness: A Comparative Analysis of the Right to have "Access to Adequate Housing" in the Republic of South Africa and the Republic of Kenya.*		Portugal, Portugal. ***Title**: Medical Liability for Omission Under the Portuguese Criminal Law: A Critical Eye on The Portuguese Jurisprudence.*
12:00-13:30 Session 3		
Session 3a **Moderator: Francisca Rendich**, Professor, Pontifical Catholic University of Chile, Chile.	**Session 3b** **Moderator: Okechukwu Ejims**, Senior Lecturer and Law Program Director, University of Bedfordshire, UK**.**	**Session 3c** **Moderator: Andra Nicoleta Puran**, Lecturer, The National University of Science and Technology Politehnica Bucharest, Pitesti University Center, Romania.
1. **Olivia Rybak-Karkosz**, Assistant Professor, University of Silesia in Katowice, Poland. ***Title**: Cybercrime at the Crypto-Art Market – Types of Crime Committed against NFT's Creators and Owners.* 2. **Adoracion Perez Troya**, Senior Lecturer, University of Alcalá, Spain. ***Title**: A European Legal Framework for Open Finance.* 3. **Cristina Faone**, PhD Student, University of Verona, Italy. ***Title**: Do Harmonized Provisions Ensure Fairness in International Trade? The European Customs Law Experience.* 4. **Veselin Hristov**, Head of Non-Performing Exposures in UniCredit, Sofia University, Bulgaria. ***Title**: The Leasing Contract – Concept and Types. Comparative Legal Analysis between European Countries.*	1. 1. **Daiga Rezevska**, Professor, University of Latvia, Latvia. ***Title**: General Principles of Law as a Directly Applicable Legal Norm and Transitional Justice.* 2. **Ori Igwe**, Senior Lecturer, University of West London, UK. ***Title**: Artificial Intelligence: A Twenty First Century International Regulatory Challenge.* 3. **Ambre Jarassier**, PhD Student, University of Nantes, France. ***Title**: The Resurrection of the Roman Senatus Consultum, a Political Diversion of the Ancient Senatorial Institution by Napoléon.* 4. **Julija Jerneva**, PhD Candidate, University of Latvia, Latvia. ***Title**: Excessive Pricing in EU Law: The AKKA/LAA v Konkurences padome Case and Historical Context.*	1. **Julita Zawadzka**, Assistant Professor, Jagiellonian University in Kraków, Poland. ***Title**: Life after Death? Legal Relations of Companies after Cessation of their Legal Existence.* 2. **Paraskevas Rodosthenous**, Lecturer, University of Southampton, UK. ***Title**: Regulatory Reform Recommendations for Executive Remuneration.* 3. **Morgane Querel**, PhD Student, Centre de Droit Maritime et Océanique (CDMO), France. ***Title**: IMO and Shipping Decarbonisation: The Legal Framework to Adopt a Market-Based-Measure (MBM).* 4. **Ting Hu**, PhD Student, Leiden University, The Netherlands. ***Title**: Revisiting Dual-Class Share Regulation in China: Lessons from Comparative Perspectives.*
13:30-14:30 Lunch		

14:30-16:00 Session 4

Session 4a
Moderator: Luca Della Tommasina, Associate Professor, University of Pisa, Italy.

1. **Ramona Duminica**, Lecturer, The National University of Science and Technology Politehnica Bucharest, Pitesti University Center, Romania.
   Andra Nicoleta Puran, Lecturer, The National University of Science and Technology Politehnica Bucharest, Pitesti University Center, Romania.
   ***Title**: Normative Inflation – Cause of Inefficiency of Romanian Environmental Law.*
2. **Paul Figueroa**, Associate Professor, University of New Mexico, USA.
   ***Title**: How to Protect Traditional Cultural Expressions in Peru and Colombia.*
3. **Charlotte Semarcelle**, PhD Student, University of East Anglia, UK.
   ***Title**: Locus Standi in Climate Change Litigation: A Tort Law Approach and the Way Forwards.*
4. **Bingxin Ren**, Postgraduate Student, Southwest Petroleum University, China.
   ***Title**: Exploring the Model and Policy Context of a Payment for Carbon Sink Services of Marine Farms in China.*

Session 4b
Moderator: Mr. Konstantinos Manolidis, Athens Institute Administration.

1. **Ravindra Pratap**, Professor & Dean, Faculty of Legal Studies, South Asian University, India.
   ***Title**: The 2023 Indus Waters Treaty Arbitration between India and Pakistan: A Critical Appraisal.*
2. **Rehab Barnawi**, Researcher, University of Essex, UK.
   ***Title**: Women's Legal Empowerment in Employment in the Kingdom of Saudi Arabia (KSA).*
3. **Maria Luisa Chiarella**, Associate Professor, Magna Graecia University, Italy.
   Manuela Borgese, Professor, Magna Graecia University, Italy.
   ***Title**: Platform-To-Business Contracts: European Laws and Digital Society.*
4. **Larissa Pochmann da Silva**, Professor, Estácio de Sá University, Brazil.
   ***Title**: Evidence and Technology in the Brazilian Legal System: Resolution No. 408, of 2021, of the National Council of Justice (CNJ), and the Treatment of Digital Evidence.*

16:00-17:30 Session 5
Moderator: Nomthandazo Ntlama-Makhanya, Professor, University of Fort Hare, South Africa.

1. **Okechukwu Ejims**, Senior Lecturer and Law Program Director, University of Bedfordshire, UK.
   ***Title**: A Legal Framework for the Analysis of the Impacts of International Investment Law on Indigenous Peoples' Rights.*
2. **Tshilidzi Knowles Khangala**, Lecturer, Tshwane University of Technology, South Africa.
   ***Title**: A Critical Examination of the Constitutional Implications Surrounding the Parental Presence Requirement for Pregnant pupils during Examinations in certain South African Schools.*
3. **Miriam Mbah-Amanze**, Lecturer, The Open University, UK.
   ***Title**: Examining Gender Responsiveness in the Welsh Public Procurement Framework.*
4. **Anka Mohoric Kenda**, Director, Company Farmed, Slovenia.
   ***Title**: Fair Satisfaction Due to Violations of Patients' Rights in Healthcare.*

17:30-19:30 Session 6 – A Round-Table Discussion on "The Future of Legal Education, Research, and Practice"
Moderator: Gregory T. Papanikos, President, The Athens Institute.

1. **Marc Welgemoed,** Senior Lecturer and Head, Department of Criminal and Procedural Law, Faculty of Law, Nelson Mandela University, South Africa.
   ***Title**: The Impact of the Fourth Industrial Revolution on Legal Education and Legal Practice – the HIVELAW project at the Nelson Mandela University Law Clinic.*
2. **Antonio Jesus Alonso Timon**, Director, Law Innovation Center, Universidad Pontificia

Comillas, Spain.
***Title**: New Technologies and Old Methods. Current Ways of Approaching the Teaching of Law in Classrooms*.

3. **Rendich Francisca,** Professor, Pontifical Catholic University of Chile, Chile.
   Title: *The Anachronism of Time: The Importance of Rereading the Classics in Law Schools.*
4. **Claudio Sarra**, Associate Professor, University of Padova, Italy.
   ***Title**: The Future of Legal Education between Humanities and Technology.*
5. **Elias Costa Grivoyannis**, Associate Professor, Yeshiva University, USA.
   ***Title**: Do our Legal Institutions Always Deliver Justice? A Problem of Efficiency.*
6. **Mehmet Ertan Yardim**, Associate Professor, Kadir Has University, Turkey.
   ***Title**: Examination Methods in Large Classes at Law Faculties.*
7. **Gaetan Balan,** Associate Professor, Lyon Catholic University, France.
   ***Title**: Serious Games and Teaching of Law: Experiences and Practices.*
8. **Georgios Zouridakis,** Research Fellow, The Athens Institute, and Member of the Athens Bar Association.
   ***Title**: Greece: Some Thoughts on Legal Practice and the Justice System.*

Interventions:

1. **David A. Frenkel,** D., Head, Law Unit, Athens Institute & Emeritus Professor, Law Area, Guilford Glazer Faculty of Business and Management, Ben-Gurion University of the Negev, Beer-Sheva, Israel.
2. **Karine Millaire**, Assistant Professor, University of Montreal, Canada.
3. **Rajko Pirnat**, Professor, Faculty of Law, University of Ljubljana, Slovenia.
4. **Nomthandazo Ntlama-Makhanya**, Professor, University of Fort Hare, South Africa.
5. **Jana Reschova,** Associate Professor, Charles University in Prague, Czech Republic.
6. **Noelle Hunter**, Clinical Assistant Professor, The University of Alabama in Huntsville, USA.

20:30-22:30
Athenian Early Evening Symposium (includes in order of appearance: continuous academic discussions, dinner, wine/water, music)

Tuesday 16 July 2024

08:00-09:30 Session 7
Moderator: Marc Welgemoed, Head, Department of Criminal & Procedural Law, Nelson Mandela University, South Africa.

1. **Jean Fougerouse**, Associate Professor, University of Angers, France.
   ***Title**: The Contribution of the French Administrative Judge to the Reparation of Environmental Damage: A Step Forward or a Warning Sign?*
2. **Gaetan Balan**, Associate Professor, Lyon Catholic University, France.
   ***Title**: Insular States and Sea Level Rising: A Climate Change Perspective.*
3. **Gabriele Redigonda**, PhD Candidate, University of Florence, Italy.
   ***Title**: Monitoring GHG Emissions: Legal Reflections on The Use of New (Space) Technologies.*
4. **Binghan Li**, Postgraduate Student, Southwest Petroleum University, China.
   ***Title**: Climate Change Litigation and Causation: Joining Law and Climate Science.*

09:30-11:00 Session 8

Session 8a **Moderator: Gaetan Balan**, Associate Professor, Lyon Catholic University, France.	**Session 8b** **Moderator: Jana Reschova**, Associate Professor, Charles University in Prague, Czech Republic.
1. **Michael Fleck**, Adjunct Professor, Northern Illinois University College of	1. **Marc Welgemoed**, Head, Department of Criminal & Procedural Law, Nelson

Law, USA. ***Title**: Artificial Intelligence and Technology in Estate Planning and Administration – Pros and Cons of Access to Legal Services for the Disadvantaged.* 2. **Marta Boura**, Lecturer and PhD Candidate, University of Lisbon, Portugal. ***Title**: A New Digital Regulatory Framework through EU AI Act.* 3. **Cat Moon**, Founding Co-Director, Vanderbilt AI Law Lab, Vanderbilt University, USA. ***Title**: Reimagining Pro Bono in the Age of AI.* 4. **Maria Gabriela Zoana**, Lecturer, The National University of Science and Technology Politehnica Bucharest, Pitesti University Center, Romania. ***Title**: The Criminal Capacity of AI System.*	Mandela University, South Africa. ***Title**: The Impact of Cultural and Religious Perspectives on Law Reform Relating to Euthanasia and Palliative Care.* 2. **Ida Susanti**, Lecturer, Parahyangan Catholic University, Indonesia. ***Title**: Shifting Paradigms: The Controversy and Complexity of LGBTIQ Protection in Indonesia as the Biggest Muslim Country.* 3. **Katya Alkhateeb**, Lecturer, University of Essex, UK. ***Title**: Legal Implication of Artificial Wombs in Realist Science Fiction.* 4. **Emmanuel Nartey**, Senior Lecturer, Bath Spa University, UK. ***Title**: Assessment of 'Elective Dictatorship' and 'Partisan Politics' under the Rule of Law and Ethics.*

11:00-12:30 Session 9

Session 9a **Moderator: Maria Gabriela Zoana**, Lecturer, The National University of Science and Technology Politehnica Bucharest, Pitesti University Center, Romania.	**Session 9b** **Moderator: Julita Zawadzka**, Assistant Professor, Jagiellonian University in Kraków, Poland.	**Session 9c** **Moderator: Katya Alkhateeb**, Lecturer, University of Essex, UK.
1. **Andre Mukheibir**, Professor, Nelson Mandela University, South Africa. ***Title**: Tort Law and Gender-based Violence in South Africa.* 2. **Tena Hosko**, Associate Professor, Private International Law Chair, Faculty of Law, University of Zagreb, Croatia. ***Title**: Intercountry Adoption in Croatia – National Experience as A Contribution to The Global Debate on Best Approaches.* 3. **Katerina Sidiropoulou**, Senior Lecturer, Anglia Ruskin University, UK. ***Title**: Reviewing The Wellbeing of Women Academicians in Post Pandemic Era.*	1. **Vicenc Ribas Ferrer**, Senior Lecturer, University of Alcalá, Spain. ***Title**: Reforming the European Payment Services and the Open Banking Regime.* 2. **Antonio Jesus Alonso Timon**, Director, Law Innovation Center, Universidad Pontificia Comillas, Spain. ***Title**: The Role of Public Administrations and Public Law in the Challenge of Techno Politics.* 3. **Beatrice La Porta**, Research Fellow, University of Palermo, Italy. ***Title**: Innovative Legal Frameworks for Advancing Sustainability: A Case Study in the Wine Sector.*	1. **Lorianne Updike Toler**, Assistant Professor, Northern Illinois University, USA. ***Title**: Constitution-Writing Rules.* 2. **Jana Reschova**, Associate Professor, Charles University in Prague, Czech Republic. ***Title**: Federalism from Above? Considerations on the Constitutional Framework for EU.* 3. **Karine Millaire**, Assistant Professor, University of Montreal, Canada. ***Title**: Reconciling 'Sovereignties': The Constitutional Duty to Co-Develop Legislation with Indigenous People.* 4. **Eric Jeanpierre**, Senior Lecturer & Law Undergraduate Course Director, Kingston

		University London, UK. ***Title**: The Constitutional Borrowing of the French Conseil Constitutionnel in French Speaking Sub-Saharan Africa: A Determination of its Success with a Focus on Djibouti and Benin.*
12:30-14:00 Session 10		
Session 10a **Moderator: Emmanuel Nartey**, Senior Lecturer, Bath Spa University, UK.	**Session 10b** **Moderator: Gaetan Balan**, Associate Professor, Lyon Catholic University, France.	**Session 10c** **Moderator: Andreea Draghici**, Associate Professor, The National University of Science and Technology Politehnica Bucharest, Romania.
1. **Rich Owen**, Director, Swansea Law Clinic, Swansea University, UK. ***Title**: Forming Multi-Disciplinary Partnerships to Provide Holistic Care to Legal Advice Agency Clients.* 2. **Luca Della Tommasina**, Associate Professor, University of Pisa, Italy. ***Title**: Shareholders' Right to Withdraw and Corporate Reorganization in the New Italian Insolvency Law.* 3. **Ece Selin Yetkin**, PhD Candidate, University of Southampton, UK. ***Title**: Rapid Increase of the Establishment of Regional Commercial Arbitration Centres, but do they Contribute to the Realm of International Commercial Arbitration?* 4. **Eliza Maniewska**, Assistant Professor, University of Warsaw, Poland. ***Title**: Employment Relationship, Emergency Situations, Formal Models of 'Emergency' Labour Law (Outline of Main Issues).*	1. **Elias Grivoyannis**, Associate Professor, Yeshiva University, USA. **Constantine Grivoyannis**, Associate, Forensic Economic Damages, LLC USA. ***Title**: Assessing the Damages in a Child's Stolen Future: The Role of Computational Mathematics in Forensic Economics.* 2. **Dilsat Yaz Alibasoglu**, Attorney at Law/LLM Student, Istanbul University, Aslan & Partners Law Firm, Türkiye. ***Title**: International Jurisdiction Issue in Direct Actions, to be filed by the Injured Party against the Insurer of the Responsible Party for Damages Arising from Wrongful Acts.* 3. **Lekpelie Cynthia Bissouma**, PhD Student, University of Nantes, France. ***Title**: Articulation between Public and Private Healthcare Provision following the management of Covid in West Africa.* 4. **Bhoomika Sharma**, Research Student, University of British	1. **Frederic Berard**, Lecturer, University of Montreal, Canada. ***Title**: The Paradox Lying in the Confrontation between Respect for Constitutionally Protected Fundamental Rights and the Possibility for the Legislature to Derogate from them without Justification, only in Canada.* 2. **Andra Nicoleta Puran**, Lecturer, The National University of Science and Technology Politehnica Bucharest, Pitesti University Center, Romania. ***Title**: Attributes of the Romanian State. Special View on the Rule of Law.* 3. **Esra Unal**, Visiting Lecturer, Kadir Has University, Türkiye. ***Title**: Restitution of Cultural Objects: Experience of Türkiye.* 4. **Satenik Shahbazyan**, Attorney, Chamber of Advocates of Armenia, Armenia. ***Title**: Recognition of the Jurisdiction of the International Criminal Court as a Measure to Ensure the Application of*

	Columbia, Canada. ***Title**: Mental Health and Law: A Comparative Analysis between India and Canada.*	*International Humanitarian Law. Example of Armenia.*

14:00-15:00 Lunch

15:00-17:00 Session 11

Session 11a **Moderator: Mehmet Ertan Yardim**, Associate Professor, Kadir Has University, Türkiye.	**Session 11b** **Moderator: Mr. Konstantinos Manolidis**, Athens Institute Administration.
1. **Rutvica Rusan Novokmet**, Assistant Professor, Chair of Public International Law, University of Zagreb, Croatia. ***Title**: Examination of the Legality of Veto Power by the Security Council in Light of the Most Recent Threats to International Peace and Security.* 2. **Anna Labedzka**, Senior Lecturer, Kingston University London, UK. ***Title**: Conditionality at the Time of Geopolitical Uncertainty. A Review of Application of Conditionality in the EU-Ukraine Relations.* 3. **Sara Mahilaj**, PhD Student, University of Urbino Carlo Bo, Italy. ***Title**: International Criminal Court and its Involvement in the Russian Invasion of Ukraine.* 4. **Nadia-Cerasela Anitei**, Professor, University of Galați, Romania. **Raluca Laura Dornean Păunescu**, Lecturer, Drăgan European University of Lugoj, Romania. ***Title**: Brief Considerations Regarding the Competence of the Central Authorities in Matters of Filiation, in the Context of the Proposal for a Council Regulation on the Creation of a European Certificate of Parenthood?* 5. **Ronelle Prinsloo**, Lecturer, Vaal University of Technology, South Africa. ***Title**: Revisiting Section 16(2) of the Maintenance Act: A Solution or Creating a Problem?*	1. **Yongliang Yan**, Assistant Professor, Beijing Jiaotong University, China. ***Title**: Emergency Management in Outer Space.* 2. **Mihaela-Adriana Oprescu**, Lecturer, Babes-Bolyai University, Romania. ***Title**: Some Developments and Vulnerabilities in the Child Rights Protection System under the Umbrella of the European Family.* 3. **Alexia Georgakopoulos**, Professor, Nova Southeastern University, USA. ***Title**: The Power Mediation and Conflict Transformation in Ukraine and Around the Globe to Promote Social Justice and Peace.* 4. **María Belén Paoletta**, Research Associate, Georgetown Law Center & Adjunct Professor, University of Buenos Aires, Argentina. **Ivan Levy**, Associate, Busse Disputes, Germany. ***Title**: International Law's Hall of Fame: An Analysis of its Iconic Pieces and Buried Treasures.* 5. **Lavinia-Olivia Iancu**, Lecturer, Tibiscus University of Timișoara, Romania. ***Title**: The Principles of the Insolvency Procedure in Romania.*

17:30-20:30 Session 12
Old and New-An Educational Urban Walk

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: Zappion, 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 conference participants.

21:00-22:30
Ancient Greek Dinner

Wednesday 17 July 2024
An Educational Visit to Selected Islands
or Mycenae Visit

Thursday 18 July 2024
Visiting the Oracle of Delphi

Friday 19 July 2024
Visiting the Ancient Corinth and Cape Sounion

Dilsat Yaz Alibasoglu
Attorney at Law/LLM Student, Istanbul University, Aslan & Partners Law Firm, Türkiye

International Jurisdiction Issue in Direct Actions, to be Filed by the Injured Party against the Insurer of the Responsible Party for Damages Arising from Wrongful Acts

The liability for wrongful acts arises when a right is violated or when damage occurs as a result of an unlawful action. The elements of wrongful act liability are specified in Article 49 of the Turkish Civil Code, which states that "One who causes harm to another through an unlawful act and fault is obliged to compensate for such harm." While it is relatively easy to determine the applicable provisions of liability arising from unlawful acts through domestic legal regulations, determining which law applies to wrongful acts that have elements in multiple countries and which country's courts have jurisdiction over the dispute is not always straightforward. An important issue regarding international disputes arising from wrongful acts is the direct claim of the injured party against the insurer of the liable party. The reason for granting the right to the injured party to directly sue the insurer in Turkish law is to protect the injured party against the possibility of the wrongdoer's insolvency. In addition to various international agreements, Turkish law has provisions regarding the direct recourse to the insurer in two separate laws. The first is Article 34/4 of the Turkish International Private and Procedural Law, and the second is Article 1478 of the Turkish Commercial Code.

In liability insurance, the injured party can direct their claims to the insurer as provided by law. This legal possibility, referred to as the direct right of action for the injured party, is an exception to the principle of relativity of contracts. In liability insurance, the person harmed by the insured is not a party to the insurance contract but a third party. This opportunity for the injured party to sue the insurer is referred to as the "direct right of action (Article 1478 of the Turkish Commercial Code)."

In this study, the legal provisions that allow the injured party, within the scope of liability relationships arising from wrongful acts involving a foreign element, to directly file a lawsuit against the insurer of the wrongdoer will be examined. In this regard, firstly, the context concerning the applicable law to disputes arising from wrongful acts involving a foreign element will be provided, along with information about the relevant law. Then, the issue of international jurisdiction in

the direct action brought by the injured party against the insurer will be discussed within the framework of Article 40 and Article 46 of the Law on International Private Law.

Katya Alkhateeb
Lecturer, University of Essex, UK

Legal Implication of Artificial Wombs in Realist Science Fiction

Emerging technologies possess the potential to fundamentally reshape life as we know it, giving rise to a myriad of challenging legal questions. The increasing integration of Artificial Intelligence (AI) into various aspects of our lives further complicates these legal challenges. In contemplating our current era, it is hard to conceive of a time in which there was a greater symbiosis between humans and machines, think of contemporary headlines heralding "transhumans," "artificial wombs," "human enhancements," and "cyborg soldiers,". Speculative Fiction (SF) has the ability to envision futures grounded in such symbiosis. Coupled with the growing need in law that underscores the importance of "speculation" to address escalating technological challenges, SF offers a novel methodology for conducting legal inquiries. Despite the well-established field of "law and literature," a distinct gap persists in addressing the intersection of law and SF. A very small number of publications have begun to explore legal inquiries through the lens of SF. While these initiatives provide an excellent start, their approach often tends to draw on the idea of interdisciplinarity rather than being grounded in interdisciplinary methodology — the inspiration stems from popular assumptions about science fiction, portraying it primarily as a tool to "predict" the future. However, this approach, as I will show, lacks the necessary literary foregrounding intrinsic to the genre. This article takes on a different approach by conducting an interdisciplinary exploration of the intersection of law and SF. I will introduce the category of "realist speculativism" as a distinguished vein within SF and argue that it offers a particularly useful base for exploring solutions to legal challenges posed by technology. I hope that, by establishing this interdisciplinary foundation, the article aims to empower scholars and practitioners in law to use this methodology as a catalyst for influencing the development and configuration of technologies, ensuring their alignment with appropriate laws and fostering social justice goals.

Dane Ally
Associate Professor, Tshwane University of Technology, South Africa

The Reasonable and Progressive Alleviation of Homelessness: A Comparative Analysis of the Right to have "Access to Adequate Housing" in the Republic of South Africa and the Republic of Kenya

In this contribution, I compare the relevant constitutional provisions, legislation, policies, and case law relating to the right to have access to adequate housing in the Republic of South Africa with that of the Republic of Kenya. Section 26 of the Constitution of the Republic of South Africa guarantees the right to have access to adequate housing to "everyone." In similar vein, Article 43 of the Constitution of the Republic of Kenya makes provision for the protection of a comparable right. The leading case where this right was explored in South Africa, is the matter of *Government of the Republic of South Africa and Others vs. Grootboom and Others* (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169). The High Court of Kenya, sitting in Nairobi, had the opportunity to grapple with a similar issue in the case of *Kepha Omondi Onjuro and Others v Attorney-General and Others* (Petition Number 239 of 2014). This comparative analysis is apposite for the following reasons: both legal systems have a common law history, both nation states are recently established constitutional democracies, and there are striking similarities in the structure of their constitutions, which include *inter alia*, a Bill of Rights, a general limitations clause, an exclusionary rule designed to exclude unconstitutionally obtained evidence and, more importantly within the context of this contribution, the protection of socio-economic rights. In the conclusion, I make recommendations for the possible enhancement of the protection of the relevant right.

Antonio Jesus Alonso Timon
Director, Law Innovation Center, Universidad Pontificia Comillas, Spain

The Role of Public Administrations and Public Law in the Challenge of Techno Politics

Technological advances have accelerated exponentially since the beginning of the 21st century throughout the world, especially in the last ten years. We are immersed in the so-called fourth industrial revolution, also known as industry 4.0.

The historical experience of the last two centuries tells us that states must rely on their administrative organization when regulating the use of these new technologies and executing regulatory measures. The great fear is that, as has happened in recent years, these new technologies, far from representing an advance in social rights and in the protection of fundamental rights recognized at the constitutional level but curtailed at the legal level, represent a setback and unbearable interference in the legal sphere of citizens.

For this reason, the role of Public Administration continues to be of notable relevance in the 21st century, as it was in the 19th century and in the 20th century. The Public Administration continues to be today, as it has been for more than two hundred years, the vicar of general interests. But for its work to be efficient, it needs new material and personal means that are at the level of the specialization required for the understanding, management and control of the technologies that we have been discussing.

Techno politics is a strategy for gaining and maintaining power between rival political systems that is based on the political use of technology or the distribution of technology to try to obtain maximum power through a strategy of distribution of digital products or the development of new technologies. The politically forced sale of "core digital technologies" are important milestones in a strategy of political power and influence.

But this techno politics not only has a relevant influence in the field of international relations, generating a new geopolitical battle of dimensions still unknown today, but it has a relevant internal translation. The development of new technologies such as artificial intelligence through machines that learn new functions trying to reproduce the human brain (machine learning) or, in the very near future, quantum computing, present indisputable scientific advances worthy of consideration, but they pose an undoubted risk when, as has been the case for some time, these technologies are used by States to establish strict social control.

This internal aspect is the one that we are most interested in analyzing, as it has more implications or effects for Administrative Law and, consequently, in the role reserved for Public Administration.

Nadia-Cerasela Anitei
Professor, University of Galați, Romania
&
Raluca Laura Dornean Păunescu
Lecturer, Drăgan European University of Lugoj, Romania

Brief Considerations Regarding the Competence of the Central Authorities in Matters of Filiation, in the Context of the Proposal for a Council Regulation on the Creation of a European Certificate of Parenthood?

The study starts from the premise of the need for cooperation between the authorities of different states, an aspect that represents an essential *de jure* state to facilitate and speed up the resolution of procedures, so that an effective judicial protection is guaranteed.

Ab initio, the authors present due clarifications regarding the dichotomy of the provisions of Romanian private international law and the correspondence with the provisions of Regulation no. 1259/2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation (Rome III), as well as the relationship of the Rome III Regulation with Council Regulation (EC) No. 2201 of November 27, 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility (Brussels Regulation II bis).

On the same matter, the authors also analyze the impact of Council Regulation (EU) 2019/1111 of June 25, 2019 on on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast) Brussels II ter.

Futhermore, the work tangentially approaches and refers to the Council Regulation (CE) no. 4/2009 of December 18, 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

Finally, a case study is highlighted, a case law element, which denotes the case-law *de lege lata* in Romania, respectively the hypothesis of solving the situation *de lege ferenda*, by virtue of effective cooperation.

Gaetan Balan
Associate Professor, Lyon Catholic University, France

Insular States and Sea Level Rising: A Climate Change Perspective

Insular states are especially threatened by the sea level rise risk, most notably the archipelagic states of the Pacific. The transformation of territories and the questioning concerning their own international boundaries constitute a modern challenge for the Law of the Sea and the International Public Law. During this presentation, we will start by examining the advisory opinion n°31, the *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*.

This Advisory Opinion exposes the specific risks and threats posed by climate change on the insular States regarding their flooding or submersion risk. This threat also concerns the cultural legacy of all states potentially threatened by the same natural phenomena resulting from climate change. We will develop how the international law might provide legal frameworks to protect or relocate the cultural legacies of this insular states in accordance of the UNESCO definition of cultural legacy.

In a second part, we will focus on the potential legal solutions to support the insulars states into managing this threat and protecting their own population. We will especially propose to discuss international agreements between states about the evacuation of a national population in case of massive flooding. We will examine this potential legal framework through the example of the agreement between Tuvalu and the Government of Australia. This type of international agreements exists regarding Tuvalu's serious preoccupation of the sea level rising up to an existential threat against the State and all its components. We will try to adopt an inclusive legal approach to determine the consequences of the phenomenon of the sea rising as a threat against the very existence of a State and the consequences of its disappearance, such as is forecast in the case of Tuvalu.

Rehab Barnawi
Researcher, University of Essex, UK

Women's Legal Empowerment in Employment in the Kingdom of Saudi Arabia (KSA)

Legal empowerment is an approach adopted by international, civil society organizations and even governments interested in development to change lives of the disadvantaged. In KSA, women's status needs to be alleviated particularly in relation to participation in the economy. For decades, KSA represented low rate of female participation in the economy. Currently, the situation is changing due to the new law reforms aiming to encourage women's access to employment in vast areas which is considered revolutionary to the culture. This paper suggests adoption of women's legal empowerment strategies with feminists and developmental approaches in KSA as legal reforms alone is not sufficient to encourage women to join the labor sector. The paper aims to test these strategies to empower women to overcome legal, cultural, and social believes and barriers.

Surveys showing the situation of Saudi women regarding employments, their views, demands, needs and obstacles is undertaken. The results assist in finding the best legal empowerment strategies to adopt to encourage Saudi women to enter the economy, alongside easing and removing faced difficulties. This is significant because despite the improvement of the situation of Saudi women which statistics show, KSA is still in the bottom and in need of more changes.

Frederic Berard
Lecturer, University of Montreal, Canada

The Paradox Lying in the Confrontation between Respect for Constitutionally Protected Fundamental Rights and the Possibility for the Legislature to Derogate from them without Justification, only in Canada

In 1982, the Government of Canada transferred the Constitution Act, 1867 from England to Canada, a process that was accepted by all Canadian provinces except Quebec. This led to the adoption of the Constitution Act, 1982, which includes the mechanisms for amending the supreme law and the *Canadian Charter of Rights and Freedoms* which set out the fundamental rights of every Canadian citizen. These constitute the Constitution of Canada, the supreme law. It overrides all other conflicting legislation and renders incompatible law inoperative.

As part of the compromise that enabled the Constitution to be brought into Canada, the federal government decided to introduce a "notwithstanding clause", section 33 of the *Canadian Charter of Rights and Freedoms*. This clause permits provincial and federal governments to enact laws even if they infringe upon certain rights guaranteed by the Charter. For example, it would allow a provincial government to pass legislation infringing on liberty of religion or expression or the right to life, security, and liberty of Canadian citizens. This provision has been the subject of controversy since its adoption due to the dichotomy between parliamentary sovereignty and the protection of individual fundamental rights, particularly those of minorities, which are at the very premise of a charter of rights.

In 1988, the Supreme Court of Canada in *Ford*[1] decision set the parameters for the use of the notwithstanding clause, requiring only formal, not substantive, justification for any infringement of the rights in question. This decision establishes an exceptionally strong precedent, effectively providing no substantive limits on the use of the notwithstanding clause which benefits legislative powers.

Since its adoption, the notwithstanding clause has never been used by the federal Parliament. Provincial governments have always been reluctant to use this clause, except for the province of Quebec. The Quebec government systematically used the clause in all legislation proposed to the National Assembly between 1982 and 1985. In 2019, Canadian have seen a rise of the use. Effectively, the Government of Québec adopted the *Act respecting the laicity of the State*, which is protected by the

[1] *Ford* c. *Québec (Procureur général)*, [1988] 2 RCS 712.

notwithstanding clause in both Canadian and Quebec charters. This law has however been challenged in the province's courts and it is most likely going to the Supreme Court. Several issues arise from frequent and unjustified use of the notwithstanding clause. How can the courts exercise their power of judicial review if all laws override all rights? How to protect the rule of law from an abuse of legislative power, which is not so far removed from executive power?

This presentation will provide a brief overview of the historical context as well as its scope, limits, and recent use in Canadian provinces. We will also examine the contemporary challenges it faces, particularly in the current Western context marked by populist and far-right tendencies that are exerting increasing pressure on democratic institutions.

Domenico Bilotti
Professor, Magna Graecia University, Italy
&
Francesco Iacopino
Lawyer, Union of the Italian Criminal Law Chambers (UCPI), Italy

Criminal Law Needs, Constitutional Opportunities and Law & Religions Ethical Contributions

It is worldwide recognized, even by the ones accepting and supporting this legal framework, that the elements of penality and sanction are rising as the very first answers to the needs of welfare and social justice. On the other hand, it is clear that the criminal law rule has traditionally a double faced common reception.

The legislator himself often more or less directly admits that working on fear makes the job simple. It gives immediately the public opinion the sense of a quick and strong reaction to perceived social alerts. Simultaneously, it opens up the paradigm of emergency and exception: what is conceived to protect from the deepest difficulties is at the same time the right botton to recreate that feeling of expanded unsecurity.

The aim of the still ongoing research activities and the purposes of this presentation consist in underlining three useful exit strategies against a not well balanced prethension of regulating our nowadays societies by the esclusive prevelance of criminal law acts and decisions.

First of all, constitutional profiles of each State (from the liberal statehood of Western legal doctrines to the confessional theistic and islamic orders, even encompassing the assumed authoritian systems still based on socialism and autarchy) demonstrate the attempt to reduce both the physical and symbolic side of juridical repression behind argumentations of wiseness (theocratic models), individual freedom (democratic constitutionalism) and common safeguard (postsocialist and postcolonial constitutional experiencies).

The second advertising in trying to minimize the use of criminal law is given by the opportunity to enlarge legal institutes already codified or at least commonly known: restorative justice to make more effective the reparation of the victimis (not only counting the economic value of the offences) and fair the treatment of the guilties, or highly performing amministrative measures in a due process of law. The main and even dominant choice of prison is not rarely the less guaranteed and the less goal-reaching technique. Could it all be intentionally decided?

Our last argumentative step will be about the eventual help of religious beliefs in adfirming a less coercive idea of justice. We openly consider the recent positions of Roman Catholic and Greek Orthodox

Churches, working on an ecumenical dialogue based on the idea of forgiveness, solidarity, even declined by an environmental point of view (climate migrations, a new ecological alliance across generation, legal protection of nature and life). Our not paradoxical conclusion is that these argumentations are now reaching more the secular progressive sensibilities than the strictly religious hierarchies and proper confessional public opinions. Fundamentalism and criminal law populism have always been good friends.

Lekpelie Cynthia Bissouma
PhD Student, University of Nantes, France

Articulation between Public and Private Healthcare Provision following the management of COVID-19 in West Africa

The year 2020 will be remembered as the year when a pandemic hit the world's population and economy. More importantly, the coronavirus crisis has taught us lessons that will help humanity to overcome other crises that we will have to face in order to build a sustainable future.

Among these lessons, that of the public-private or private-public duality should be perpetuated, at least in the context of our study.

The cooperation between public hospitals and clinics in France, at the height of the health crisis in 2020, was hailed by President Emmanuel MACRON and ranked as one of the victories over COVID 19. The adage "united we stand" takes on its full meaning. At a time when best practice is being globalised, this salutary experience should be shared with other States, particularly African States.

Indeed, the study carried out in the wake of the ravages of the Ebola virus in West Africa revealed the great fragility of their healthcare systems. This is why the Conference of Heads of State and Government has made the improvement of epidemiological response and early warning services one of its priorities. With this in mind, we would like to propose the interconnection of health services as a means of strengthening them. Admittedly, this is a comparative study between several countries in the 15 West African states, but more specifically Côte d'Ivoire, my home country, which plays a major role on the sub-regional scene.

General legal issue: What legal and policy instruments can be used to build an appropriate regulatory framework for the long-term coordination of public healthcare provision?

Legal issue for west Africa:

Is the West African healthcare system ready for collaboration between healthcare providers?

The relationship between public and private healthcare provision in West Africa: how can it complement each other to ensure greater resilience in the face of major health crises in the post-COVID-19 era?

On analysis, while the general interest and the private interest are antinomic, public and private healthcare provision, by virtue of their objectives, remain complementary. A country's healthcare system needs both of these forces if it is to flourish. Thanks to public establishments, the State can proudly advocate respect for its regalian functions, among which the protection of the population's health occupies a place of choice.

Similarly, the State can rely on private establishments to help its economic growth curve evolve, insofar as the private sector is a powerful engine for job creation and a vector for innovation. This allows us to affirm once again the complementary nature of these two types of healthcare provision.

Marta Boura
Lecturer and PhD Candidate, University of Lisbon, Portugal

A New Digital Regulatory Framework through EU AI Act

In the past years, the EU political agenda has been marked with an accelerated digital transformation programme intended to provide for a safety net for the implementation and use of technology and also for the regulation and democratisation of access to technology. In this context, the regulation of artificial intelligence (AI) has been flagged as a priority considering how it has contributed to a transformation on both business activities and legal practice.

The EU AI Act currently under discussion has the advantage of marking a pioneer regulatory intervention laying down harmonized rules on AI shaping both how AI is to be used and its risks. From a legal perspective, the EU AI Act also presents as an opportunity to launch a new digital regulatory paradigm which deals with the difficulties of the traditional regulatory framework in balancing the need to regulate a constantly changing reality alongside the creation of a regulation that is not excessively burdensome for developers and providers. On one hand, new regulatory principles of function equivalence and technology-neutrality have been implemented as application and interpretation criteria and, on the other hand, new supervisory and regulatory technologies are being experimented to align digital monitoring and reporting requirements. In this path, discussions around a so-called digital law philosophy, legal thinking and legal design mechanisms are to guide a new construction of how the legal field is to adapt to the digital era.

Despite being a cross-cutting regulatory approach towards digital fields (as digital finance), the proposed AI regulation stands out in this domain for its assumed break with typical regulatory standards by adopting a risk-based approach (as opposed to a regulation based of rights) or implementing regulatory sandboxes aimed to test and develop new AI technologies. In this article, we propose to address the main features of the new digital regulatory paradigm having the EU AI Act in the horizon. In particular, we intend to analyse the underlying rationale of a sandbox approach and how it fits the development of emerging technologies as AI.

Maria Luisa Chiarella
Associate Professor, Magna Graecia University, Italy
&
Manuela Borgese
Professor, Magna Graecia University, Italy

Platform-To-Business Contracts: European Laws and Digital Society

Platform economy is a business model that gives life to a virtual market in which supply and demand for goods and services meet thanks to online platforms. These latter play an important role in the digital environment since they represent the access points to the market: in fact, the relationships between business users and consumers are managed by online platforms which hold the power as online intermediators and online search engines. For this reason, a crucial role is played by platforms-to-business relationships, also bearing in mind the need of protection for business users in relation to the first as dominant companies. European legislation aims to fight potential unfair behavior and to re-balance asymmetric relationships between these digital giants and business users within European market policies. The purpose of this paper is to discuss about EU norms in the light of their implementation.

Luca Della Tommasina
Associate Professor, University of Pisa, Italy

Shareholders' Right to Withdraw and Corporate Reorganization in the New Italian Insolvency Law

The paper focuses on the shareholders' right to withdraw from an insolvent corporation or limited liability company during a reorganization proceeding, and particularly during a compromise or arrangement with creditors, in the light of the recently reformed Italian insolvency law (legislative decree no. 14/2019, also known as "Insolvency Code", as amended by legislative decree no. 83/2022).

Until 2022, there has never been a specific rule about the withdrawal rights in a reorganization proceeding, and on the other hand the grounds for withdrawal provided for by the ordinary company law, thus by the Italian Civil Code (artt. 2437, par. 1, 2473, par. 1, and 2481-bis, par. 1), are so many, and many of them are irrespective of any damage to the shareholder's position, to the investment value or the inherent corporate rights: which does not rule out problems of consistency with priorities and hierarchies of values of insolvency law. Indeed, a withdrawal from a distressed company may prove to be abusive, and many of the resolutions, that out of a bankruptcy context entitle shareholders to the right of withdrawal, may be useful or even necessary for the restructuring objectives.

In such a framework, comparison with German, American, Greek and Spanish insolvency law could play a strategic role. It could help to find interpretation keys and to solve the many problems arising from the interaction between the ordinary company law and the insolvency regulatory framework.

Moreover, the new article 116, par. 5, of the Italian Insolvency Code provides that shareholders' withdrawal right shall be suspended "until the implementation of the restructuring plan".

It is a strange provision, especially if we consider that the enabling act in 2017 had shown a more radical approach: shareholders' dissenting rights, resulting from a corporate merger, division or transformation, should have been removed from the scene. In 2022, at the end of the reform process, the removal solution has been replaced by a milder rule: just a temporary stay.

It must then be understood whether the shareholder's claim resulting from the withdrawal can be treated as a subordinate claim and, in this case, whether it falls within the scope of the new relative priority rule, as provided for by the art. 84, par. 6, of the Italian Insolvency Code. This is a solution that would give new life to the withdrawal from insolvent

companies, even when the book value of the net assets is zero or negative at the start of the arrangement. Such a solution, however, confirms the need to take seriously the problem of defining the grounds for withdrawal during a reorganization proceeding.

Razaana Denson
Senior Lecturer, Head of Private Law Department
Nelson Mandela University, South Africa
&
Glynis Van der Walt
Senior Lecturer, Nelson Mandela University, South Africa

The Right to die when the Right to Live has been taken away: South African Law and the Islamic Perspective

The ethics of euthanasia have been a contentious issue for centuries and central to debates on euthanasia is a concern based on moral, philosophical, legal, theological, cultural and sociological discussion. The act of euthanasia remains controversial. Currently, medically assisted suicide or voluntary euthanasia are illegal in South Africa and South African law does not recognize consent as a defence to the person who assists another to end their life. This approach is in line with the original Roman Dutch principles as introduced in South Africa by the Dutch. This source of law is largely influenced by the canon law in line with the approach of the Roman Catholic Church. While euthanasia is a criminal offence, a patient in South Africa has the legal right to refuse medical treatment which appears to support the principle of autonomy or self-determination as provided for in the Constitution. The South African constitution, as the supreme law of South Africa also provides for the right to dignity and equality. The courts in South Africa have been slow in developing our common law and the legislature has been less than enthusiastic to entertain the development of our law to allow a doctor or medical professional to actively assist a patient to die.

From a Christian perspective, it is opined that euthanasia is not morally acceptable. It is respectfully submitted that this paper will attempt to show that although the biblical message does not entail an absolute prohibition against euthanasia, it does have normative ethical implications for deciding on medically assisted suicide and voluntary euthanasia.

In contrast to the proposed Christian perspective, a comparison will be made with the Islamic perspective on euthanasia (medically assisted suicide) in South Africa.

Islam advocates the doctrine of the sanctity of life, that human life is sacred and is in essence a gift from Allah (God). Furthermore, Islam endorses the belief that it is Allah alone who gives life and who takes life. The subject of euthanasia is, therefore, very controversial especially in religions which adhere to a strong moral code. From an Islamic perspective, euthanasia would be viewed as morally apprehensible and is also regarded as a criminal act in most countries where Islam is the

dominant religion. For example, active euthanasia is prohibited via legislation in Malaysia. In countries where Islam is the dominant religion, the principles and rules of Islam will influence any legislation or ruling in respect of euthanasia. Religion is an almost determining factor in the development of any legislation regulating euthanasia in Islam. Although Islamic jurisprudence prohibits euthanasia, to withhold or withdraw medical treatment in the case of a terminally ill person is regarded as being permissible. This aspect of the presentation will focus on euthanasia from an Islamic perspective.

Andreea Draghici
Associate Professor, The National University of Science and Technology Politehnica Bucharest, Romania

The Consequences of Bullying on the Child and on the Rights of Personality

The bullying of children, a form of repeated and intentional aggression, has significant consequences on the rights of personality. Through exposure to physical, verbal, or social harassment, victims become vulnerable with negative effects on their mental and emotional health. By attacking their emotional and psychological integrity, children may develop anxiety, depression, and even post-traumatic stress disorders.

Bullying violates this fundamental right to dignity through the humiliation and contempt towards victims. The constant experience of harassment and aggression can diminish the sense of self-respect and lead to a feeling of dehumanization and degradation. Children who are victims of bullying may feel that their dignity is being violated and that they are not being given the respect and recognition they deserve

Furthermore, bullying can have consequences on the right to one's image. These effects can be lasting and may influence how victims perceive themselves in the future. Children may develop a distorted image of themselves, viewing themselves negatively or doubting their own qualities and abilities.

In conclusion, bullying not only affects the rights of personality but can also have profound consequences on their long-term emotional and social development. It is essential to pay attention to these aspects and take measures to protect children's rights to a safe, respectful and dignified childhood.

Ramona Duminica
Lecturer, The National University of Science and Technology
Politehnica Bucharest, Pitesti University Center, Romania

Normative Inflation – Cause of Inefficiency of Romanian Environmental Law

Legislative inflation, defined as an abnormal multiplication of legal norms, seems to be a natural and widespread phenomenon, but if certain limits are exceeded, the negative effects begin to appear. These occur primarily on litigants, but also on those who are charged with enforcing the rules. The normative excess encountered in Romanian environmental law generates first of all a diminution of confidence in its power to ensure the protection of fundamental rights, such as: the right to a healthy environment, the right to life and the right to health. Then the overproduction of norms gives rise to serious distortions in the application of the law or even comes to the impossibility of its application.

In this context, this article launches an invitation to reflection on the causes and consequences of this phenomenon, and finally calls for a process of reforming the lawmaking and enforcement activities of environmental law.

Beyond presenting from a critical perspective the situation of the environmental legislation in Romania, the main objective pursued by this study is to propose possible solutions to remedy the situation found. A possible solution lies in the normative simplification that can be achieved through an efficient process of systematization of laws, through the realization of a coding in the matter and through incorporation. Also, in order to increase the effectiveness of environmental law, we propose the establishment in Romania of specialized courts in the field of environmental protection.

Okechukwu Ejims
Senior Lecturer and Law Program Director, University of Bedfordshire, UK

A Legal Framework for the Analysis of the Impacts of International Investment Law on Indigenous Peoples' Rights

This presentation set out some significant aspects of the international system of global investment and the international system for the protection and promotion of indigenous peoples' free prior and informed consent (FPIC), land and resource rights. This presentation will be concerned with exploring the types of indigenous rights issues that arise in an investment law context and how investment law does, and should, deal with them when they occur. This analysis will be conducted on the basis of an assessment of the legal obligations that arise under the two legal systems. In this presentation, we will explore how the two legal systems of international investment law and international human rights law on indigenous peoples interact. A methodology will be suggested for dealing with indigenous peoples' rights issues in the international investment law context.

Cristina Faone
PhD Student, University of Verona, Italy

Do Harmonized Provisions Ensure Fairness in International Trade? The European Customs Law Experience

Within EU Customs legal framework, some provisions are intended to establish standard conditions in the trades of goods among Member States.

Article 33 of Regulation (UE) No 956/2013, for example, lays down that the Customs Authority of the State where goods are imported, shall take, upon application by declarant, decisions concerning the classification of those goods that are binding for three years over all Member States.

Articles from 70 to 74 of the above-mentioned Regulation, besides, establish compulsory rules for determining the customs value of international transactions that all Member States shall observe.

Although the purpose of standardization and fairness in international trade underlying these provisions is certainly one of the main goals of EU, it must be addressed if the current set of laws is sufficient to ensure that every Member State acts in the same way.

It may be the case that goods are classified by a Member State applying a nomenclature code other than a different State, due to an inconsistent interpretation of the classification rules. Similarly, after the analysis of a standard contract, some States may decide that royalties shall be included in customs value and other States, analyzing the same contract, come to a different decision.

This paper aims to study the actual application of customs laws to assess if formal legislation is sufficient to ensure fair international trade of goods, or rather, whether additional cooperation by European Organizations and Member States is recommended to foster uniform interpretation through soft laws, compendium etc.

Helen Fenwick
Professor, Durham University, UK
&
Daniel Fenwick
Senior Lecturer, Northumbria University, UK

Relying on Human Rights Treaties to Establish Access to Same-Sex Marriage and Registered Partnerships – Confronting the Question of Cultural Sensitivities

Globally, same-sex couples have sought to secure the right to marry, but where states are resistant to introducing this right, they have turned to seeking favourable rulings under human rights Treaties. However, some such claims have been met by the argument that the acceptance of a right to same-sex marriage under a regional human rights Treaty would be inconsistent with cultural sensitivities apparent in certain states in the region. That stance was, however, rejected by the Inter-American Court on Human Rights in a claim for same-sex marriage from Costa Rica relying on the American Convention on Human Rights, accepting the argument that it encompassed a right to non-discrimination in the context of family life.

This paper will compare the Inter-American Court's stance with that of the Strasbourg Court which has recently adopted an expansive concept of 'family life', bringing same-sex couples within it under the European Convention on Human Rights. It has found that same-sex couples have a right to a registered partnership under Article 8. But the paper will argue that the current approach of the Strasbourg Court in this context to same-sex marriage shows an acceptance of cultural sensitivities in relying on the consensus doctrine, thereby creating an inhibitory impact on its judgments. Its influence in relying on an exclusionary concept of marriage is capable of extending to the dependencies of Council of Europe states; thus, claims for same-sex marriage in the Cayman Isles and Bermuda, relying on the ECHR, were rejected by the UK Privy Council in 2022. This paper will therefore consider arguments for achieving the aim of protecting same-sex couples as a form of family life in the face of certain cultural sensitivities.

Elisabete Ferreira
Assistant Professor, Catholic University of Portugal, Portugal

Medical Liability for Omission under the Portuguese Criminal Law: A Critical Eye on the Portuguese Jurisprudence

In the Portuguese legal system, criminal liability for omission can be conducted to the legal type that criminalizes omission in itself, regardless of the consideration of the result, or operate by equating omission with action, enshrined in section 10 of the Penal Code, as long as the omitted person has a personal legal duty to act as guarantor (section 10, no. 2).

In the context of medical criminal liability, the framework for a hypothetical omission by a doctor who is on duty in an emergency service has been controversial. In our legal system, section 284 of the Penal Code expressly provides for the refusal of a doctor to be a punishable conduct. On the other hand, it will be possible to understand that the doctor on duty in the emergency room of an hospital has a personal legal duty to act as a guarantor, arising from the contract that binds him to the hospital.

Thus, it is necessary to affirm a subsidiarity relationship between the mechanism of equating omission with action resulting from section 10 of the Penal Code and incrimination under section 284 of the Penal Code. However, this has not been the understanding of the jurisprudence of the Portuguese courts on this subject. When the refusal of assistance of the doctor caused the death of the patient, for instance, instead of convicting the doctor for homicide by omission (section 131 of the Portuguese Penal Code, ex vi section 10, numbers 1 and 2, courts are convicting by section 284 – refusal of doctor.

The present work aims to critically present this jurisprudence, state the legal and doctrinal foundations that justify the classification of these hypotheses within the scope of commission crimes by omission and point out the practical importance of choosing this solution.

Paul Figueroa
Associate Professor, University of New Mexico, USA

How to Protect Traditional Cultural Expressions in Peru and Colombia

The lack of legal protection of indigenous creations and knowledge is at the intersection of human rights and intellectual property law. Non-indigenous people and corporations routinely engage in cultural appropriation and economic exploitation of traditional creations and knowledge without the consent of the indigenous creators, much less without sharing the economic benefits. Indigenous people usually have little legal recourse because conventional Western-based intellectual property laws fail to protect their knowledge and creations. To address this legal gap, Panama and Mexico have adopted sui generis legal regimes that better align with indigenous people's communal views of property and ownership. Indigenous communities in other Latin American countries, like in Colombia and Peru, are also fighting to protect their knowledge and creations. Because the law in Colombia and Peru already recognize collective ownership of indigenous land, these countries are uniquely positioned to extend collective rights to indigenous intellectual property. The Article analyzes this issue through the lens of indigenous self-determination. Based on field research and interviews of indigenous communities, this Article explains how the sui generis legal regimes in Panama and Mexico can be adopted and adapted to the socio-political realities of indigenous communities in Peru and Colombia.

Michael Fleck
Adjunct Professor, Northern Illinois University College of Law, USA

Artificial Intelligence and Technology in Estate Planning and Administration – Pros and Cons of Access to Legal Services for the Disadvantaged

In the legal field of estate planning and administration, the law has always evolved to recognize societal changes, such as concepts defining families, spouses and children, or how taxation of estates, creditor rights and transfer of wealth (such as non-testamentary transfers) are more utilized. Likewise, the technologies that estate planning attorneys have at their disposal, supporting this area of practice, is changing how the legal profession provides services of estate planning and administration to the clientele. With the advent of artificial intelligence (AI) and the concept of electronic wills and electronic notarization/ witnessing, the estate planning and administration field is ever-changing at an incredible pace. The timing of the global COVID-19 pandemic helped spur on the need for these modern technologies, to allow attorneys and clients meet safely and virtually to draft and execute wills, trusts, powers of attorney and other critical estate planning documents.

This paper addresses the advent of electronic estate planning (EEP) and AI in general, focusing on uniform laws created and proposed for jurisdictions to model against, and as a particular example, focusing further on the United States - State of Illinois law on EEP and how this came about and developed in response to the early, uncertain days of the pandemic to the current status of the EEP/AI. Attorneys should be cognizant of the existence of EEP/AI and how to incorporate this technology into actual practice. Attorneys should be cognizant of the trends and evolution of this relatively new area of law to stay on top of EEP/AI and to anticipate the future of this frontier.

After understanding the groundwork of EEP/AI (or the non-use of AI, as the case may be), this paper investigates how this trend and these technological advances work for or against legal services for the disadvantaged. Questions such as (1) Does EEP/AI help or hurt the disadvantaged; (2) Does EEP/AI help close or widen the gap between relatively privileged clientele and the disadvantaged; and (3) Does EEP/AI provide sufficient safeguards to protect the disadvantaged from exploitation?

Finally, this paper will offer suggestions for improving EEP/AI to address any concerns.

The reality is that not only is EEP/AI here to stay, it is likely the future of estate planning and administration. Indeed hard copy estate planning may eventually go completely away in the future. If this is indeed inevitable as the norm for estate planning practitioners, then understanding how EEP/AI best serves all clientele in need of estate planning services is of paramount concern.

Alexia Georgakopoulos
Professor, Nova Southeastern University, USA

The Power Mediation and Conflict Transformation in Ukraine and Around the Globe to Promote Social Justice and Peace

As a professor who authored the most contemporary Mediation Handbook, Dr. Georgakopoulos is an authority in Dispute Resolution and Mediation and has successfully certified and trained mediators around the world. Working on a grant with Rebuilding Ukraine, Dr. Georgakopoulos is involved in research that is focused on training Conflict Transformation and Mediation to students in Ukraine. The purpose of the session is to share the research and programming involved in this program that encourage people to take agency as they embrace the concepts of global citizenship and moral circle beyond their borders to promote social justice and peace through dispute resolution processes such as Mediation. Law has incorporated mediation as a significant platform to promote social justice as it promotes self determination and empowerment of parties involved in conflict. The training is being assessed for its effectiveness using Kirkpatrick's Model of Training Effectiveness that assesses cognitive, behavioral, affective learning along with positive outcomes and results. The law field has expanded its offerings in the Dispute Resolution arena to include mediation as a successful platform to resolve disputes and conflict both domestically and globally.

Jennifer Graham
Lecturer, Liverpool John Moores University, UK

Examining the Governance of Artificial Intelligence: Making the Case for Rights-Based Impact Assessments in AI Regulation

AI (artificial intelligence) regulation is necessary. And whilst work is being done at a global level to form adequate regulatory regimes and governance measures, many of the 'leading' approaches have several shortcomings or are relatively underdeveloped. This article examines essential regulatory elements that will be fundamental to any AI governance framework, including who the regulator should be, the target of the measures, what they command, and what the consequences for non-compliance should be. The findings of this examination will provide a detailed picture of what the ideal AI governance framework might look like.

Building upon this examination, this article features a proposal for a rights-based impact assessment for regulating AI (which draws upon the risk-based approach proposed within the European Union's (EU) AI Act and the United Nations (UN) recommendations, albeit with amendments). This article emphasises the utility of using a rights-based impact assessment within AI regulatory efforts, alongside the importance of other traditional regulatory methods including primary legislation, secondary legislation where necessary, and industry standards.

To conduct this examination, this article considers AI regulatory initiatives adopted and proposed by various states and organisations, legislative agendas in similar technological fields such as IoT (Internet of Things), existing legislation and governance measures in fields such as human rights, equality protection and product safety, as well as industry standards. It is a combination of these elements that the author suggests will amount to an adequate AI governance framework.

The aim of this examination is multifaceted; overall, this article promotes the adoption of AI governance measures that encourage development, deployment, and use of safe AI, which applies to economic actors involved in the AI life cycle, and ultimately users of AI (safe in this context can be understood as meaning AI that is to a reasonable extent explainable, transparent, and fair). Achieving this goal will not be an easy task, and so the evaluation of essential regulatory principles and consideration of the suitability of innovative governance measures is key.

Elias Grivoyannis
Associate Professor, Yeshiva University, USA
&
Constantine Grivoyannis
Associate Analyst, Forensic Economic Damages, LLC, USA

Calculation of Lost Earnings Capacity in Litigation of Personal Injury or Death of a Child who has no Records of Academic Attainment or Employment History to Establish Economic Damages with a Reasonable Degree of Economic Certainty

Computation of economic damages in litigation of personal injury and wrongful death of adults starts with an analysis of plaintiff's historic records which establish lost income and earning capacity. In cases of personal injury and wrongful death of a child, however, there are no historical data of lost income and school records to establish earning capacity, and that impedes the assessment of a child's economic damages from a personal injury or wrongful death.

The purpose of this paper is to present the literature on a two-stages probit econometric model which can be used (1) to establish a process of choice among alternative educational attainment probabilistic outcomes of an injured or deceased child and (2) to estimate, with a reasonable degree of economic certainty, the expected lifetime earnings of that child based on observable society and family characteristics.

Qingmin Guo
Lecturer, Southwest Petroleum University, China & Postdoctoral Fellow, University of Oxford, UK

Legal Protection of Fertility Support under the New Adjustment of Family Planning Policy in China

The implementation of the three-child policy and fertility support measures are major strategic decisions based on China's national conditions. The family planning policy has gone through a legalization process of the one-child policy that restricts fertility to the three-child policy that supports fertility. It has been further optimized since the universal two-child policy, especially the three-child policy. The legislative reform of fertility support has achieved new development and has basically formed a diversified legal protection system from the central to local governments. However, the legal protection of fertility support has certain deficiencies, particularly in marriage promotion, protection of reproductive rights and interests, financial support, childcare services, leave of absence for fertility, and employment support for women. Recommendations are put forward to improve diversified and inclusive fertility support from the perspective of legal protection.

Veselin Hristov
Head of Non-Performing Exposures in UniCredit, Sofia University, Bulgaria

The Leasing Contract - Concept and Types: Comparative Legal Analysis between European Countries

In recent years, the lease contract has become more and more applicable and occupies a key place in commercial relations and business. In Bulgaria, the legal regulation of the leasing contract is relatively new and imperfectly developed. There are many legal loopholes and it is they that determine the need for a comparative legal analysis.

The purpose of the study is to analyze the various European legislations regarding the leasing contract and to find effective solutions for the legal system of Bulgaria.

First of all, are examined the concept of the leasing contract, which originated in the United States of America around the 1950s and its spread in Europe, and the etymology of the term "leasing".

After that, the main types of lease contracts – financial and operational – are examined and analyzed in detail. Their features and characteristics were studied, as well as a comparative analysis was made between them.

Next, in the research, a comparative-legal analysis of the leasing contract in different European countries was made in terms of its development and distribution, as well as its legal characteristics. The mechanism of action and functioning of the leasing contract in several European countries is analyzed. Conclusions are made regarding the legal framework under which the lease contract is most effective. Types of leasing contracts specific only to certain European countries and their advantages are examined.

In conclusion, recommendations are made to improve the legal framework of the leasing contract in Bulgaria.

Tena Hosko
Assistant Professor, Private International Law Chair, Faculty of Law, University of Zagreb, Croatia

Intercountry Adoption in Croatia – National Experience as a Contribution to the Global Debate on Best Approaches

Intercountry adoption debate had not been very vivid in Croatia, until very recently. Namely, in December 2022 four Croatian couples had been arrested under suspicion of illegal adoption in Africa. They were charged with child trafficking and eventually acquitted of all charges. However, during the time they were in custody, this story has been extensively covered in media and has given rise to public debate, both political and professional.

The whole situation has raised many concerns regarding the legal framework of intercountry adoption in Croatia. The primary concern deals with non-Hague adoptions as the country of origin of the children in question is not a state party to the Hague Convention on Intercountry Adoption of 1993. The answer of the Croatian Government and the Parliament to the concerns was the amendment of the recognition procedure for non-Hague adoption decisions. The Croatian Private International Law Act, which only came into force in January 2019, was amended with a target-specific provision on non-Hague adoption decisions in June 2023.

The aim of this presentation is to tackle considerations surrounding the intercountry adoption framework in Croatia, divided in two sections.

The first section deals with the new rules on recognition of foreign non-Hague adoption decisions. Given the fact that this approach to regulating non-Hague adoptions was taken by the legislator, the amendment of the recognition procedure will be discussed.

Second section deals with both Hague and non-Hague adoptions focusing on the dichotomy of the relevant procedures. The current Croatian framework on both will be shown. Thereby, the presentation shall discuss the fact that there are no specific provisions on intercountry adoptions in Croatia, aside the Hague Convention on Intercountry Adoptions of 1993, which Croatia became a party to in April 2014. It will be analyzed whether this is legislative framework is sufficient and whether other steps may be taken in order to ensure that intercountry adoptions in Croatia function better.

In conclusion, even though this is a country specific case and a country specific scenario, it can undoubtedly contribute to the global intercountry adoption debate. Intercountry adoption is one of the rare areas in which thorough cooperation of two legal systems is necessary in

order to properly safeguard the best interest of the child which is thought to be the paramount consideration. In that sense, learning from country specific examples and experiences can only amount to better approaches worldwide.

Ting Hu
PhD Student, Leiden University, The Netherlands

Revisiting Dual-Class Share Regulation in China: Lessons from Comparative Perspectives

Despite dual-class share structures have existed for a long history, in recent years, the prevalence of the structure has become further enhanced globally and the discussion on dual-class share structures has gained popularity due to a variety of factors, such as technological advancements and evolution in regulatory policies, which have sparked a new trend in the application of dual-class shares. Due to the unequal relationship that exists between insiders who possess voting rights exceeding their share ratio and external public shareholders with uniform voting rights, dual-class share structures have been historically criticized. This imbalance in the distribution of voting rights has raised governance concerns, given that the structure of voting rights has an impact on both the mechanisms of corporate governance and operational performance. It has been concluded that the "wedge" phenomenon—which exists between economic interests and voting rights—poses a threat to shareholder democracy, and has therefore been deemed hazardous. However, the adaptability value and the reverse effects of this structure suggest that this assumed reasoning is a cognitive misconception about the dual-class share structure. In this context, this paper aims to explore the issues related to voting rights in dual-class share companies. it attempts to reveal and clarify the roots causes of the misunderstanding in the dual-class share structure which started from the economic basis of ownership and voting rights, and combined it with empirical research and legal practice , and then to reexamine this structure. This study contributes to a deeper understanding and recognition of dual-class shares by taking a more comprehensive approach, which helps to prevent missing out on potential benefits in particular situations and influences its practical application. Meanwhile, selective bias also suggests that discreet policy-making is needed to address the current challenges facing emerging markets, instead of decision-making based on inherent prejudices.

Daniela Iancu
Lecturer, The National University of Science and Technology
Politehnica Bucharest, Romania

Press Freedom in Romania: Regulation, Realities, and Expectations in the Context of Adopting New European Regulations

Part of the freedom of expression, press freedom is guaranteed in Romania by the fundamental law. After the repeal, in 2012, of the press law adopted during the communist period, no new press law has been adopted. There have been initiatives in this regard, but the opposition from journalists, who feared the introduction of restrictions on press freedom, has been stronger.

Although Romanian legislation is, as stated, aligned with European standards, in reality, the freedom of the press in Romania has been subject to some criticism. Reports from international organizations, such as Reporters Without Borders, have highlighted various issues, such as political pressures on journalists, self-censorship in the media, and excessive concentration of ownership in the media industry.

The adoption of new European regulations could bring significant changes to the field of press freedom in Romania. Such regulations could impose higher standards for protecting journalists against political pressures and could promote transparency and pluralism in the media.

In consequence, the adoption of new European regulations is expected to bring significant benefits for press freedom in Romania, strengthening the role of a free press in democratic society and contributing to the protection of citizens' fundamental rights to information and media pluralism.

Lavinia-Olivia Iancu
Lecturer, Tibiscus University of Timișoara, Romania

The Principles of the Insolvency Procedure in Romania

The insolvency law in Romania is one with tradition, its first form being adopted in 1995. At that time, although no principles were expressly stipulated to govern this procedure, they could somehow be deduced from the interpretation of the legal norms. The legal consecration of the principles of the insolvency procedure can only be found in Law No. 85/2014, still in force today.

It should be stated that Law no. 216/2022 amended the legal rules regarding the principles applicable to insolvency. These principles can be summarized as follows: encouraging negotiations regarding the prevention of insolvency, maximizing the debtor's wealth, giving the chance for effective restructuring, efficiency, and reasonableness in the procedure, insolvency of the creditor mass, transparency and predictability, pro rata and pari passu rules, credit risk limitation, the superpriority of financing in the procedure, a representative and fairly assumed reorganization plan, useful and efficient capitalization, procedural coordination in the matter of the group of companies and legality control.

Alberto Iglesias Garzon
Assistant Professor, CUNEF University, Spain

The Role of Multinational Corporations in Supporting the EU Rule of Law: The Appeal to Democratic Values in Corporate Sustainability and Responsibility (CSR)

The international claim that Multinational Corporations (MC) must "Protect, Respect, Remedy" has undoubtfully an impact in supporting the Rule of Law. Exploring this impact requires a multifaceted approach, as MC activities, value chain and policies are regulated very heterogeneously. The gaps and inconsistencies between the different domestic regulations or the advantages provided for in international investment treaties, may allow MC´s careless behavior and disregard of basic Rule of Law principles. Given this context, how can the European Union (EU) regulations and policies discourage this (legally consistent although socially mischievous) behavior?

I explore and enumerate how the (large array of) EU policies might help enforcing the international claim for MCs operating within the EU. More specifically, those EU policies and regulations revolving around Corporate Sustainability and Responsibility (CSR), which are deemed to transform corporations in more resilient entities through the promotion of democratic values (broadly understood) in corporate governance. These democratic values focus on the ESG criteria (Environmental, Social, Governance) used to voluntary assess compliance and Due Diligence by corporations, including their supply chains.

Environmental, Social and Governance criteria are deeply intertwined with democratic values. They underpinned ethical claims in those fields in which the corporations have traditionally been more damaging: to the Environment (E), to the Society (S), and to the Democracy (G). The latter proposition is particularly relevant when observed from a "democratic stance" at the EU level. Notably, this approach to "(G)overnance" is very helpful to understanding how the corporations are to be transformed by the EU´s growing regulation and its strategic worldwide implications.

My take is that the basic objective of these norms is to approach corporations as an international agent, mature enough to make market decisions that contribute to extend the Rule of Law rather than compromise it because of market pressures. Wishfully, corporations should be considered as a Rule of Law supporter (both in and outside the EU), a contributor to the democratic public good instead of a free rider, to remain politically neutral although observing certain minimum standards. It also helps understanding the extraterritorial application of these values, as the norms and rules produced by the EU do not only apply to the

activities of the corporations but also to their supply chains (most likely allocated abroad under different jurisdictions). The extraterritorial request to complying with ESG criteria, especially when extending to underdeveloped states, shows the universality of the democratic values as considered by the EU and its Democratic and Fundamental Rights protection mandate. So, in this sense, promoting ESG means directly protecting Democratic values, Human Rights and the Rule of Law.

Therefore, my research will lie within EU norms produced under the "governance" criterium where concessions to "Democracy", "Rule of Law" and "Human Rights" are made. Through this exploration, I hope to showcase the overall EU strategy for corporations regarding the enforcing of democratic values through ESG promotion. As ESG claims might justify a growing demand for regulation and transformation of the role of the MC, nonetheless they still need to remain profitable, hence a balance among regulation and free market must be reached. At this point is where the strategy of the EU seems to look like a "nudge", rather than a "push". To achieve that these multinational corporations be transformed into an international agent promoting democracy, the EU entrusts the market to discriminate amongst leaders and laggards (so the former outrun the latter). In order to screen and map MC compliance, the EU demands self-disclosure of trustful information, so the market becomes more transparent. The consequences for laggards should result in either a forced exclusion or a transformation.

This strategy to adapt MCs to the social, environmental and energetic and technological transition seem to be consistent with the original assumptions that were at the origin of the CCE: to being able to promote peace and democracy through economic entanglement and development, this time at a worldwide level.

Ori Igwe
Senior Lecturer, University of West London, UK

Artificial Intelligence: A Twenty First Century International Regulatory Challenge

Artificial Intelligence (AI) is a twenty first century evolution. Certain aspects of AI have been integrated into daily living. AI applications have also been incorporated into the aviation, banking, cyber security, educational, employment, health, and military sectors respectively. However, the unpredictable nature of AI is a cause for concern because "In many instances, AI remains under the control of users and designers, but in increasing numbers of applications, the behaviour of a system cannot be predicted by those involved in design and application…..Newly developed machines are able to teach themselves and even collect data' (Stahl, 2021) Consequently, "The potential benefits and harms of AI have led to calls for governments to adapt quickly to the changes AI is already delivering and the potentially transformative changes to come. These include calls to pause AI development and for countries…. to deliver a step-change in regulation" (Tobin, 2023**).** "In March 2023, more than 1,000 artificial intelligence experts, researchers and backers signed an open letter calling for an immediate pause on the creation of "giant" AIs for at least six months, so the capabilities and dangers of such systems can be properly studied and mitigated" (Hern, 2023). What are the benefits of AI? What are the risks of AI? Which crimes can be committed via AI? What are the regulatory challenges? What has been the international response? In this article, we will explore whether there is a justification for regulating AI from ethical, legal and law enforcement perspectives.

Ambre Jarassier
PhD Student, University of Nantes, France

The Resurrection of the Roman *Senatus Consultum*, a Political Diversion of the Ancient Senatorial Institution by Napoléon

> "*The person of Caesar was [...] the guarantee of the supremacy of Rome over the universe and provided security for citizens of all parties: his authority was legitimate*", asserts Napoleon Bonaparte in Prıcis des guerres de Cısar.

The Napoleonic period drew freely on Roman law to find a new legal order. Indeed, French revolutionaries were brought up to worship ancient Rome and, more specifically, the Roman republic. Thus, Napoleon, from the moment he took power in the *coup d'ıtat* of November 9, 1799 borrowed terminology from Roman institutions. The Constitution of December 13, 1799 established the Consulate and placed the Senate at the heart of its institutions, making it the guardian of the

Constitution. Napoleon's political system is thus described by most historians as Caesarist.

However, comparisons with Rome must be measured. Ancient Rome had no written constitution. Romanists evoke the principle of a customary constitution of a particularly flexible nature. At the beginning of the republic, the Senate was an assembly of elders, then of nobles, the patricians. With *auctoritas* at its disposal, this assembly had the prerogative of transmitting opinions and advice to institutions possessing *imperium*. This advice is known as *senatus-consultum*. The violence of the 2nd century before Christ prompted the senators to create a new type of council: the *senatus consultum ultimum*. This allowed them to declare any Roman citizen guilty of or complicit in revolts to be an enemy of Rome. The political and legal challenge was to guard against any form of *tumults* or chaos. However, such a measure is not legally binding. This is not the case with Napoleon's *sınatus-consulte*.

The Napoleonic Consulate resurrected the *senatus consultum* on the occasion of an attempt on Napoleon's life in December 1800. The intention was to punish the perpetrators of the plot severely and swiftly. The *sınatus-consulte* thus appears to be closer to its ancestor, the *senatus consultum ultimum*. Nevertheless, while it remained an emanation of the Senate, it was initiated and promulgated by Napoleon, thus concentrating *auctoritas* and *imperium.* Moreover, Napoleon's *sınatus-consulte* was not content to intervene in the context of domestic unrest. Invariably based on the principle of necessity, it enabled the First Consul, then Emperor, to contaminate the various legal spheres, taking over the field of the

constitution, the law and the judiciary. The *sınatus-consulte* remains complex due to its amphibological nature. In fact, it has two meanings that must be understood simultaneously: a legal meaning and a political meaning. The number of *sınatus-consultes*, 116 in 14 years, was a particularly effective political weapon for Napoleon. Indeed, this complex nature enabled the regime to stabilize itself by using a flawed norm with legal overtones but profoundly political motivations. Napoleon took advantage of this loophole to forge his regime, even if it meant tirelessly circumventing his own constitution with *sınatus-consultes*.

Eric Jeanpierre
Senior Lecturer & Law Undergraduate Course Director, Kingston University London, UK

The Constitutional Borrowing of the French *Conseil Constitutionnel* in French Speaking Sub-Saharan Africa: A Determination of its Success with a Focus on Djibouti and Benin

Ever since the decolonization process, France has retained an essential role in the constitution-building of French-speaking sub-Saharan African states. Just like their written constitutions and general constitutional set up (see Horwitz), the origin of those states' constitutional review body, which took place during Huntington's third wave of democracy in the early 1990s, can be traced back to France, and its *sui generis* constitutional court model: the *Conseil constitutionnel*. There are currently 7 *Conseils constitutionnels* in sub-Saharan Africa (in Burkina Faso, Cameroon, Chad, Côte d'Ivoire, Djibouti, Mauritania and Senegal) as well as 10 *Cours constitutionnelles* with very similar features to the French *Conseil constitutionnel* (in Benin, Burundi, Congo, DRC, Gabon Guinea, Mali, Madagascar, Niger and Togo). This institutional model has come to develop in a fundamentally different manner in African states than it has in France.

This presentation aims to analyse the role of those constitutional review models within the African constitutionalism context, with a comparative focus on Djibouti and Benin. The constitutional borrowing of the French *Conseil constitutionnel* in both countries has been fundamentally different: the former stuck relatively closely to the French model, whereas the latter introduced a number of stark differences to the French model. Whereas the *Conseil constitutionnel* in Djibouti has been resorted to with parcimony, the *Cour constitutionnelle* in Benin has been extremely active. A number of explanations will be provided to explain those differences, focusing on the role of domestic factors (as identified by Ginsburg & Versteeg, Brown & Waller, and Hirshl) as well as international factors (as *per* Gleditch & Ward). In addition, a number of structural reasons and the *modus operandi* of the French *Conseil constitutionnel* will further provide an understanding of the issues at hand.

The theoretical framework will be based on the concept of 'constitutional borrowing' in comparative constitutional law. This will lead to the determination whether the reception of this borrowing has been successful or not, taking into account the explanation of Dixon &

Posner, and Tushnet to determine what amounts to a successful constitutional borrowing, within specific socio-economic contexts.

Barbara Jelonek-Jarco
Assistant Professor, Jagiellonian University in Kraków, Poland

Franchise Agreement – The European and Polish Perspective

Statistics show that franchise agreement is very popular in Europe. According to the European Franchise Federation (EFF), there are 8,500 franchise brands in Europe and of the brands developed in Europe, around 80% originated in EU domestic countries. Franchise agreement is not regulated in Polish law – it is an unnamed contract. Despite the lack of specific regulation regarding franchising, under Polish law the parties do not have complete freedom in shaping its provisions. Pursuant to Art. 353^1 of the Polish Civil Code: "the parties concluding a contract may arrange the legal relationship at their discretion, provided that its content or purpose does not contradict the properties (nature) of the relationship, the law or the principles of social coexistence." In the case of a franchise agreement, the possibility of negotiating it is significantly limited (or sometimes even completely excluded - depending on the franchisor's position on the market). As a rule, franchisors strive to ensure that all contracts concluded in their network have the same wording (and, consequently, that all franchisees have the same legal position in relation to the franchisor). For this reason franchise agreement may be described as an adhesion agreement.

Since the regulations do not introduce any requirements as to the content of the franchise agreement, its provisions are often very extensive regarding the obligations of franchisees and quite poor regarding the obligations of franchisors.

Research on court case files and judgments of courts shows that disputes arising from such contracts are frequent. In particular, they concern the payment of contractual penalties stipulated in the contract to the franchisor. However, when the project planned in the franchise formula does not bring the expected results, the dissatisfied party (usually the franchisee) questions the validity of the contract and tries to avoid all its consequences.

It is therefore necessary to find answers to three questions:

1. firstly, whether the regulation of the franchise agreement is purposeful and necessary,
2. secondly, should this regulation be comprehensive or partial - and cover only, for example, the pre-contractual stage (e.g. Belgium, Spain, Estonia)?

3. thirdly, where should the regulation be included - in a separate act or in the Civil Code?

Answering these questions require an appropriate balancing of interests of both parties to the franchise agreements and having in mind that (i) both parties to the franchise agreement are entrepreneurs (B2B relation), (ii) every regulation constitutes an interference within freedom of contract and (iii) on the European level there is no regulation concerning franchise agreement (whereas in relation to an agency agreement applies the Council directive of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents, 86/653/EEC).

In my presentation, I will outline the approaches to these issues applied in selected European jurisdictions and will propose answers to these questions.

Julija Jerneva
PhD Candidate, University of Latvia, Latvia

Excessive Pricing in EU Law: The AKKA/LAA v Konkurences padome Case and Historical Context

The scrutiny of excessive prices in EU competition law is relatively infrequent, making the Latvian court's preliminary reference in case C-177/16, Biedrība 'Autortiesību un komunicēšanās konsultāciju aģentūra – Latvijas Autoru apvienība' v Konkurences padome, a pivotal opportunity for the Court of Justice of the European Union (CJEU) to refine the concept and criteria for adjudicating excessive pricing cases.

Prices are generally deemed unfair if they significantly exceed the economic value of the provided service. This assessment, as established in the United Brands case, involves a two-tier test. Initially, it requires establishing whether the difference between the cost incurred and the price charged is exorbitant. Subsequently, if affirmative, it necessitates determining whether the price is inherently unfair or unjust in comparison with competing products (judgment of 14 February 1978, United Brands and United Brands Continentaal v Commission, 27/76, EU:C:1978:22).

The September 14, 2017, judgment in AKKA/LAA v Konkurences padome case, though well-known and widely discussed, presents a critical conceptual question: Does this test serve as the sole valid method for determining price excessiveness? Furthermore, the case explores whether exploitative abuse can be established when prices are deemed unfair for a specific customer group.

This submission will delve into the intricate details of the case as it progressed through national courts, highlighting aspects previously unexplored. This includes an in-depth analysis of the national authority's decision and the subsequent litigation in Latvian administrative courts. The final judgment, issued recently on 29 September 2023, marks a significant development in this discourse. This presentation aims to contribute a unique perspective to the European debate on excessive pricing, shedding light on the case's evolution post the CJEU's preliminary ruling.

Overall, this submission will not only dissect the nuances of the AKKA/LAA v Konkurences padome case but will also critically examine the broader implications of the CJEU's approach to excessive pricing within the context of EU competition law. This includes an analysis of how historical factors, such as the USSR's occupation, have been integrated into legal reasoning as an objective criterion in determining price fairness. Such a comprehensive exploration is

expected to provide valuable insights for academics, practitioners, and policymakers engaged in the field of EU competition law.

Franaaz Khan
Senior Lecturer, University of Johannesburg, South Africa

A Discussion of the Effects of Artificial Intelligence and Negligence in the Law of Delict (Tort) in South Africa

An enquiry into negligence involves evaluating a defendant's conduct according to a standard that is acceptable to society. This standard is expressed with reference to a fictitious 'reasonable person' that represents society's expectation of adequate and reasonable conduct in the law of delict. It represents an objective standard that all legal subjects must adhere to by paying sufficient attention to ensure that their conduct is in line with the standard of care that society expects. However, this test of negligence in delict would in the near future require reform as there has been the new era of Artificial Intelligence (AI) that has legal implications. AI a term that will be unpacked further in this article has saw it already diagnosing diseases, drafting legal contracts, and providing different levels of service. What happens in instances where these AI systems cause harm? How should South African law respond to accidents caused by AI? It is acknowledged that South Africa has an existing body of law in delict that deals with injury and harm. It provides a mechanism of compensation for an aggrieved party. Delict involves the standard of negligence in certain cases and that is pinned on a reasonable man test. However, would this test be the best fit given the changes in law? If an AI causes harm or damage the standard of the hypothetical reasonable man would not suffice. In South Africa, AI and the development of computer systems to perform tasks usually requiring human intelligence is progressing. However, as AI improves our everyday life, it also raises human anxiety and concern. The law needs to play catch up to this rapid and growing change in technology. In South Africa there is no legislation dealing specifically with AI and its legal issues that follow. Given the context that the discussion of AI and the law is a mammoth task to undertake, this article will focus only on the aspect of the reasonable man test in the law of delict and how the law can adapt or modify itself in respect of developing AI and cases of harm that are caused by an AI system in delict.

The article will firstly examine the historical reasonable man test in South Africa and further unpack the concept of AI. The article will further examine and discuss the implications that AI has in respect of delict. The current legislative framework in South Africa is highlighted. In addition, this paper examines the international changes made in respect of delict or tort law in respect of AI. Finally, the paper provides

recommendations as to how South Africa can position itself in respect of delict and AI.

Tshilidzi Knowles Khangala
Lecturer, Tshwane University of Technology, South Africa

A Critical Examination of the Constitutional Implications Surrounding the Parental Presence Requirement for Pregnant Pupils during Examinations in Certain South African Schools

The rule or requirement mandating parental presence during exams for pregnant pupils in certain South African schools is a significant measure aimed at providing support and safeguarding the well-being of pregnant learners. However, a recent incident in November 2023 at Nyamazane High School in Bushbuckridge, Mpumalanga, highlighted the challenges associated with this rule. A pregnant pupil was reportedly denied the opportunity to write a matric exam paper because she was not accompanied by her mother, as required by the school's rules. Despite returning with her mother shortly thereafter, she was deemed too late to take the exam. This incident underscores the complexity surrounding the implementation of such policies and their potential impact on learners' rights.

This paper undertakes a constitutional analysis of the rule mandating parental presence for pregnant pupils during examinations in certain South African schools. Through a critique of the legal and ethical dimensions, it explores the implications of such a requirement on the rights of pregnant students, considering constitutional provisions and international human rights standards. By evaluating the necessity, proportionality, and potential discriminatory effects of the policy, this study aims to contribute to the ongoing discourse on education equity and reproductive rights in South Africa.

This study employs a qualitative research approach to conduct a comprehensive constitutional analysis of the requirement for parental presence during exams for pregnant pupils in specific South African schools. Grounded in South Africa's constitutional jurisprudence and educational policy context, the research investigates the legal foundation, rationale, implications, challenges, and potential solutions associated with this requirement.

This study seeks to contribute to ongoing discussions surrounding children's rights, constitutional protections, and the intersection of education and reproductive health. By examining the constitutionality of the parental presence requirement, it aims to inform policy debates and promote the development of inclusive and rights-based approaches to education for pregnant learners in South Africa.

Bongani Khumalo
Senior Lecturer, University of South Africa, South Africa

Sidonselwa Iholo Ngokungemthetho: 'No Work, No Pay', Lawful Deductions or Employer's Self-Help, in Search for Practical Guidelines

Sidonselwa iholo ngokungemthetho is a Zulu expression which means 'there's unlawful deductions against our remuneration' when loosely translated. The employment relationship is reciprocal in nature in that it entails obligations for both parties. The employee has an obligation to work, and the employer has a duty to pay remuneration. If the employee does not render services for various reasons, the employer is entitled withhold their remuneration. Moreover, there are cases where the employer overpays what is due to an employee and entitled to recoup the overpayments. The question is how to go about this within the parameters of the law. The South African labour law endeavours to protect employees in the unequal employment relationship with the employer through legislative provisions such as section 34(1) of the Basic Conditions of Employment Act 75 of 1997 (hereafter, "BCEA") which prohibits the deduction of employees' remuneration unless the employee consents in writing or the deduction is required or permitted in terms of a law, collective agreement, court order or arbitration award. This article discusses the common law principle of 'no work, no pay'; the legislative protections against arbitrary deductions from employee's remunerations and how the courts have interpreted these. The discussion shows that there's a lot of misunderstanding and uncertainty on both employers and employees on how the issue of deductions must be handled and this fuels the exasperation experienced by both parties. Fortunately, the pronouncements of the courts have given us a few principles to work with when considering the issue of deductions from employee remuneration.

Beatrice La Porta
Research Fellow, University of Palermo, Italy

Innovative Legal Frameworks for Advancing Sustainability: A Case Study in the Wine Sector

In the agri-food sector, the concepts of sustainability and circular economy hold paramount importance. Addressing these concepts requires a legal framework that acknowledges the inherent complexities and the absence of a universally binding legal definition of sustainability. This is particularly relevant in the context of European Union (EU) policies on sustainability, where the need for a comprehensive legal approach is underscored.

Within the agroalimentary landscape, the wine sector emerges as a trailblazer in sustainability efforts. The wine industry, as a vanguard of sustainability, showcases the efficacy of concerted efforts. The Italian Ministry's development of a comprehensive sustainability specification underscores the sector's commitment. This specification influences

positive change within the wine supply chain but also serves as a replicable model for other industries grappling with sustainability challenges.

My presentation will provide a deep legal analysis, focusing on the key considerations in developing contracts that mandate sustainability in the wine sector. The adaptability of these legal frameworks to other industries will be a key highlight, showcasing the universal applicability of innovative legal solutions. The legal approach in my presentation, therefore, plays a pivotal role in aligning public and private interests, facilitating the creation of model contracts that bind stakeholders. These contracts, in turn, enable the development of more sustainable plans with a positive impact on society at large.

Aims to explore groundbreaking legal frameworks and contractual models that drive sustainability, my presentation drawing insights from the ongoing IN-WINE project—an interdisciplinary initiative granted over €200,000 by the Italian Ministry through EU PNRR funds—the financial support underscores the governmental acknowledgment of the significance of legal innovation in advancing sustainability.

While IN-WINE is centered on the vitivinicultural industry, my presentation will emphasize the broader applicability of the proposed legal model. It will showcase how the legal framework is adaptable and scalable, encouraging reflections on its application in various contexts beyond the wine sector.

Developing contracts that mandate sustainability in the wine sector involves navigating the intricacies associated with the broad concept of

sustainability. A lack of a binding legal definition poses challenges, emphasizing the need for a nuanced legal approach. This is particularly crucial within the framework of EU policies on sustainability, which necessitate legal solutions capable of accommodating the diverse facets of sustainability and circular economy practices.

An effective legal framework must reconcile public and private interests to construct model contracts that bind stakeholders. This approach facilitates the creation of sustainable plans, fostering a positive societal impact. By addressing the complexities of sustainability, the legal model ensures that contractual obligations align with the broader goals of sustainable development, creating a harmonious relationship between stakeholders and societal well-being.

The proposal champions an interdisciplinary approach, acknowledging that sustainability challenges require collaboration across legal, scientific, and economic domains. The presentation will consider how the IN-WINE project exemplifies the efficacy of interdisciplinary collaboration in addressing complex sustainability issues.

The presentation will conclude with reflections on the broader implications of the legal model, sparking discussions on how similar frameworks can catalyze positive change across diverse sectors.

Anna Labedzka
Senior Lecturer, Kingston University London, UK

Conditionality at the Time of Geopolitical Uncertainty: A Review of Application of Conditionality in the EU-Ukraine Relations

The Russian invasion of Ukraine has a plethora of consequences that include its impact on the changing dynamics of the European integration. On 23 June 2022 Ukraine was granted candidate status by the European Council. This decision requires a closer examination of the role of conditionality in the relations between the European Union (EU) and Ukraine.

Almost two decades ago the European Neighbourhood Policy (ENP) was launched to enable the EU to shape its 'ring of friends', including Ukraine, in the name of stability, security and democratic principles. Effectiveness of this policy and overall security of Europe strongly depends on development of bilateral relations between the EU and each of its neighbours. These relations are governed by the EU's drive to introduce effective interdependence between internal reforms, socio-economic transformation, and democratisation of the EU neighbouring partners with their progressive integration with the EU. These are nothing else but instruments of conditionality. This mechanism is not new, as it had been developed long before the launch of the ENP for the purposes of the pre-accession policy. Nevertheless, application of conditionality within the ENP framework is far more challenging and its failure pose as powerful risk factor. The focus of this presentation will be on the developments in EU-Ukraine relations. Ukraine was chosen by the EU to be the first country among the Eastern Partnership (EaP)• states to negotiate a very ambitious new generation association agreement.

An analysis of conditionality that led to conclusion of this agreement as well as instruments of conditionality introduced by it should not be a purely legal exercise. Hence the impact of the geopolitical developments leading to unlawful annexation of Crimea and the 2022 war will serve as a point of departure for a holistic analysis of changing dynamics of conditionality applied vis-à-vis Ukraine. Furthermore, it is beneficial to explore how the European Commission laid down the conditions in Avis (Opinion on Ukraine's application for membership of the European Union) building on the ENP conditionality, which is currently employed in the pre-accession context.

Ukraine, tormented by Russian attacks, is devoting its limited resources to pursue the much sought-after route leading to its EU membership. The following research questions will be considered. First, to what extent the new generation of association agreement envisaging complex gradual law approximation leading to establishment of closer economic relations, enables Ukraine to meet the demands of conditionality and pave the way for the country's EU membership? Second, the EU's acceptance of the Ukrainian application must be considered in broader ramifications of effectiveness of the conditionality model. Namely, is the pre-accession model of conditionality still fit for purpose?

• *One of the regional schemes within the ENP framework.*

Binghan Li
Postgraduate Student, Southwest Petroleum University, China
&
Jingjing Fu
Professor, Southwest Petroleum University, China

Climate Change Litigation and Causation: Joining Law and Climate Science

Climate change litigation has attracted renewed interest as a government tool to mitigate climate change globally. However, a key challenge in the climate change litigation is the assess the factual basis of causation. The reason is that, on the one hand, the causes of climate change are still scientifically uncertain. On the other hand, it is a challenge lies in that how attribution science interacts with the legal admissibility of evidence has to be legally admissible in order to be considered in a trial. It is well known that wile evidence has to be legally admissible in order to be considered in a trial, it has to be reliable in order for the court to arrive at a legally correct conclusion.

Currently, China is establishing the climate change litigation regime in order to achieve the "Dual Carbon Target". Undoubtedly, China's trials will also face the similar challenge in determining causation relationships. Hence, Conducting empirical research on existing international climate change litigation cases can provide guidance for the establishment of China's climate change litigation system and the enhancement of its evidentiary standards.

The first contribution of this article is to identify commonalities of successful cases in the specific area of causation evidences by analyzing individual cases and evidence of these claims. In addition, this article will also assess the scientific and legal bases for establishing causation and evaluate judicial treatment of scientific evidence in unsuccessful lawsuits. It is concluded that greater appreciation and exploitation of existing methodologies in attribution science could address obstacles to causation and improve the prospects of litigation as a route to compensation for losses, regulatory action, and emission reductions by defendants seeking to limit legal liability.

The second contribution of this article is to summarize the issue of legal causation and judicial treatment of scientific evidence based on China's existing environmental litigation cases. We find that the evidence presented by the plaintiff is generally difficult to meet the proof standard that there is a risk of triggering climate change and causing harm, making it difficult for the court to support the plaintiff's claim.

Last, to maximize the chances of establishing causation in the courts, we suggest that plaintiffs should ensure that (1) cases filed concern impacts that are demonstrably attributable to climate change, and (2) that evidence submitted to the courts clearly substantiates the alleged relationship between defendants' emissions and plaintiffs' losses. As to the court, we suggest that (1) the court should allow individuals with specialized knowledge to testify, and (2) the court shall accept research reports from authoritative international organizations as evidence in litigation.

Sara Mahilaj
PhD Student, University of Urbino Carlo Bo, Italy

International Criminal Court and its Involvement in the Russian Invasion of Ukraine

The International Criminal Court (ICC) is a permanent international tribunal established by the Rome Statute in 2002. The ICC is known for the important role it plays in examining and, when necessary, prosecuting individuals accused of the most serious offenses. This paper will focus on the ongoing conflict that is happening with Russia and Ukraine, which has caused great damage not only to them as a state but also to the whole world. This conflict puts into question the effectiveness of international law and, in the specific case being analyzed, the International Criminal Court.

In 2014, Ukraine referred the situation that was happening in its own territory to the ICC, alleging crimes committed by both Ukrainian and Russian forces. This referral opened the possibility of investigation by the court and was followed by many reactions. In December 2020 the Office of the Prosecutor of ICC released a statement and stated that there was reasonable basis to believe that war crimes and crimes against humanity had been committed. On March 2022 ICC prosecutor Karim Ahmed Khan stated that he had received referrals from 39 states, and explained it is a sign of international support for ICC's involvement in addressing alleged crimes committed in Ukraine. It was after the statements, that the Pre-Trial Chamber, at the request of Prosecutor Khan on the grounds that they were in conflict with Article 8(2)(a)(vii) and Article 8(2)(b)(viii) of the Rome Statute, issued an arrest warrant against the President of Russia Vladimir Putin and Commissioner for Children's Rights in the Office of the President, Maria Alekseyevna Lvova-Belova on March 17, 2023.

The arrest warrants are related to numerous challenges, starting from the fact that Russia withdrew from the ICC in 2016 after the situation with the annexation of Crimea and as a result Russia has no legal obligation to cooperate with the ICC. But on the other hand, this situation creates problems for President Putin himself, since as this paper points out, countries that are part of the ICC can arrest him if he enters in their borders, and as a consequence, this leads to his isolation.

To add more, the recent enactments of a law by Russia on April 2023, criminalizing assistance to foreign and international bodies has raised concerns regarding justice for victims of serious crimes. This law explicitly prohibits cooperation with international bodies, especially those in which Russia is not a part, such as the ICC, making the

sentence up to 5 years in prison. This decision from Russia as well as the problem of jurisdiction are challenges that raise many questions about safety, ensuring accountability and impending efforts to seek justice for victims of criminal offenses.

In conclusion, this paper requires to answer this research question: What are the implications and challenges of the International Criminal Court's involvement in investigating and potentially prosecuting war crimes in the context of the Russian invasion of Ukraine? It aims by this to provide a comprehensive and insightful analysis of this central international issue, shedding light on its complexities and potential implications in the future.

Eliza Maniewska
Assistant Professor, University of Warsaw, Poland

Employment Relationship, Emergency Situations, Formal Models of 'Emergency' Labour Law (Outline of Main Issues)

COVID-19 epidemic has undoubtedly had an impact on the revision of and the need to apply a new approach to factual conditions of employment as well as the legal environment connected therewith that affect the legal situation of parties to an employment relationship.

At the same time, however, recent experience has highlighted and in fact raised awareness of the need to consider the issue in a much wider scope i.e. also covering all kinds of other extraordinary circumstances (states), including war, natural disasters, Force Majeure, etc. This need has been reinforced as a result of the current military invasion in Europe (the war in Ukraine) which may evolve into a wider conflict.

In this respect, the most important issue seems to be the decoding of axiological grounds for the modification of employment relationships regulation in connection with the occurrence of extraordinary circumstances.

The exact question to be asked is whether and to what extent deviations are admissible from the principles that shape these relationships under normal circumstances. To start with, one should note that the potential spectrum of values that one should be guided by in this respect is very wide: starting from the values preferred in connection with the occurrence of such circumstances in the Constitution and international regulations, via the framework of axiology of the Force Majeure in private law and ending with the principles of spreading the contractual risk in employment agreements and other employment relationships.

Another important matter is the issue of the theory of law model of legal regulations dedicated to regulate the employment relationships under such circumstances. In particular, whether the employer should apply ad hoc solutions or whether at least a framework of adequate regulations should already be in place, adopted and proceeded during the period in which the situation is stable i.e. all democratic principles are upheld and there is a relatively sufficient space for the fully realised idea of social dialogue.

When discussing the topic it is also necessary to present the factors that should be taken into consideration when determining the ultimate shape of individual legal institutions (their legal and non-legal

determinants) as well as resolve which regulation method (administrative or private law method) suits better matters of such kind.

Finally, one must ask oneself a question to what extent adequate to the situations under discussion are the regulations and models designed for the circumstances connected with economic crisis with which we seem to have more extensive experience.

The article contains the thesis, that the adequate research context of this issue should be the risk connected with the activities of an employer understood as the possibility of occurrence of certain potential circumstances connected with the performance of the employment relationship, and in particular with the achievement of goals for which the relationship was concluded (satisfaction of interests of the parties that justify the commencement of the employment relationship). In normal situations, the principle is that a party to the employment relationship that bears the consequences of these (adverse) circumstances is the employer and not the employee. The point is whether the occurrence of an extraordinary situation should change this and if so, to what extent.

Katlego Arnold Mashego
Lecturer, Tshwane University of Technology, South Africa

Possible Contribution by BRICS to the AfCFTA: Towards Economic Development and Consequently the Enforcement of Socio-Economic Rights in Africa

As of 1 January 2024 BRICS will be having three African Countries, the current member, South Africa and the two newly admitted countries, Egypt and Ethiopia. This paper will argue that this is a gain for Africa. With the AfCFTA being hope for economic boost in Africa, it is anticipated that BRICS will as well add to economic development in Africa.

This paper will argue that economic development in Africa is an urgent matter that needs urgent attention and all the available opportunities must be seized. The argument being that the economic development will consequently lead to the enforcement of socio-economic rights.

Poverty rates in Africa are shocking, it has been reported that most poverty is concentrated in the Sub-Saharan Africa region, poverty at one of the sub-regions of Africa is above 50%. This paper will also argue that in order for Africa to address its challenges, particularly, the economic development challenges, African leaders must come together and attempt to work as one. Also, Africa must deepen relations, particularly with those states that share similar challenges with Africa.

Miriam Mbah-Amanze
Lecturer, The Open University, UK

Examining Gender Responsiveness in the Welsh Public Procurement Framework

Public procurement has been used to address social, economic, and environmental goals such as ethnic minority participation in public procurement, modern slavery, green or climate-friendly procurement and promoting gender equality. However, little empirical research has been carried out to investigate the responsiveness of procurement to gender inequality in the UK, especially in Wales. Gender-responsive public procurement refers to selecting services, goods and civil works that consider their impact on gender equality, women's empowerment, and advancement. Public procurement systems with little or no gender equality tend to have few women-owned or/and led businesses in their supply chain. They fail to adopt practices encouraging this group's access, participation, and progression in tendering opportunities. The paper bridges the gap in the literature by adopting a mixed-method approach in investigating the inclusiveness of women-owned and led businesses in public procurement, using Wales as a case study. The paper will examine the extent to which current public procurement laws and policies support gender inclusiveness and through a quantitative longitudinal survey, will share the experiences of women-owned and led businesses in accessing, participating, and winning public contracts advertised by 22 local authorities in Wales. The paper will also recommend changes to improve gender responsiveness in the Welsh public procurement framework.

Karine Millaire
Assistant Professor, University of Montreal, Canada

Reconciling 'Sovereignties': The Constitutional Duty to Co-Develop Legislation with Indigenous People

While the genesis of persisting debates on fundamental concepts such as justice, sovereignty, democracy and law is commonly traced back to Ancient Greece, more recent readings of human history redefine the "dawn" of the modern civilization and state in acknowledging the significant contribution of First Peoples and their pre-existing governance. Similarly, following the *United Nations Declaration on the Rights of Indigenous People (UNDRIP)*, the decolonization of the law process requires the full acknowledgment of the inherent rights of Indigenous People to self-governance grounded in their pre-existing sovereignty.

In the Canadian context, this tension between the Crown's assertion of sovereignty and the Indigenous peoples' pre-existing sovereignty "creates a special relationship that requires that the Crown act honourably in its dealings with Aboriginal peoples". The honour of the Crown principle commands to 'reconcile, not to choose between, these two 'sovereignties', and grounds constitutional obligations such as the duty to consult.

This paper further argues that Indigenous peoples' inherent and constitutional rights rooted in their pre-existing sovereignty also ground a constitutional duty to co-develop legislation with them on matters affecting their rights and interests. While the justiciability of the right of Indigenous peoples to co-developed legislation remains a matter of debate, recent conclusions of courts affirming their inherent right of self-government and the incorporation of UNDRIP into Canada's domestic positive law could support this thesis.

Anka Mohoric Kenda
Director, Company Farmed, Slovenia

Fair Satisfaction Due to Violations of Patients' Rights in Healthcare

The purpose of this article is to examine the meaning of the institution of just satisfaction under Article 41 ECHR, which could be used to give effect to the judicial protection of rights in the health care sector. The research is based on the already established methods of legal science, using historical, normative-dogmatic, comparative, axiological and sociological methods. Within the theoretical approach, the study of legal sources was based on a review of existing literature by national and foreign authors. The research focuses on the descriptive and explanatory part of the issue and the understanding of the right to health at the international level and in the Republic of Slovenia. It summarises the international legal bases on which the commitments of the Member States of the European legal area for the implementation of the judicial protection of rights in health care are based. This article reveals and presents a view on the normative regulation of the field of scientific study and points out the shortcomings of the regulation of the judicial protection of rights in health care in the Republic of Slovenia.

It follows from the case-law of the ECtHR that when it awards just pecuniary compensation for non-pecuniary damage, it bases the amount awarded on a fair assessment and determines pecuniary compensation on an equitable basis. In general, the amounts of compensation awarded by the ECtHR to the complainants in their claims for non-pecuniary damage are significantly lower than those claimed by the complainants. A review of the case law of the CJEU and the ECtHR does not show a clear general approach on how non-pecuniary damage should be dealt with, for example, as regards the requirements necessary for sufficient proof of damage.

The study concludes that the interference with a patient's right protected by law results in an interference with the patient's private life, which should require the court to mitigate the ongoing violation and its consequences without undue delay. The patient should be able to exercise judicial protection of his rights in the health sector within the framework of the national system by establishing the institution of just satisfaction under Article 41 ECHR. It remains open to debate where the limits are and what is the extent of mitigation of the adverse consequences suffered by the injured party in the health care system. It is also unclear how the courts evaluate adverse consequences in emergency situations where the environment is high-risk.

Cat Moon
Founding Co-Director, Vanderbilt AI Law Lab, Vanderbilt University, USA

Reimagining Pro Bono in the Age of AI

Access to civil justice in the United States is hindered by systemic barriers, leaving millions of people without legal representation in situations impacting their most basic and consequential needs like health, housing, and employment. To help address this gap, the legal profession has created a system of pro bono service, wherein lawyers provide 1:1 legal counsel at no cost to clients. This paper critically examines this conventional pro bono legal service model, highlighting its inherent limitations in addressing the vast justice gap. By leveraging insights from empirical data showcasing the extent of the crisis, it advocates for a transformative shift in legal service delivery.

The paper elucidates how emerging technologies, particularly artificial intelligence (AI), present unprecedented opportunities to revolutionize pro bono practice. It examines the shortcomings of the prevailing 1:1 service model, emphasizing its inability to meet the escalating demand for legal assistance. Through theoretical analysis and practical examples, it explores the potential of AI-driven platforms to democratize access to justice, empowering individuals to navigate legal challenges independently.

In addition to technological considerations, the paper interrogates the cultural impediments within the legal profession that hinder innovation in pro bono practice. It argues for a reconceptualization of lawyers' ethical obligations in light of the evolving legal landscape, emphasizing the imperative to embrace technology to fulfill these obligations more effectively.

Central to its argument is the assertion that reimagining pro bono through the lens of AI offers a significantly more viable path toward addressing the justice gap at scale. By reframing pro bono as a catalyst for technological innovation, the paper advocates for a collaborative approach that engages legal professionals, technologists, community services providers, and policymakers in envisioning a more equitable future for legal service provision.

Andre Mukheibir
Professor, Nelson Mandela University, South Africa

Tort Law and Gender-based Violence in South Africa

Tort law is known as the law of delict in South Africa. Much of the development of the South African tort law has taken place by virtue of the Constitution of the Republic of South Africa and its predecessor.

The Constitutional Court recognised the imperative to develop the common law in *Carmichele v Minister of Safety and Security*:

> "Section 173 of the Constitution gives to all higher courts, including this Court, the inherent power to develop the common law, taking into account the interests of justice. In section 7 of the Constitution, the Bill of Rights enshrines the rights of all people in South Africa, and obliges the state to respect, promote and fulfil these rights. Section 8(1) of the Constitution makes the Bill of Rights binding on the judiciary as well as on the legislature and executive. Section 39(2) of the Constitution provides that when developing the common law, every court must promote the spirit, purport and objects of the Bill of Rights. **It follows implicitly that where the common law deviates from the spirit, purport and objects of the Bill of Rights the courts have an obligation to develop it by removing that deviation.**" (own emphasis).

In a number of ground-breaking cases, the courts have developed the common law by casting the net of the law of tort wider to ensure that there is accountability for serious instances of gender-based violence. The courts have interpreted elements such as wrongfulness through the prism of the Constitution, while at the same time guarding against the fear of limitless liability. The courts have, furthermore, interpreted the law regarding the "course and scope" requirement in vicarious liability "deviation cases", to hold the Minister of Police liable for intentional police misconduct of raping members of the public.

This paper will explore the development tort liability against the background of four Constitutional Court cases. The question as to whether this development has been successful in abating the scourge of gender-based violence is complicated. While the police have been held liable over a period of more than a decade for especially failures to protect the vulnerable, specifically women and children, statistics paint a sad picture of violence against the vulnerable continuing unabated. The amounts of damages that are paid out to individual plaintiffs could, furthermore, be utilised to prop up an ailing police force.

Emmanuel Nartey
Senior Lecturer, Bath Spa University, UK

Assessment of 'Elective Dictatorship' and 'Partisan Politics' under the Rule of Law and Ethics

This article establishes the theoretical framework for evaluating the concepts of 'elective dictatorship' and 'partisan politics' within the broader context of the rule of law and ethics. It critically examines these notions to diverge from the conventional practice of parliamentary sovereignty in instances of power abuse. The term 'elective dictatorship' describes a scenario where an elected political party wields substantial power without effective checks and balances, leading to a concentration of power within the ruling party. This situation raises concerns about the erosion of democratic principles and potential power abuse. Closely linked to this is the concept of partisan politics, where alignment with a particular political party leads to abuses of power, challenging the principle of parliamentary sovereignty. Various factors, including ideological, social, and economic considerations, contribute to this dynamic. In a healthy democracy, political parties play a crucial role in representing diverse interests and offering voters choices. However, when partisan politics becomes overly polarised and prioritises gaining and maintaining power at any cost, it can foster an elective dictatorship. Therefore, this article reviews existing literature in this domain and addresses these concepts within the context of the rule of law and ethics. It aims to fill a gap in the literature by establishing the conceptual parameters for 'elective dictatorship' and 'partisan politics' and argues that when both are used to undermine the judiciary, the court has a duty to depart from traditional norms. It further recommends that courts assess any legislation enacted by the government and Parliament against the rule of law, morality, and ethics.

Nomthandazo Ntlama-Makhanya
Professor, University of Fort Hare, South Africa

"Self-policing" or "Independence" of the Judiciary in Transformative Adjudication in Africa?

The year 2023 marks 75 years following the adoption of the Universal Declaration of Human Rights in 1948 which has since become integral in the democratization and transformation of the adjudicative role of the courts. The UDHR has been inspirational in the development of contemporary Constitutions that endorsed the independence of the judiciary that has become integral in the impartial exercise of judicial functions which would in turn give effect to the generation of public confidence in the justice system. Judicial independence is of paramount importance in the balance of power that is endorsed by the doctrine of separation of powers. Thus, pertinent questions arise from the 'independence' whether the judiciary is '*policing itself*' and or '*able to police itself*'. The judiciaries of the world subscribe to the code of judicial conduct such as the Bangalore Principles of Judicial Conduct that give substance to the requisites of the UDHR in the endorsement of the independence of the judiciary. Africa, particularly South Africa, with its history that was plagued by draconian laws, the judiciary was the yardstick against which to enforce such laws, compromising the significance of the principle of independence and the broader fulfilment of human rights. Today, the country prides itself with a transformative Constitution, 1996 that is designed not only to uphold judicial independence but bring back human rights from 'constitutional blankness' in giving effect to the prescripts of international human rights laws.

Against this background, this article is motivated by two judgments and one emanating from the High Court where the sitting President of the Republic of South Africa was found to have violated the prescripts of traditional law in the appointment of the successor to the status of Kingship in ***Prince Mbonisi Bekithemba Ka BhekiZulu v President of the Republic of South Africa*** (19891/2022[2023] ZAGPPHC 1982. The second judgment was against the former President of the Republic of South Africa who sentenced to 15 months imprisonment for defying a Constitutional Court judgment in ***Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption in the Public Sector including Organs of State v Zuma*** 2021 (9) BCLR 992 (CC). The two cases touch on the core content of the principle of independence which is foundational to the adjudicative role of the judiciary in the promotion of human rights without any distinction. They are also unprecedented for the former President to be sentenced to imprisonment

and the sitting President to be found to acted outside the scope of his authority. The article argues that the foundations of South Africa's new constitutional dispensation are grounded on the rule of law that has since become a universal model for judiciaries in contemporary Africa in transforming the jurisprudence that emanates from the courts. The argument will serve as a determinant on the question raised herein whether 'independence' infuses self-policing or enabler to police not just through reasoning but carriage of personal and institutional independence in protecting the integrity of the judiciary.

Mihaela-Adriana Oprescu
Lecturer, Babes-Bolyai University, Romania

Some Developments and Vulnerabilities in the Child Rights Protection System under the Umbrella of the European Family

Eimys Ortiz-Hernandez
Tenure-eligible Lecturer "Serra Húnter", University of Lleida, Spain

The (Neglected) Rohingya Dilemma and Systematic Infringements of Human Rights: A Call for Global Accountability?

In this scholarly contribution, we scrutinize the prospects for accountability within the realm of two paramount international judicial entities: the International Court of Justice (henceforth, ICJ) and the International Criminal Court (henceforth, ICC), in the context of the persistent human rights transgressions against the Rohingya. This matter garners significant interest, as the global community has largely overlooked the prolonged narrative of human rights abuses by Burmese officials, resorting primarily to economic sanctions as the sole credible intervention. Legally speaking, the engagement of these two Courts, under their respective jurisdictions, to delve into and address these issues underscores the potential for Public International Law to evolve one of its most sought-after dimensions as championed by the international civil society: the crusade against impunity and ensuing protection for the victims.

The plight of the Rohingya is not merely a contemporary concern; historically, save for the brief tenure of Prime Minister U Nu in the 1950s, this ethnic group has been subjected to recurrent bouts of violence, notably intensified post the 1962 *coup d'état* by General Ne Win. Despite acknowledging its diverse ethnic tapestry - encompassing up to 135 national minorities -, Myanmar effectively enforces de jure discrimination against the Rohingya, stripping them of their nationality. This is premised on the official stance that the Rohingya are not Burmese by origin but descendants of migrants or Bengalis who migrated during the developmental phase initiated by the former colonial power, the United Kingdom. This narrative conveniently overlooks the shared historical coexistence of Buddhist, Muslim, and even Hindu influences in Arakan (now the state of Rakhine). Rakhine, situated along the Bay of Bengal and isolated from the mainland by the Arakan Mountain Range, bordering Bangladesh, historically a nexus of Indo-Burmese ethnic-religious confluence, epitomizes the stark antagonism towards national minorities or ethnic groups.

Our discourse pivots on two critical judicial decisions. Firstly, the ruling by the ICC's Pre-Trial Chamber I, prompted by the former Prosecutor Fatou Bensouda, on the competence and jurisdiction to probe and adjudicate crimes of forced deportations occurring partially within the jurisdiction of a Rome Statute State Party - Bangladesh -

following expulsion from a non-signatory State. Secondly, the petition before the ICJ by Gambia, seeking not only provisional measures but also a declaration of Myanmar's contravention of various clauses of the Genocide Convention vis-à-vis the Rohingya populace.

These cases not only generate legal intrigue regarding the substantive facets - the elucidation and extent of the crimes under review - but also raise procedural considerations. Specifically, the delimitation of jurisdictional authority of the Courts and, potentially, the admissibility of the claims, promise to offer valuable insights for other scenarios involving grave human rights infractions.

Rich Owen
Director, Swansea Law Clinic, Swansea University, UK

Forming Multi-Disciplinary Partnerships to Provide Holistic Care to Legal Advice Agency Clients

Swansea Law Clinic works within a policy context set for social welfare law advice agencies by the UK and Welsh governments. In relation to Welsh law and policy, the sustainable development principle is the central organising principle of government in Wales, and it has made the first attempt in the world to enshrine the UN Sustainable Development Goals into legislation in the form of the Well-being of Future Generations (Wales) (the Future Generations) Act 2015.

The Future Generations Act has seven interlocking environmental, social, economic and cultural well-being goals. In addition, there are five ways of working: taking a long-term approach; preventing problems occurring or getting worse; taking a collaborative approach; involving people with an interest in achieving the well-being goals; and integrating the seven well-being goals.

The Act also establishes Public Services Boards in each Local Authority area. They are required to assess the state of well-being locally, set objectives and produce a plan designed to improve economic, social, environmental and cultural well-being in their local area, maximising their contribution to the well-being goals. The Welsh Government has established and supports Regional Advice Networks (RAN). This is a forum which can facilitate the advice sector's influence over local well-being plans and meets regularly with the Welsh Government to influence its National Action Plan for the advice sector.

The presentation will look at whether this policy context can facilitate and support the development of holistic advice to the Clinic's clients through better integration of legal, educational and medical services.

In particular, it will look at the Clinic's role in the Townhill Children's Zone. This is a multi-agency network led by a local secondary school with the aim of increasing the number of children from this economically and socially challenged locality who go to university.

Other network members are the local feeder primary schools, the local medical practices, the local authority's Children and Young People Strategy Unit and a local youth centre.

TCZ takes its inspiration from the Harlem Children's Zone, which has been seen as ground-breaking in tackling intergenerational poverty

and increasing the number of young people from an economically challenged area who graduate from higher education.

The TCZ project is a comprehensive, place-based approach to using law to help in community regeneration through tackling issues such as poverty, poor health, educational underachievement and high crime rates. Access to justice research over two decades has documented the health-harming effects of unmet legal needs. There is growing evidence of bidirectional links between law and health demonstrating that social and economic problems with a legal dimension can exacerbate or create ill health and, conversely that ill-health can create legal problems (Genn, 2019). The project will explore whether closer integration of legal and medical services in an educational setting will lead to better educational outcomes.

Maria Belen Paoletta
Professor, University of Buenos Aires / Argentine University of Enterprise, Argentina
&
Ivan Levy
Associate, Busse Disputes, Germany

International Law's Hall of Fame: An Analysis of its Iconic Pieces and Buried Treasures

In the current landscape of global challenges, the significance of International Law's historical foundations has come to theforefront as an invaluable resource for addressing contemporary issues. Aiming to delve into this interplay, the presentationwillexplore the relevance and applicability of classic international case law in addressing the complexities of our time. Indeed,it will be argued that the wisdom embedded within the annals of International Law's history offers a unique vantage point. The speech will seek to bridge the temporal gap between classic and modern case law, acknowledging the existence of several timeless principles embedded in the classics while harnessing the lessons they offer to construct innovative solutions for modern issues.

The core objective of the presentation will be, thus, to display a comprehensive analysis of classic case law originating from diverse international tribunals and courts, although mostly from the former Permanent Court of International Justice and the current Court of International Justice, in order to prove the aforementioned argument. By identifying and dissecting legal precedents, the speech aims to furnish International Law practitioners and academics with pragmatic and analytical tools. This toolbox, grounded in the intersections of historical wisdom and contemporary realities, will empower them to confront modern complexities with historical perspectives and strategic approaches.

The secondary goal of the proposed presentation is to validate its chosen title: a thorough examination of classic cases reveals a number of “hidden gems”or buried treasures. These less-explored cases, while not widely studied in academia, possess the same legal rhetorical significance as the well-known “greatest hits”, proving that the classicsshould be addressed as a whole in order to tackle contemporary problems.

In conclusion, the envisioned presentation is poised to demonstrate that the treasure trove of International Law's heritage remains a vital source of guidance and insight. Through the exploration of both its

"greatest hits" as well as its "hidden gems", the discourse ultimately seeks to dig deep and bring to light vital legal arguments that might otherwise be missed from one generation to the next one.

Adoracion Perez Troya
Senior Lecturer, University of Alcalá, Spain

A European Legal Framework for Open Finance

Financial markets are changing very rapidly, producing new business models, products, and new regulations. The purpose of my contribution is to analyze the European legal framework for Open finance. The topic is related with the so-called FinTech revolution, which is shaping globally a new regulatory framework in which financial institutions and technology companies compete offering new financial products and services to users (consumers or entrepreneurs).

Open banking has introduced an environment that enables customers to consent to third parties accessing their payment account information or making payments on their behalf. Open finance refers to access by third party service providers to customer data (both business and consumer), with the agreement of customers, across a wide range of financial services. As such, it would constitute the next European Union policy step in relation to access to data in the financial sector following the rights of access to payment account data introduced by the second Payment Services Directive (PSD2).

In the Digital Finance Strategy, the Commission announced that the promotion of data-driven finance is one of its priorities and stated its intention to present a legislative proposal on an Open finance framework. Thus, in June 2023 presented the Proposal for a Regulation of the European Parliament and of the Council on a framework for Financial Data Access and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010 and (EU) 2022/2554.

The Open finance Regulation will cover all relevant financial services. It will form an integral part of the European financial data space, together with data contained in public disclosure of corporate information, as well as supervisory reporting data. The sharing of the customer data in the scope of this Regulation should be based on the permission of the customer. The customers data can be processed for the agreed purposes in the context of the service provided. The processing of personal data must respect the principles of personal data protection, including lawfulness, fairness and transparency, purpose limitation and data minimization.

The European legal framework for Open Finance seeks to represent a different model to others in the world that are leaving the organization of the data space to the private sector (i.e. EEUU) or are combining government surveillance with a strong control of Big Tech companies over individual data and less safeguards for individuals (i.e.

China). My paper will reflect about these legal models and the challenges of the Open finance.

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

Evidence and Technology in the Brazilian Legal System: Resolution No. 408, of 2021, of the National Council of Justice (CNJ), and the Treatment of Digital Evidence

In Brazil, according to the National Council of Justice, 99% of new lawsuits are electronic claims. Synchronous and asynchronous hearings were already a reality long before the pandemic and the National Council of Justice created Digital Courts for civil cases, processing the entire claim virtually.

Resolution No. 408, 2021, of the National Council of Justice precisely established a storage environment for digital evidence. Article 1 of the referred resolution, establishes that digital evidence is a file with recorded information, encoded in binary digits, accessible and interpretable through a computer system, in a varied storage medium and device, covering texts, audiovisuals, sounds, iconographic, computer science program and others.

Article 2 highlights the core of the resolution, which is the provision of a reliable digital archival repository, for the management and archival treatment of documents and digital media whose size or extension are incompatible with the processing system.

In article 3, before attaching the digital evidence to the reliable digital archival repository, the responsible server will certify with a) the detailed description, accompanied by justification on the impossibility of attaching or storing the file in another way; b) medium or device used for storage; c) specific location where the media or device is stored; d) date, name, registration number and signature of the official responsible for safeguarding and issuing the certificate.

In addition, the stored material will be protected and maintained in a safe place by the secretariat or registry office of the respective judicial unit, providing the parties with ample access to the material.

Regarding digital evidence, in practice, it`s important to mention Case No. 763. In this claim, the Superior Court of Justice affirmed, last year, the parameters of the p Resolution No. 408, 2021, of the National Council of Justice for the probative value of digital evidence.

Today Brazil is focus on the criteria considered by the courts for the probative value of digital evidence and, while a bill is not approved, Resolution No. 408 of the National Council of Justice regulates the storage of evidence in a repository, which criteria has already been considered by many courts in the whole country, especially the Superior Court of Justice.

Ravindra Pratap
Professor & Dean, Faculty of Legal Studies, South Asian University, India

The 2023 Indus Waters Treaty Arbitration between India and Pakistan: A Critical Appraisal

The 2023 arbitration between India and Pakistan concerning the interpretation or application of various parts of the 1960 Indus Waters Treaty governing the design or operation of run-of-river hydro-electric plants seems instantly a legal success but potentially a political failure. The former mainly stems from the fact that, despite India's non-participation, the Court of Arbitration under the Treaty found its competence to consider and determine the disputes submitted to it by Pakistan. The latter, given particularly the nature of, and the silence of the Treaty on, the regime of compliance with and enforcement of the relevant provisions of the Treaty, is reasonably not without casting some doubts about compliance with, or enforcement of, the Court's award if and when given on merits. This is reasonably not entirely unforeseeable, given India's recorded objections to the competence of the Court of Arbitration, including the one based on its sovereignty, and the state of India and Pakistan relations. Further, the authority of the Court of Arbitration is hardly comparable to that of other third-party dispute settlement mechanisms, such as the International Court of Justice, whose judgments have been complied with by India and Pakistan despite their objections to its jurisdiction. India's non-participation before the Court of Arbitration also when it proceeds on merits is reasonably neither unlikely nor irrelevant. While remaining of the view that the dispute is settled by the Court of Arbitration, it is not without importance for Pakistan to explore the possibility of reviving negotiations with India if only arbitration is only one of the peaceful means of settling disputes in international law and, consistently with the Treaty, it is the duty of the Court of Arbitration to facilitate such a direct and peaceful settlement of this dispute between the two largest South Asian countries.

Ronelle Prinsloo
Lecturer, Vaal University of Technology, South Africa

Revisiting Section 16(2) of the Maintenance Act: A Solution or Creating a Problem?

Introduction

A maintenance order can be issued by "any court," according to Section 16(2) of the Maintenance Act 99 of 1998, which means that a children's court is just as capable of doing so as any other court. In accordance with Rule 43 of the Uniform Rules of Court and Rule 58 of the Magistrates' Courts Rules, the courts in South Africa, including the courts that hear divorce cases, provide vulnerable parties with interim financial assistance during the course of the divorce process.

Both Section 33(3) and Section 161 of the Children's Act 38 of 2005 provide provisions for maintenance. It is possible for parenting plans to include a provision for maintenance, as described in subsection (3) of section 33, and foster parents who are caring for a foster child may submit an application for financial relief under subsection (161) of section 161.

When one examines the statistics of children's courts and domestic violence courts, one notices that these monetary orders are conspicuously absent. This is due to the fact that the majority of courts in South Africa avoid making these monetary awards and instead refer maintenance matters to maintenance courts, which results in an overcrowding of maintenance court rolls nationally.

Methodology

The primary goal of this research is to compile, organize, and describe legislation, as well as to offer commentary on the emergence and significance of the authoritative legal sources in which such rules are considered, in particular referring to case law, with the goal of identifying underlying issues. This research was carried out with the intention of identifying underlying issues.

Results

Despite the fact that all South African courts have the statutory capacity to make maintenance orders, the courts do not make these orders and instead refer maintenance matters to an overburdened maintenance system. This is a curious phenomenon given that all South African courts have the statutory competence to make maintenance orders.

Some legal practitioners have questioned whether or not children's court parenting plans can be enforced on the grounds that they are not a "maintenance order" because they were made in a domestic violence court, children's court, or bail court. However, section 1 of the Maintenance Act defines a "maintenance order" as meaning "any order for the payment, including the periodical payment, of sums of money towards the maintenance of any person issued by any court in the Republic, and includes, except for telecommunication The question then is why a s 33 parenting plan that includes a maintenance order is not considered a maintenance order by some courts.

Conclusions and recommendations

It is strongly suggested by members of the legal community, such as presiding magistrates, attorneys, advocates, and mediators, that proposed parenting plans include a provision for child support or alimony payments. In cases involving domestic violence and procedures before the bail court, public prosecutors have the option of considering temporary financial relief for vulnerable women and children. This is the case where the gender-based violence offenses happened within the context of a family, which could be disturbed if the offender was removed from the common household. There is no valid reason why a public prosecutor cannot meet with a complainant, acquire proof on expenses, and then bring such evidence to a presiding officer in domestic violence courts or bail courts in order to make an interim support order.

Andra Nicoleta Puran
Lecturer, The National University of Science and Technology
Politehnica Bucharest, Pitesti University Center, Romania

Attributes of the Romanian State: Special View on the Rule of Law

The attributes of a state constitute its defining features and principle values of its constitutional order, which differentiate or resemble it as a political-legal physiognomy from other states. The rule of law, pluralism, democracy, civil society are universal values of contemporary political thought and practice and can be found normatively expressed in international documents, but also in the Romanian Constitution.

Starting from the specialized doctrine and jurisprudence of the Constitutional Court of Romania in the matter, this article analyzes the attributes of the Romanian state enshrined by the Constitution, respectively: rule of law; welfare state; pluralistic state; democratic state.

In this study, a special attention is dedicated to the rule of law, considering the dangers that threaten it in the current period. Legislative inflation, superficial legislation, increasing the role of the Executive in the field of legislation at the expense of Parliament, the intrusions of politicians into the sphere of judicial power are just some of the dysfunctions of the Romanian rule of law. In this context, this article highlights the essential role of the Constitutional Court in guaranteeing and respecting the requirements of the rule of law. Through its jurisprudence, an important contribution is made not only in the correct interpretation and application of constitutional norms, but also in their elaboration.

Under the influence of the specific socio-political factors in each country, the pressures of the Union and international law, the rule of law cannot reach perfection, but it remains a fundamental constitutional necessity whose primary purpose is to ensure the rights and freedoms of citizens.

Morgane Querel
PhD Student, Centre de Droit Maritime et Océanique (CDMO), France

IMO and Shipping Decarbonisation: The Legal Framework to Adopt a Market-Based-Measure (MBM)

International Maritime Organization (IMO) is the United Nations specialized agency competent to ensure cooperation to regulate shipping. It works on safety & security, and less-polluting shipping. In this regard, States adopt, under IMO, the *International Convention for the Prevention of Pollution from Ships* (MARPOL). The Annex VI of this Convention is dedicated to the prevention of air pollution. In this order, it allows to impose technical and operational energy efficiency measures. Later, in 2018, the *IMO Strategy on Reduction of GHG Emissions from Ships* was adopted to fix greenhouse gas (GHG) reduction targets. This Strategy was revised in 2023 to be in accordance with the *Paris Agreement*. However, IMO has not yet adopted any economical measure. A Market-Based-Measure (MBM) is essential to ensure shipping decarbonization in time. The issue is: does IMO have the legitimacy to adopt an efficient MBM regarding its legal competences?

IMO is legitimate to be used to adopt a MBM. Indeed, the *Convention on the International Maritime Organization* does not limit the power of the IMO on the topic of GHG emissions reduction. Moreover, this founding text does not limit the type of the instrument that the Organization can adopt to achieve its missions. In addition, many Articles of the *United Nations Convention on the Law of the Sea* require that States take all the necessary regulations to protect environment. To that, they must use the "*competent international organization*", identified as IMO. In addition of these two maritime Conventions, the international laws on climate change also empower IMO to take MBM. This is found explicitly in the *Kyoto Protocol*, and implicitly in the *Paris Agreement*.

To ensure that the MBM contributes to shipping decarbonization, States must be careful to its terms. This includes the scope, the administration, and the use of the revenues. There is no legal limit to adopt a scope that includes all type of GHG emissions and a Well-to-Wake (WtW) approach. In fact, IMO was already used to regulate indirectly related sectors to shipping, as port or shipbuilding industry. Consequently, there is no opposition to regulate Well-to-Take (WtT) emissions, even if it will impact fuel suppliers. Concerning the administration, nothing in the *Convention on the International Maritime Organization* is opposed to a management by IMO. However, no provision permitted it. Hence, it is preferable to create a new independent authority dedicated to the administration of the MBM. This authority will be in charge to collect the

revenues and redistribute them as legally decided. The redistribution must respect the international law principles on climate change, as the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC) and the polluter pays principle, and the IMO Strategy principles, as the principle of the higher ambition and the need to consider the impacts of MBM on States.

All these elements prove the legitimacy of IMO to adopt a MBM. There is no legal obstacle. There is even legal duty. It is an emergency regarding the climate change. IMO and shipping sector have to take their responsibilities.

Gabriele Redigonda
PhD Candidate, University of Florence, Italy

Monitoring GHG Emissions: Legal Reflections on the Use of New (Space) Technologies

International law plays a vital role in coordinating the necessarily global response to climate change. Since its adoption, the United Nations Framework Convention on Climate Change (UNFCCC) has established a structured mechanisms for its state parties to periodically meet and agree on joint climate actions. The Kyoto Protocol and the Paris Agreements were subsequently adopted within this framework and their provisions, together with the UNFCCC, have shaped the existing international climate change regime. 2024 signs a turning point for international climate change law. Indeed, on the one hand States are requested for the first time to submit the new biennial transparency report pursuant to the Paris Agreement, while the process for the evaluation of the achievements towards the objectives set by the Convention (*global stocktake*) is also meeting its first milestone.

In order for states to comply with their climate change law obligations (*reporting* activities, mainly conducted through *bottom-up* approaches) and for third-party verifiers and expert teams to check national submissions (*review* process, primarily adopting *top-down* approaches), advanced observation and measurement capabilities are required. Similarly, the emission trading mechanisms established first by the Kyoto Protocol and then by the Paris Agreement (Art. 6), as well as at the level of the European Union, crucially rely on certification technologies as to allow the trade of carbon credits. Voluntary carbon markets are currently emerging and require analogous certification mechanisms. Therefore, the development of an advanced monitoring mechanism is considered of paramount importance, as also acknowledged by the Conference of the Parties (COP) in many instances.

Building on the role explicitly recognized by the UNFCCC to scientific and technical knowledge in the work of its Secretary and the COP, coupled with the primacy given to the outcomes of the work of the IPCC in assessing the state of the climate, this paper will investigate the role that newly available technologies, especially space-based, can play at the service of international climate change law. In particular, the impact of high-quality data on the capacity of states to comply with their obligations will be assessed, as well as the issues arising from the contrast between the adoption of an external *top-down* approach, typical of satellite observational technologies, and the principle of state sovereignty, including on natural resources. Moreover, the disruptive

potential of advanced monitoring tools for the development of international climate change law will be addressed, including the possible evolution of states' obligations.

Finally, the need for cooperation to combat climate change, as mentioned by the UNFCCC in its Preamble in contrast with the principle of sovereignty, will lead to several reflections concerning the role of existing and developing multilateral monitoring mechanisms within the international climate change regulatory framework.

Bingxin Ren
Postgraduate Student, Southwest Petroleum University, China
&
Jingjing Fu
Professor, Southwest Petroleum University, China

Exploring the Model and Policy Context of a Payment for Carbon Sink Services of Marine Farms in China

Marine farms, which employ techniques such as restocking and artificial reefs to protect fisheries and rehabilitate the marine aquatic environment, plays a crucial role in ocean carbon sinks . By absorbing atmospheric carbon dioxide through the growth and reproduction of carbon-fixing marine plants like seagrasses and algae, and animals such as shellfish, marine farms may mitigate the climate change. Moreover, carbon transfer within marine life, ultimately removed through the harvesting of marine products like shrimp, fish, and scallops, plays a crucial role in reducing atmospheric CO_2 levels, maintaining biodiversity, and safeguarding the marine ecology. China's marine farms have been built for more than 30 years, creating ecological benefits of more than 8 billion dollars per year, while reducing a large amount of nitrogen and phosphorus elements, and the total carbon sequeering amount is about 190,000 tons per year. However, China lacks mechanisms for evaluating blue carbon sinks of marine farms and payment regime for carbon sink services of marine farms. This study aims to design an effective payment regime for carbon sink services of marine farms.

The first contribution of this paper is to measure the carbon sink capacity of Chinese marine farms by using super-efficiency SBM models based on the production data of shellfish and algae in aquaculture from 2013 to 2023. Based on the empirical analysis, we found that the capacity of carbon sink in six coastal regions of China is relatively low. On this basis, we use the dynamic spatial Durbin model to explore the influencing factors of the capacity of carbon sink.

The second contribution of this article is to establish a payment regime for carbon sink services of marine farms, including the government-pays regime and the users-pay regime. The government-pays regime is based on the state and local financial funds and according to the quality of seawater in different areas of China to adopt different payment intensity. As the beneficiary of ecological services, enterprises provide ecological payment funds for marine farms, and determine the transaction price according to the development of market economy in different regions. The government manages and supervises

the payment, which has low efficiency. In the users-pay regime, traditional enterprises directly provide blue carbon sink payment. In contrast, the government-pays regime is easier to implement, while the users-pay regime are more flexible.

The third contribution of this article is to analyze the legal regimes for ensuring the sustainable development of the payment regime for carbon sink services of marine farms. It is suggested that the State Council should enact dedicated administrative regulations to regulate the payment regime for carbon sink services of marine farms. In addition, it is suggested that the Ministry of Ecology and Environment shall formulate a standard system and monitoring methods for marine carbon sinks. In addition to government regulation, it is imperative to establish a multi-party collaborative governance mechanism that includes non-governmental organizations and the public. Emphasizing collaboration among different stakeholders in the empirical analysis of policy texts will enhance enthusiasm for cooperation in marine farms construction.

Francisca Rendich
Professor, Pontifical Catholic University of Chile, Chile

Exploring the Intersection of Law and Literature: Insights from Classic Works of Universal Literature

During the 1980s in the United States, the "Law and Literature" movement emerged, aiming to explore the connection between these two disciplines from an academic standpoint. The discussion revolved around three authors: James Boyd White, Martha Nussbaum, and Richard Posner. The latter systematized the relationship between both disciplines in three ways: law as literature, law in literature, and other forms of interaction, such as the humanization of law through literature. The perspective of law in literature involves examining how literature has depicted legal themes and concepts throughout history (Holt, pp. 43-58, 2017).

It has been suggested that there are three key moments in Western theater: Greek theater, Elizabethan theater, and the Spanish Golden Age (Fernández, 2016, p.11). Regarding Greek theater, Aristotle wrote the "Poetics," one of the most historically significant treatises on literary criticism. There, he proposed two key elements of art: mimesis (that art imitates life) and catharsis (that it releases emotion) (Aristotle, p.35, 2011). Within this framework "Antigone" showcases natural law and positive law; and the Oresteia trilogy depicts the transition from self-help to heterocomposition.

Regarding Elizabethan theater, during the English Renaissance, the rhetorical tropes of "theater as mirror" and "Theatrum Mundi" were widely known. The Theatrum Mundi encompassed the notion that the stage was a "scene of the world" (Bloker, pp. 174-178, 1966). Harold Bloom, the main literary critic of Shakespeare, in his work "Shakespeare's universalism", suggested that Shakespeare is at the center of the Western canon. He proposed that he portrays universal themes of humanity, created the personality and transcended the limits of time and boundaries (Bloom, pp. 23-40, 2002). In Shakespeare's masterpiece, "Hamlet", the character says that the purpose of theater is to be a mirror of nature (3.2.16-24). In this context, "Macbeth", the tragedy, depicts unlimited power, and "The Merchant of Venice", comedy, portrays mercy as the highest expression of justice.

The conference will examine how certain classic works of world literature pose central dilemmas inherent to law, such as: positive law and natural law; self-help and heterocomposition; unlimited power; and mercy as an elevated expression of justice. The audience will learn to identify legal concepts in a literary work and to understand basic

resources of literary theory to appreciate the beauty in a work that poses great dilemmas inherent to law, demonstrating virtuous points of convergence between both disciplines, such as promoting legal analysis and reflection.

For me, the theory of law and literature are two powerful ways to influence the world around us. Legal theory allows us to understand its application in our society. Literature shows us universal themes of the human condition, such as the innate sense of justice, allowing us to connect with emotion, reflect, and transform the world around us.

Jana Reschova
Associate Professor, Charles University in Prague, Czech Republic

Federalism from Above? Considerations on the Constitutional Framework for EU

Recent comparative studies on federalism (e.g. Michael Burgess- Fédéralisme et fédération. Dissiper les malentendus- Cinquante déclinaisons de fédéralisme. Théorie, enjeux et études de cas, 2020) have shown a variety of federal structures working within national states. The european integration process since its begining has been influenced by the spirit of an ever closer cooperation among member states. Given the current state of affairs it remains to be seen, to what extent there are still mechanisms which may project a sui generis "déclinaison" of fédéralism in EU. Analysis is to cover a phenomenon of europeanisation with its top down and bottom up effects.

Daiga Rezevska
Professor, University of Latvia, Latvia

General Principles of Law as a Directly Applicable Legal Norm and Transitional Justice

The paper will analyse the concept of general principles of law as a source of law and a directly applicable unwritten legal norm and their application in the context of transitional justice. The legal arrangement of Latvia will serve as an example to prove that general principles of law are a source of law within any legal arrangement of a democratic state based on the Rule of Law and that they have a generally binding legal force – general principles of law are directly applicable legal norms of constitutional ranking. As directly applicable legal norms, general principles of law have priority over the written legal norms adopted by a legislator. Thus, general principles of law set the limits and, at the same time, the requirements for the work of a legislator adopting the written legal norms within the legal arrangement of a democratic state based on the Rule of Law.

The theory of general principles of law was one of the most significant elements for the legal arrangement of Latvia after 50 years of occupation when regaining its independence to make a fast and successful transition from the Soviet legal system back to the Western legal culture and continental European legal system. General principles of law are used by a legislator in drafting normative legal acts as, for example, the principle of good legislation defines the procedural requirements of the entire legislation process for the adopted written legal norms to be regarded as legitimate, as well as by those who apply legal norms to find just and reasonable answer to every case within a legal arrangement of a democratic state based on the Rule of Law as general principles of law are both human rights and legal methods.

Thus, this theory of general principles of law could be used and greatly assist countries in transforming their legal arrangements and overcoming socialist legal tradition based on extreme positivism.

Vicenc Ribas Ferrer
Senior Lecturer, University of Alcalá, Spain

Reforming the European Payment Services and the Open Banking Regime

1. This paper analyses the reform process of the European payments system with particular reference to the main innovations contemplated for the open banking regime.

2. The current payment system is included in Directive 2015/2366 (called Revised Payment Services Directive or PSD2) and has its origins in the First Payment Services Directive of 2007 (PSD1). The objective of these directives has been the creation of an integrated and efficient payments market through a harmonized legal framework for the entire European Union. The scope of the Directive refers exclusively to electronic retail payments, so the Directive does not include paper operations. That is why the Directive deals mainly with card, internet and mobile payments. Essentially, PSD2 addressed two issues: entry barriers to new types of payment services and improving the level of consumer protection and security.

3. In 2020, the European Commission designed the "Retail Payments Strategy for the EU" (COM(2020) 592 final) which indicates that "the Commission will launch a comprehensive review of the application and impact of PSD2". The evaluation has been developed through 3 ways: On the one hand, advice was sought from the European Banking Authority (EBA/Op/2022/ 06, 23.6.2022). On the other hand, a double public consultation was carried out (Public Consultation and Targeted consultation, 10.5.2022). In addition, the European Commission requested an independent report (A study on the application and impact of Directive (EU) 2015/2366 on Payment Services (PSD2), 2023). Finally, the Commission prepared its own report on the review of

PSD2 (COM/2023/365 final, 28.6.2023).

4. The evaluation of PSD2 has led to positive aspects as conclusions, such as fraud prevention, the increase in payment instruments and transparency. Among the aspects to improve is the problem of unequal conditions between payment service providers. Therefore, the European Commission has presented the following proposals: Proposal for a Directive on payment services and electronic money services (PSD3) and a Proposal for a Regulation on payment services in the internal market (PSR) (28.6.2023). For what is now of our interest, the proposals clarify and include new definitions of concepts, improves

consumer information and rights and establish protective rules for non-bank open banking providers.

5. Open banking facilitates the secure exchange of financial data between banks and non-banks providers (mainly FinTechs). PSD2 regulates open banking services and providers within payment institutions for the first time as a major innovation. In particular, it establishes a licensing regime for providers of account information services (allowing users to know their financial situation and better manage their finances) and payment initiation services (initiate payment orders in respect of a payment account maintained by a payment service provider). Now, on the one hand, the proposed reform aims to remove the obstacles that non-bank service providers encounter in data access and direct access to the systems required to complete payments. On the other hand, the proposals that amend PSD2 require banks and other payment account providers to have a control panel that makes it easier for customers to access and control their data.

Paraskevas Rodosthenous
Lecturer, University of Southampton, UK

Revitalizing Executive Remuneration: A Sustainable Framework for Corporate Purpose

This presentation investigates the evolving dynamics between corporate governance, sustainability, and purpose within the contemporary corporate landscape. Focused on shareholder engagement and executive remuneration, the study explores the intricate relationships and implications for corporate governance practices. The analysis encompasses contrasting perspectives, emphasising shareholder empowerment to align the current executive pay with corporate performance. The study reviews empirical evidence on shareholder activism's impact on remuneration, scrutinising fairness and transparency in compensation practices. Additionally, it addresses theoretical ambiguities and intersections with the UK regulatory framework.

Moving forward, it examines the confluence of corporate governance with sustainability initiatives, emphasising the critical roles of boards, owners, and stakeholders. The inquiry aims to understand how these actors navigate societal and cultural demands and contribute to corporate purpose and sustainability. Key inquiries include the impact of long-term ownership on corporate purpose, the interplay between owner identity and sustainability, the evolving competencies required for boards in the sustainability landscape, and the transformative shifts in governance mechanisms.

Furthermore, the study investigates the value proposition of boards through ESG initiatives, their response to regulatory changes, and shareholders' engagement in sustainability issues. The research journey seeks to enrich the understanding of board diversity's role in reshaping corporate governance and influencing executive remuneration. By proposing reforms and evaluating their ramifications, the study contributes to the ongoing discourse on shareholder engagement, executive remuneration, and corporate governance practices.

Lastly, the research critically examines existing rules of executive remuneration and proposes potential reforms for a fairer regulatory framework. It delves into the complex dynamics between strong and engaged shareholders and remuneration practices, suggesting that empowered shareholders play a vital role in curbing excessive remuneration. It critically explores the implications of board diversity as a mechanism to legitimise executive remuneration, addressing systemic discrimination and injustice. Overall, this research aims to

provide a contextualised critique, identify key areas of contestation, and propose effective reforms for fairer executive remuneration practices.

Rutvica Rusan Novokmet
Assistant Professor, Chair of Public International Law, University of Zagreb, Croatia

Examination of the Legality of Veto Power by the Security Council in Light of the Most Recent Threats to International Peace and Security

The most recent examples of flagrant violations of international law in Europe and in the Middle East call for the re-examination of the relationship between the existing international legal obligations, particularly those having a *jus cogens* character, and the authority of the UN Security Council in the use of veto power in situations which evidently represent a threat to international peace and security. The author of this presentation analyses the powers of the Security Council within the framework of Chapter VII of the UN Charter, and argues that there are constraints under international law in regard the use of the veto right when the Security Council is confronted with the most serious international crimes. Terrifying information about the crimes committed in Ukraine, as well as about the unthinkable violations of human rights committed in Israel and the Gaza Strip, compel us to remind ourselves of the importance of *jus cogens* norms, to which, in the author's opinion, the veto power of the five Permanent Members of the Security Council is not superior. Furthermore, the author warns that the authority of the Security Council, but even more, the limitations of Chapter VII should also be interpreted in the context of the UN Charter, particularly in light of the purposes and principles of the UN, as well as in light of the international conventions containing *jus cogens* norms (such as the Genocide Convention). The author suggests that the international community gathered in the General Assembly along with experts in international law should continue to question the superiority of the Permanent Members of the Security Council construed after the end of the Second World War, particularly when it is evident that their veto right is politicized to the detriment of civilians and the protection of human rights. The application of international law should serve the purpose of the protection of humanity, not the interests of a few super powers.

Olivia Rybak-Karkosz
Assistant Professor, University of Silesia in Katowice, Poland

Cybercrime at the Crypto-Art Market – Types of Crime Committed against NFT's Creators and Owners

In this paper, the author aims to analyse the types of crimes committed in cyberspace against creators and owners of NFT. Non-fungible tokens have been favored by the art world (also known as the crypto-art market) for a few years now. They attract numerous digital art creators and cryptocurrency investors. The token is recorded in a blockchain and is used to certify authenticity and ownership. Therefore, the art world is particularly interested in this solution. However, as practice shows, NFT isn't flawless, and cybercriminals exploit its flaws. Using methods known from typical cybercrimes, they modify their modus operandi accordingly to the crypto-art market practice. In this paper, the author describes examples of breaches of copyright and intellectual property law, as well as examples of the forgery of NFT. In addition, other crimes, such as fraud and theft of NFT, are described. Types of those crimes are, e.g., bypass security systems, phishing, and installation of malware.

Claudio Sarra
Associate Professor, University of Padova, Italy

Artificial Intelligence in Decision-making: A Test of Consistency between the "EU AI Act" and the "General Data Protection Regulation"

One of the major points in the recent Proposal fora Regulation laying down harmonized rules on Artificial Intelligence in the European Union (a.k.a "AI Act") is the mandatory prescription to design and develop high-risk AI systems in a way to ensure human oversight during the period of use(art. 14).

This provision realizes the always-recommended "human-in-command" approach and it is a crucial requirement in order to guarantee not only a legal but also an ethical compliance.

The AI Act is supposed to complement the General Data Protection Regulation (GDPR) in building a general legal framework, and, as a consequence, they should be hopefully consistent with each other in order to prevent regulatory shortcomings.

Now, an AI systemis defined as a "software that is developed with one or more of the techniques and approaches listed in Annex I and can, for a given set of human-defined objectives, generate outputs such as content, predictions, recommendations, or decisions influencing the environments they interact with"(AI Act, art. 3).

In this talk I am interested in the AI System producing "decisions" and I am going to test the consistency of the AI Act art. 14 about mandatory human oversight measures with art. 22 GDPR about decision based solely on automatic data processing. I will assume a referent scenario in which both prescriptions are likely to be applicable ,that is in the case of an AI system used to take decisions on the basis of "personal" data (as training set and learning base of the system)and those decisions produce legal effect on a subject or affect him/her significantly.

On a "prima facie" interpretation the prescriptions appear to be mutually exclusive.

In fact, the mandatory human oversight obligations seem to make art. 22 GDPR in applicable as it applies only to decision based "solely" on automatic processing, which means –according to the general consensus –that no qualified human person took part on the decision-making.

On the other hand, only when art. 22 GDPR is applicable the data subject can rely on additional safeguards for his/her right and interests

such as, at least, the right to human intervention, to express his/her opinion and, especially, to contest the decision.

So, will the adoption of the AI Act exhaust the remedies and safeguards ascribed to the data subject by art. 22 GDPR? And if this is the case, will the AI Act guarantee a same-level protection in case of AI system producing decisions affecting people significantly?

Charlotte Semarcelle
PhD Student, University of East Anglia, UK

Locus Standi in Climate Change Litigation: A Tort Law Approach and the Way Forwards

Climate change litigation is often described as an anti-tort dispute. The main mechanisms of tort law are perceived as hurdles to be overcome in the legal process, where primary tort issues such as causation, inter alia, are difficult requisites to achieve in climate related litigation. Unlike other civil disputes concomitant to environmental injuries, it is difficult to reconciliate the multipolarity of climate change causes and effects, with the bilateral nature of civil liability, designed to connect two parties. This paper will focus on the first stage of a civil lawsuit, locus standi. It is the typical tort mechanism which best reflects this irreconciliation. Unlike the other main requirements needed to establish civil liability, it presents a twofold characteristic; it is a procedural requirement that also necessitates, concurrently, the addressing of the substance of the dispute in question. Standing is widely discussed in the literature and authors have successfully recognized and analyzed the reasons for the frequent dismissal of cases due to lack of standing. There is a primary dissatisfaction in these explanations, that cases will never reach the courts to then be decided on merit, and this real challenge, in most analyses, takes a climate change perspective. This paper argues that there are substantial reasons why standing remains a barrier but proposes an approach from the tort law perspective. By analyzing standing detached from the expected judicial outcome, the tort law approach could add to the current understanding of the mechanisms of locus standi in the context of collective torts on an international scale, i.e. climate change. In addition, it will foster reflection on operational rules of civil locus standing, applicable in climate change and similar systemic and collective disputes. The scope is limited to the rules of standing in civil and common law countries and the method applied is qualitative, based on analysis of disputes against private parties. The research is structured as follows: an introductory presentation of the principles of locus standi and its structural difficulties faced within a climate change case, then analysis of these problematics via legal case studies involving the three main categories in climate litigation: adaptation, mitigation and loss and remedy. In each type, two case comparisons will be made, both historic to more contemporary. The paper will then comment on the outcomes and their implications, dependent on either a restricted or a loose construction of standing requirements. After concluding it opens

towards a wider discussion on the implications for environmental and civil law, including recent legislative responses and the increasing implication of Non-Governmental Organizations in the processes of judicial review, and inherent consequences for international legal disputes.

Satenik Shahbazyan
Attorney, Chamber of Advocates of Armenia, Armenia

Recognition of the Jurisdiction of the International Criminal Court as a Measure to Ensure the Application of International Humanitarian Law: Example of Armenia

Countless examples of violation of international humanitarian law require measures to be taken to ensure respect for international humanitarian law. At international level one of such measures is the ratification of the ICC Statute and recognition of ICC's jurisdiction.

On 14 November 2023, the Republic of Armenia formally deposited the instrument of ratification of the Rome Statute of the International Criminal Court (ICC). The Statute will enter into force for Armenia on 1 February 2024. Armenia will become the 124th State Party to join the Statute, and the 19th State from the Eastern European group to do so.

The author discusses the path taken by Armenia to recognize the jurisdiction of the International Criminal Court, the changes in the domestic system that need to be implemented based on this recognition, the reason for the recognition of the Court's jurisdiction. Since May 2021, the armed forces of Azerbaijan invaded the sovereign territory of the Republic of Armenia by carrying out military aggression against the Republic of Armenia and continue to remain in different parts of the sovereign territory of the Republic of Armenia. Then, in 2022 on September 13-14, a new large-scale military aggression was carried out by the armed forces of Azerbaijan in the direction of different parts of the sovereign territory of the RA, which led to hundreds of victims among the armed forces and the civilian population, and during which the most serious war crimes were committed. Moreover, judging by the behavior and bellicose statements made by Azerbaijan, the risk of new military aggression against Armenia by Azerbaijan remains high.

In these conditions, the early ratification of the ICC Statute by Armenia and recognition of ICC's jurisdiction was very important, because after the ratification of the Statute, crimes committed by the Azerbaijani armed forces on the territory of Armenia, including war crimes, will be subject to the jurisdiction of the ICC, which will be a deterrent measure for Azerbaijan.

Bhoomika Sharma
Research Student, University of British Columbia, Canada

Mental Health and Law: A Comparative Analysis between Common Law Countries

The Indian mental health legislation has come a long way since it was implemented in 1993. However, despite advancements, the Mental Health Act, 2017, still lacks the robustness necessary to adequately address mental health concerns within the Indian population. This working paper aims to compare the Indian mental health legislation with that of Canada, exploring the Canadian provisions and recommending potential amendments for the former. Additionally, it will examine current government policies/programs proven beneficial to Canadian citizens with the hope that similar initiatives could support the mental health needs of Indian citizens. The methodology adopts an inductive, qualitative approach, facilitating a comparative case study between India and Canada. Both primary and secondary data sources are utilized, capturing individuals' lived experiences of mental health policies and services, as well as tracing the evolution and comparison of legislation. Thematic and comparative data analysis methods are applied to unravel insights. Drawing on the survey data collected from a sample of university/college students accessing mental health services, and insights gleaned from interviews with mental health professionals from across diverse institutions of both nations, this paper aims to examine the landscape of mental health care services in India and Canada. Currently, the research is positioned at the data collection and analysis phase. Initial findings reveal a stark contrast in the availability and accessibility of mental health services and policies between the two nations. With the preliminary data collected, we have analysed that there is a dearth of programs and policies implemented by Indian State governments, while the Central government has introduced a limited number of initiatives with scant data on their efficacy and accessibility. On the other hand, Canada boasts a plethora of provincial and federal resources, catering to diverse demographic groups, such as indigenous people, seniors, children, youth, and students. The preliminary findings from the survey data collected from university/college students accessing mental health services, coupled with interviews with mental health professionals from both nations, shed light on the current state of mental health care services in India and Canada. This discrepancy underscores the urgent need for reform in India's mental health care system. The significance of these findings lies in their potential to inform and strengthen mental health care

legislation not only in India but also in other developing countries that may look to Indian legislation as a model. By understanding the implementation challenges and gaps in mental health care laws, policymakers can make informed decisions to improve access and quality of care. Moving forward, the next steps in the research process will involve further analysis of the collected data to delve deeper into the specific challenges faced in the implementation of mental health laws in India. This will include examining barriers to access, disparities in service provision, and cultural factors influencing help-seeking behavior. Ultimately, the research aims to contribute to destigmatizing mental health issues, improving access to care, and enhancing overall mental health outcomes in India, thereby benefiting society as a whole.

Katerina Sidiropoulou
Senior Lecturer, Anglia Ruskin University, UK

Reviewing the Wellbeing of Women Academicians in Post Pandemic Era

It is evident that the landscape in higher education is evolving at a rapid pace since there are greater demands for adopting more transformative educational approaches and addressing issues such as graduate employability, falling student retention and completion rates. However, this entails increasing workloads, fusion of various university roles and complexity of university work. One of the most important commitments of the Universities is to encourage healthy and inclusive working environments by fostering their employees' mental health and wellbeing. This qualitative exploratory study focuses on examining whether women still perceive that working as an academic is a fulfilling career choice and to what extent gender representation and inclusivity impact their overall wellbeing and career progression in academia. Around fifteen women academicians across various institutions globally are interviewed to provide their insights regarding any perceived challenges that they are experiencing in their workplace by reflecting on the impact that these might have on their wellbeing and work-life balance. This study is important because it highlights the need for continuous institutional intervention and implementation of relevant employee wellbeing charters, especially after the pandemic which signaled a number of changes in a working environment that was taken for granted for many years in relation to this aspect.

Noemi Suri
Assistant Professor, Research Fellow, Pázmány Péter Catholic University, Ferenc Mádl Institute of Comparative Law, Hungary

Hungarian Model of the Restructuring Process – National Report

As a result of the transposition obligation in Article 34 of Directive (EU) 2019/1023 of the European Parliament and of the Council on restructuring frameworks and insolvency[1], Act LXIV of 2021 on restructuring and the amendment of certain acts with the purpose of legal harmonisation (hereinafter referred to as the Restructuring Act) was promulgated on 3 June 2021 and is applicable as of its effective date of 1 July 2022 for any legal persons struggling with financial difficulties but not yet insolvent.

The creation of a restructuring model prescribed by the EU directive was implemented by the Hungarian legislator through the opening of a non-contentious court procedure ordered within the jurisdiction and exclusive competence of the Metropolitan Court of Budapest. The primary aim of this presentation is to develop a complex and comprehensive picture of the restructuring procedure as placed within the system of insolvency and reorganisation procedures in Hungary.

Firstly, the presentation showcases the unified EU objectives set out by the directive within the system of European insolvency procedures, secondly, it describes the Hungarian procedural rules and the most important related legal institutions adopted to implement these objectives. Section 6 of the Restructuring Act sets out that the aim of restructuring is to adopt and implement a restructuring plan with some or all of the creditors and thus prevent the debtor's future insolvency and ensure the debtor's financial viability. For the purpose of reaching this objective, therefore, restructuring constitutes measures aiming at restoring the financial balance of the debtor, including changing the composition, the conditions or the structure of debtor's assets and liabilities and any other part of its capital structure. Among these measures, the Restructuring Act lists the sale of the debtor's property or part thereof, or the sale of any participation in the debtor as examples.

[1]DIRECTIVE (EU) 2019/1023 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency). L 172/18, 26.06.2019.

Ida Susanti
Lecturer, Parahyangan Catholic University, Indonesia

Shifting Paradigms: The Controversy and Complexity of LGBTIQ Protection in Indonesia as the Biggest Muslim Country

The existence of Lesbian, Gay, Bisexual, Transgender, Intersexual, and Questioning (LGBTIQ) as a legal subject in a religious community is very problematic. When religious values control a community, the members will use their holy books to measure whether any commotion or condition is tolerable. Collisions between the law of religion (such as Sharia Law of Muslims) and national law are sometimes unavoidable. It also occurred on determination of the existence of LGBTIQ and legal protection for them in a religious community.

This study will pick Indonesia as a case study. As the biggest Islamic community in the world, Indonesian people often face a contradiction between Islamic law (which is accepted as the living law of the majority of community members) and national law (which is ruled by the government). Indonesia is a very interesting country to study, because:

- Indonesia has a pluralistic society. Even though the majority of citizens are Muslims, many people with different religious backgrounds are living in Indonesia. Besides Islam, there are 5 (five) other legally acknowledged religions, i.e. Christianity, Catholicism, Hinduism, Buddhism, and Confucianism. It makes the values and acceptance of LGBTIQ in society also quite different.
- Indonesian law has established different regimes to protect LGBTIQ in Family Law and other law branches. The religious un-neutral legal branches will object to any legal protection for them, while the neutral legal branches will accommodate legal protections for them as human beings (not as persons who have different sexual orientations).
- That will show the intensity of religion to influence Family Law (especially Marital Law) on one hand, and the intensity of human rights to influence other branches of law on the other hand.

Protection of the rights of LGBTIQ in Indonesia is barely reported. This study will be important to share how Indonesia copes with LGBTIQ legal problems and protections. This study will employ a juridical normative study, observing Indonesian positive law, the living law ruled by the Indonesian Court Decisions, and any decree or

decision made by Indonesian executive and judicative bodies, which become the basis for determining the (un)availability of rights and obligations of LGBTIQ society. Classification of the protection of LGBTIQ from various sectors of laws will be identified, to conclude the level of protection of LGBTIQ in Indonesian law.

Esra Unal
Visiting Lecturer, Kadir Has University, Türkiye

Restitution of Cultural Objects: Experience of Türkiye

In the wake of the recent theft incident in August 2023, wherein approximately 2,000 artifacts were stolen from the collections housed within the British Museum, the matter of restitution has emerged as a topical issue again. In the British Museum, there are also many cultural objects such as the mausoleum of Halicarnassus from the antique city and the colossal marble statue of a recumbent lion from the antique city of Knidos, originating from Türkiye. After this disconcerting incident, States including China, Greece, and Türkiye have reiterated their demands for the restitution of cultural objects from the United Kingdom without any associated fees. Furthermore, States such as Greece and Nigeria are actively engaged in seeking a collaborative platform to address restitution cases.

On the other hand, since the year 1980, Türkiye has successfully reclaimed over 22 thousand artifacts from various States, including Austria, Bulgaria, China, Croatia, Denmark, France, Germany, Holland, Hungary, Italy, Serbia, Switzerland, the United Kingdom, the United Arab Emirates, and the United States of America. The year 2023 alone witnessed the return of 3018 artifacts to Türkiye, all of which are now meticulously preserved within the national museums.

The international legal framework governing the restitution of cultural objects encompasses the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage of 1972, which endeavors to prevent the smuggling of cultural heritage. Complementing this UNESCO Convention, the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects of 1995, is a pioneering initiative aimed at facilitating the restitution of stolen cultural objects and the return of cultural objects removed from the territory of a Contracting State contrary to its law regulating the export of cultural objects, measure designed to safeguard its cultural heritage.

In addition to these Conventions, States forge additional international agreements, exemplified by the most recent Agreement Between the Government of the Republic of Türkiye and the Swiss Federal Council on the Prevention of Illegal Importation and Transit of Archaeological Cultural Properties and their Return of 2022. This article particularly examines the ongoing developments within Türkiye pertaining to the restitution of cultural objects, elucidating the methods employed in the restitution process and delineating the conditions underpinning these endeavors.

Lorianne Updike Toler
Assistant Professor, Northern Illinois University, USA

Constitution-Writing Rules

The new gold standard for constitution-writing is consensus. Yet there is precious little empirical data about how drafters and transitional actors might garner consensus. Comparativists have also under-theorized consensus in constitution-writing despite it being developed against rich background theories of new institutionalism, deliberative democracy, and the emerging subfield of multi-party negotiations.

The U.S. Constitutional Convention provides an empirical case study for comparative practitioners and scholars wherein formal and informal rules facilitated deliberation that garnered a high level of consensus. This case study illustrates how the focus of new institutionalism—rules—supply the means for deliberative democracy and multi-party negotiation to reach consensus. It also highlights what the theories lack, or makes explicit that which has previously only been hinted. The consensus reached at Philadelphia required all of the traditional elements of deliberation—respect, inclusion of disparate power players, and time—but also a culture of vulnerability wherein delegates could let down their guard, admit of the benefit of one another's experience and reason, and truly buy-in to the ultimate compact wholeheartedly. More, this case study suggests that procedural and physical rules for a constituent body could be developed and deployed in simulated environments to determine if Philadelphia's consensus can be replicated elsewhere.

This essay presents the first instance when the role of rules and drafting room culture in facilitating deliberative democracy is studied, especially in constitution-writing. It does so in three parts: it first briefly surveys relevant theoretical strands, then details the role of formal and informal rules in bringing about consensus in the Philadelphia Constitutional Convention of 1787, and concludes by discussing the theoretical and practical impacts of this case study.

Elise Nicoleta Valcu
Associate Professor, The National University of Science and Technology Politehnica Bucharest, Pitesti University Center, Romania

Crowdfunding Platforms, An Innovative Way of Providing Crowdfunding Services in the Age of Artificial Intelligence: EU Legislative Implications – Applicability in Romania

Equity crowdfunding is a technologically adapted alternative form of financing to bank financing, and also a type of intermediation in which a crowdfunding service provider, without taking risks itself, manages a digital platform, open to the general public, to connect or facilitate the connection of potential investors or lenders with the business community seeking finance. Through crowdfunding, investors can finance projects published on the crowdfunding platform either by providing loans (crowdlending) or by purchasing securities/ instruments admitted for crowdfunding purposes issued by project developers (crowd-equity).

At European Union level, the provision of equity crowdfunding services is stated by Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European providers of equity crowdfunding services to businesses and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 ("Regulation (EU) 1503/2020") and by delegated regulations of the European Commission which approved the regulatory technical standards drawn up by the European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA). In Romania, in order to properly implement the EU legislative framework, Law no 244 of 20 April 2022 on measures implementing the Regulation (EU) 1503/2020.

The present research aims at highlighting a number of issues for reflection, among which we mention by way of example: (i) the interpretation of the term "commercial activity or activities" in the context of the Regulation (EU) 1503/2020; (ii) the typologies of crowdfunding providers, their role in the crowdfunding mechanism, but also to what extent are they entitled to accept only sophisticated investors? doctrinal implications; (iii) minimum prudential requirements laid down by the EU legislator in Regulation (EU) 1503/2020 to the effect that a crowdfunding provider is required to have prudential safeguards in place at all times; (iv) to what extent can a project owner market their crowdfunding projects? (v) the particular nature of the activity of providers of equity financing services authorized in a Member State of the European Union who may provide equity financing services in a Member State other than the Member State whose competent authority granted the authorization,

on the basis of a simplified procedure (license passporting) involving notification to the competent authority of the Member State which granted the authorization of the intention to provide equity financing services in other Member States of the European Union, etc.

In summary of the above, we believe that, as an expression of the age of artificial intelligence, the crowdfunding market, both at EU level and in the particular case of Romania, shows an upward trend, characterized by the fact that both investors and project developers are increasingly interested in crowdfunding services and in the way crowdfunding platforms operate.

Marc Welgemoed
Head, Department of Criminal & Procedural Law, Nelson Mandela University, South Africa

The Impact of Cultural and Religious Perspectives on Law Reform Relating to Euthanasia and Palliative Care

Euthanasia, also known as mercy-killing, as well as assisted suicide, is prohibited in many countries around the world. It does not come as a surprise that cultural and religious perspectives, as to euthanasia, are some of the primary factors in this regard. Since ancient times, the main point of departure is that life is sacred and cannot be terminated voluntarily, but only by the Hand of the Almighty. This perspective had a direct influence on the development of cultural beliefs that advanced the view that life should be preserved and prolonged at all cost, sometimes even when a terminally ill patient might be suffering from unbearable pain and illness. Hippocrates stated in the Hippocratic Oath that "[t]o please no one shall I prescribe a deadly drug nor give advice which may cause his death."

To preserve and prolong life, palliative care practices had developed already in during ancient times. It started out as a communitarian effort to attend to the sick and provide support for their families. In modern times, there are well-established and developed palliative care practices established in many countries throughout the world, some which are duly regulated by circumspective legislation. On the other hand, there are also countries who do not have the necessary and required resources to effectively conduct palliative care practices, but support the concept, as any suggestions, to have euthanasia and assisted suicide legalised, are vehemently opposed.

In a country like South Africa, the Constitution forms the supreme law of the land. This means that any law, in conflict with it, will be invalid. The Constitution of the Republic of South Africa contains a Bill of Rights, specifying, *inter alia*, rights to privacy, dignity, equality, freedom and security of the person, as well as freedom of religion and cultural belief. These rights may only be limited in terms of a limitation clause, included in the Constitution. A right may only be limited in terms of a law of general application be reasonable and justifiable in an open and democratic society, based on dignity, equality and freedom. Euthanasia and assisted suicide are both viewed as crimes in South Africa, effectively amounting to murder in terms of the common law. However, there are religions and cultural beliefs which do not exclude refusal of treatment for dying patients, or even palliative care practices,

where the effect of palliative medicine relieves pain, but in the process shorten the lifespan of the patient.
In light of the abovementioned, this paper will focus on the way forward with regard to the apparent dichotomy between the following:

(a) cultures and religions, opposing euthanasia and assisted suicide and, in so doing, rather advancing pleas for adequate palliative care practices; and
(b) a Bill of Rights, allowing for rights that may advance arguments in favour of euthanasia and assisted suicide.

The paper will conclude with an assessment of what the most appropriate manner will be to bring about change – a watershed judgment by the courts, or circumspective legislation.

Yongliang Yan
Assistant Professor, Beijing Jiaotong University, China
Peinan Ren
Undergraduate Student, Beijing Jiaotong University, China
Yan Lei
Undergraduate Student, Beijing Jiaotong University, China
&
Xinyuan Li
Undergraduate Student, Beijing Jiaotong University, China

Emergency Management in Outer Space

This research primarily addresses emergency management in outer space from an interdisciplinary perspective. There have been some certain threats to the safety of space operations, including potential collision between space objects, extreme space weather events, near-Earth object impact, harmful frequency interference, and laser beam harmful use, etc. Emergency management of these events in outer space is of importance for all spacefaring nations, in particular advanced spacefaring nations because they have been much reliant on the safe and stable application of space technology. The space community has not attached much importance to emergency management in outer space thus far, while there have been some emergency management practices in the areas of collision avoidance and space weather. Moreover, current international law fails to provide concrete guidelines for the management of emergencies in outer space, though it provides some general principles and soft-law guidelines in this area. Under such circumstances, this research proposes to establish comprehensive legal regimes to address the issues arising out of emergency management, which at least include a preparedness regime, mitigation regime, monitoring and early warning regime, response regime, and recovery regime.

Mehmet Ertan Yardim
Associate Professor, Kadir Has University, Türkiye

Recourse Procedure in Mandatory Mediation

Especially in recent years, legislators in both common law and civil law systems have taken steps to expand the scope of mandatory mediation. In different legal systems around the world, we often see that legislators make it compulsory to recourse to a mediator or mediation office on similar grounds, even if the parties do not have the will to do so. With the adoption of the mandatory mediation procedure, many legal issues arise that need to be answered. One of them is the recourse procedure. Under the heading of application procedure, issues such as which party, when and where to apply, when and by whom the costs will be paid, the effect of the application, and the legal consequences of not making the necessary application should be addressed.

Since mandatory mediation is a preference of the legislator, the laws on mandatory mediation generally regulate these issues one by one. Of course, although different preferences have been made in different country's legal systems, it is seen that there are many common principles due to the nature of the procedure. Our study will examine some specific mandatory mediation practices in the US, UK, Italy, and Germany, especially Turkey's current legislation and practice. Turkey is one of the country has accepted widest fields of mandatory arbitration practice in civil conflicts. Recourse to arbitration is compulsory before bringing a suit in more than half of all civil conflicts under Turkish law.

In voluntary mediation, since there is an agreement between the parties, the procedure of application to mediation is not directly determinative. The parties apply to the mediator together in line with their agreement. On the other hand, in mandatory mediation, the parties cannot be expected to act together due to the nature of the procedure. Therefore, in disputes within the scope of mandatory mediation, one of the parties will initiate the procedure by recourse directly to the mediator or the authorised mediation office.

Recourse to mandatory mediation is generally expected to be made before the filing of a lawsuit. At this stage, the effect of the compulsory recourse on periods that may lead to loss of rights, such as the time limits for filing a lawsuit or statute of limitations, is important. It would be appropriate for the legislator to regulate these issues clearly. Especially in cases where filing a lawsuit is subject to strict and short periods, the mandatory mediation application should not lead to loss of rights.

The issue of the relevant party's failure to apply for mediation despite the mandatory mediation regulation should also be addressed separately. It is clear that as a result of the obligation here, a sanction is envisaged for the relevant party's failure to apply for mediation. It cannot be said that the loss of rights caused by the strictly regulated application obligation is fair. We believe that failure to comply with this obligation should be able to compensate at least once and should not lead to direct loss of rights.

Ece Selin Yetkin
PhD Candidate, University of Southampton, UK

Rapid Increase of the Establishment of Regional Commercial Arbitration Centres, but do they contribute to the Realm of International Commercial Arbitration?

As the popularity of arbitration continues to grow, so does the emergence of arbitration centres. There is a growing trend towards "delocalization" in the international commercial arbitration universe, however, there is also a rapid increase in the "local" arbitration centres. In other words, a paradox is expected that the excessive emergence of local arbitration centres will contribute to delocalization. In recent years, there has been an increase in the volume of international commercial arbitration cases taking place in different countries in the emerging economies of Africa, Asia and the Middle East, with Singapore and Hong Kong leading the charge which is encouraging development to contribute to a superior diversity in international commercial arbitration. Although developing countries make up more than 90% of the investment and commercial arbitration caseload, especially in the seat of the respondents, yet no developing country hosts a significant number of international investment or commercial arbitrations. Even if nowadays `delocalization` in the international commercial arbitration universe has gained more importance, most of the cases still do not generally take place in developing countries although some of them provide greater arbitration facilities. Despite all these, the number of arbitration centres continues to increase day by day, even if this doesn't make any difference in terms of the dominant centres. Increasing number of arbitration centres does not mean that participation in them will also increase in the same direction; quality and services need to be developed.

Emerging arbitration centres also need to change their perspective on establishing arbitration centres by focusing not only on the infrastructure and "modernity" of these centres, but also on their rules, recognition and enforcement procedures, public policy structures, and technological facilities. When looking at the degree of permanence based on the number of arbitration requests administered by more than 207 of the international arbitration centres, only 10 of them namely, ICC; LCIA; SIAC; JCAA; CRCICA; ICDR-AAA; SCC; SCAI; CIETAC; and HKIAC are the most preferred by international participants. This situation again shows that simply establishing new arbitration centres in the cities is insufficient to achieve the goal of becoming a globally preferred arbitration centre. They need to provide good services,

facilitate enforcement and recognition procedures that foreign participants are familiar with, and adopt a legal pluralism approach which differentiates the foreign and domestic arbitral awards.

There are a variety of different opinions and suggestions on over-emergence of local commercial arbitration centres from a single and worldwide commercial arbitration centre to a single global enforcement centre dealing with reviewing and enforcing the commercial arbitral awards. Superior organizations need to be adopted instead of having more than hundreds of arbitration centres. There are at least three reasons to support the creation of a supranational regulatory body6. Firstly, the establishment of this body contributes to the elimination of unsupportive court intervention, secondly, ensuring uniformity in annulment, recognition and enforcement cases, and finally, the regulation of ethical issues of arbitration centres and their quality can be improved with this system.

Julita Zawadzka
Assistant Professor, Jagiellonian University in Kraków, Poland

Life after Death? Legal Relations of Companies after Cessation of their Legal Existence

The legal relationship after the death of an individual is relatively straightforward. Sometimes it can be difficult to identify heirs, but an heir always exists, even if it is the state. Some rights and obligations of individuals cease to exist due to their strictly personal nature, but most of them pass to a successor in title, who becomes entitled to property and liable for debts, although the legal mechanisms for this transfer of ownership and liability may vary. However, when it comes to legal entities other than individuals, things become more complicated.

Such legal entities can also cease to exist. In many jurisdictions, the legal existence of such entities is conditional upon their entry in a public register. Upon removal from this register, the entity should cease to exist and the legal relationships involving it should be terminated, provided that the cessation of the legal existence of the entity, *e.g.* a company, is not linked to the transfer of its assets to another entity, *e.g.* upon acquisition. In practice, however, strict adherence to this principle is not possible. Despite the deletion of an entity from the public register, assets to which such an entity was previously entitled may come to light. What then is their status? Are they rights without an entity? Nobody's property? In my presentation, I want to give an overview of the models used to solve this problem – models assuming succession and non-succession termination of the company's existence.

But the assets left behind by defunct companies are just one side of the coin. The other is the liabilities of such an entity. If assets remain, the fair solution would seem to be to allow the former creditors of such an extinguished entity to be satisfied from them. But do their claims still exist if the debtor ceased to exist some time ago? Does not the legal concept of debt presuppose an existing debtor-creditor relationship and therefore an existing debtor?

Finally, a third area where difficulties arise is the fate of security interests created by or over the assets of third parties after a personal debtor has been struck off the public register (sureties granted by third parties, collateral security on the assets of third parties). How does the exercise of these securities take place when the debtor of the secured claim ceases to exist? Is it not necessary for the debtor to continue to exist here as well? How can the liability of a third party for the debt of an entity that does not exist be legally justified? Does the third party itself have to be recognized as the debtor and thus assume that the debt

still exists? If so, is this sufficient for collateral that is accessory to the secured debt?

These problems require an appropriate balancing of creditors' interests and the development of legal concepts that do not stand in the way of this. In my presentation, I will outline the approaches to these issues applied in selected European jurisdictions.

Maria Gabriela Zoana
Lecturer, The National University of Science and Technology
Politehnica Bucharest, Pitesti University Center, Romania

The Criminal Capacity of AI System

Artificial intelligence has raised many controversies regarding tortious civil liability or, as the case may be, criminal liability. In order to be criminally liable, the legal subject must have legal capacity. It depends on how trained the robot is, what algorithms have been created for it, if it has taken over a very large percentage of human thinking, how much intelligence it has. Trained means to take action, action that produces harm, so those robots trained to make their own decisions could have criminal capacity. It is important not to lose sight of the fact that the human created the robot in such a way, that is why the question arises, in the case of admitting a criminal capacity of the robots, we can discuss a joint human-robot liability or a solitary, individual liability of the human and /or the robot? There are also opinions according to which artificial intelligence and robots are just tools, which is why a robot's own legal capacity would be excluded. Can it be acceptable for a robot equipped with artificial intelligence to acquire legal personality?

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