

## Comparing Comparative Law

Salle Güggi (salle 0.101, Rue de Rome 6), University of Fribourg, 23<sup>rd</sup> October, 2015

*A conference jointly organized by the University of Fribourg, the Swiss Institute of Comparative Law (ISDC) and the Institute for Advanced Studies (IEA) of Nantes (with the support of the Swiss State Secretariat for Education, Research and Innovation - SEFRI)*

**Description:** The aim of the conference is to compare how we do comparative law and, so-doing, to contribute to the theory of comparative law albeit not in the usual way, but from a comparative and discursive perspective. We will explore usual topics in comparative law theory such as the nature, methods, aims, justifications and authority of comparative law, but hope to do so in a more practical and contextualized fashion. More specifically, we aim at broaching three questions: (i) what is being compared when comparing law (the object of comparison: e.g. what exactly among legal norms, from which legal sources and from which jurisdictions, but also maybe from which other sources of normativity outside the law?), (ii) what comparing (law) means (the nature and aims of comparison: e.g. is it about understanding, interpreting, distinguishing, systematizing, justifying, criticizing and/or reforming (one's or others') law?); (iii) and how one does compare law (the process of comparison; e.g. what are its methods, actors and outcomes?). Of course, the three questions are interrelated and are only separated here for the sake of clarity in the discussion. The speakers invited come from both the practice and the scholarship of comparative law, some in specialized areas of law and others in the law more broadly, and originate from all around the world.

**Organizers:** Prof. Samantha Besson (University of Fribourg); Dr Lukas Heckendorn Urscheler (ISDC); and Dr Samuel Jubé (IEA).

**Format:** We ask the main speakers to prepare short papers (5'000 words max.) to be circulated before the conference (by 15<sup>th</sup> October, 2015). The papers will only be presented very shortly (10 minutes) so as to move straight into comments and discussion. Speakers preparing comments (10 minutes each) do not have to circulate them in advance, but are strongly encouraged to do so. The same applies to the panelists in the afternoon panel (5 minutes each). The conference will be open to the public (upon registration and free of charge).

**Language:** English, without translation.

**Publication:** We plan to publish the papers and the comments in a volume jointly edited in the ISDC collection. The deadline for submission of the papers is 1<sup>st</sup> January, 2016. The word limit for papers is 8'000 words and for comments 4'000 words.

**Programme :** see next page

**Funding :** Swiss Institute of Comparative Law & Swiss State Secretariat for Education, Research and Innovation SERI

**Location:** Salle Güggi (salle 0.101), Rue de Rome 6, 1700 Fribourg  
(<https://goo.gl/maps/GvWDgU7emxs>)

## Programme

8.45-9.00	<i>Welcome coffee</i>
9.00-9.30	<i>Welcome and introduction</i> Samantha Besson, Lukas Heckendorn Urscheler & Samuel Jubé
<b>What is and should be compared when comparing law?</b>	
9.30-9.50	<i>Papers (pre-circulated; 10 min each)</i> William Ewald <i>Comparative Law and Legal Philosophy</i> and Yuzuru Shimada <i>Transplantation of Legal Thought: Comparing actors and their ideas of law in legal transplantation in Japan and Indonesia</i>
9.50-10.20	<i>Comments (10 min each)</i> Otto Pfersmann; Sitharamam Kakarala; and Augustin Emane
10.20-11.00	<i>Discussion</i>
11.00-11.20	<i>Coffee break</i>
<b>What does and should comparing (law) mean?</b>	
11.20-11.40	<i>Papers (pre-circulated; 10 min each)</i> Christopher McCrudden <i>What Does Comparing (Law) Mean and Should Mean?</i> and Peter Roudik <i>Comparing Laws for Better Lawmaking: Serving Comparative Legal Research Needs of Federal Government</i>
11.40-11.50	<i>Comments (10 min each)</i> Corinne Widmer Lüchinger
11.50-12.50	<i>Discussion</i>
13.00-14.00	<i>Lunch break (Mensa)</i>
<b>How does and should one compare law?</b>	
14.00-14.20	<i>Papers (pre-circulated; 10 min each)</i> Stephen Gardbaum <i>Is comparative constitutional law different? Comparing methodologies in comparative private and public law</i> and Timothée Paris <i>Why should judges compare law? The French Conseil d'Etat and comparative law</i>
14.20-14.40	<i>Comments (10 min each)</i> Salvatore Mancuso and Roberto Fragale
14.40-15.30	<i>Discussion</i>
15.30-16.00	<i>Coffee break</i>
16.00-17.15	<b>Roundtable “Comparing the Un-Comparable in Law – A Curse?”</b> <i>Short statements (5 min each), followed by an open discussion</i> Franz Werro; Alain Wijffels; Bin Li; Constance Grewe; Marie-Claire Foblets
17.15-17.45	<i>General Conclusions</i> Alain Supiot
19.00	<i>Dinner (Restaurant L'Aigle noir – invited participants only)</i>

**List of Speakers:**

Prof. Samantha Besson, University of Fribourg, Switzerland

Prof. Augustin Emame, University of Nantes, France

Prof. William Ewald, University of Pennsylvania, USA

Prof. Marie-Claire Foblets, Max Planck Institute for Social Anthropology, Halle, Germany

Prof. Roberto Fragale, Federal University Fluminense, Rio de Janeiro, Brazil

Prof. Stephen Gardbaum, UCLA Law School, USA

Prof. Constance Grewe, University of Strasbourg, France

Dr Lukas Heckendorn Urscheler, Swiss Institute of Comparative Law, Lausanne, Switzerland

Dr Samuel Jubé, Institute of Advanced Studies, Nantes, France

Prof. Sitharamam Kakarala, Glocal University, Bangalore

Prof. Bin Li, Beijing Normal University, China

Prof. Christopher McCrudden, Queen's University, Belfast, Northern Ireland

Prof. Salvatore Mancuso, Chair, Centre for Comparative Law in Africa, University of Cape Town, South Africa

Prof. Timothée Paris, Conseil d'Etat, Paris, France

Prof. Otto Pfersmann, EHESS, Paris, France

Dr Peter Roudik, Law Library of Congress, Washington, USA

Prof. Yuzuru Shimada, Nagoya University, Japan

Prof. Alain Supiot, Collège de France, Paris, France

Prof. Franz Werro, University of Fribourg, Switzerland

Prof. Corinne Widmer Lüchinger, University of Basel, Switzerland

Prof. Alain Wijffels, University of Leiden, Netherlands, Université catholique de Louvain, Belgium and University of Lille-2 (CNRS), France