JURIS DIVERSITAS

crossing boundaries
6th GENERAL CONFERENCE
LAW, ROOTS & SPACE
PROGRAMME

15-17 APRIL 2019,
POTCHEFSTROOM, SOUTH AFRICA

In partnership with:
Faculty of Law, North-West University, Potchefstroom, South Africa and the Southern African Society for Legal Historians
Welcome

Stephen de la Harpe

In the past 12 years, Juris Diversitas has organised a number of international events in Europe. It was time to hold our first major event on the African continent. Thanks to the hospitality of the NWU, scholars from all over the world will discuss topics connecting Law, Roots & Space, with a great diversity of perspectives. I extend the warmest welcome to all participants, wishing everyone a most intellectually and humanly rewarding experience during these three days, also building friendship and enjoying wonderful hospitality.

Olivier Moréteau, President of Juris Diversitas

The Theme of the Conference

A couple of lawyers’ old friends: ‘Sources’ and ‘Jurisdictions’. In their parlance, these notions are often associated to modern, ‘positive’ law.

The idea of ‘legal formants’ has been introduced to complete the picture, flexibilising it, making it more accurate, nuanced, realistic; an idea associated to comparative, socio-legal, anthropologic studies.

With ‘Roots’ and ‘space’ geographers, historians, political scientists get involved. These are certainly less frequent notions in legal circles: we may still wish to make friends with them, to enrich our perception of legal phenomena.

‘Roots’ is often associated to history of law and related discourses - if legal formants do complete a picture, legal roots do complete the movie, so to speak.

‘Space’: an open notion, perhaps a non-notion in modern legal discourse, generic enough to include every spatial dimension of legal phenomena: dissemination of movie theatres and other forms of diffusion of the various show-biz products could be the appropriate metaphor here, including space law and virtual property.

A legal discourse that goes beyond the checkboards, or the series of juxtaposed swimming pools - Tetris-style - containing water from their respective individual sources, produced by modern, Westphalian conceptions of the law. It goes, instead, to normative forces producing their effects without a precise geographic boundary: like radio stations, magnetic or gravitational fields. Or like intricate sets of rivers, lakes, canals, ponds, infiltrated wetlands, oceans, weather, all contributing to a locally diversified but still unitary eco-system and bio-sphere of water, landscape, vegetation, fauna.

A discourse on normative forces and the fuzziness of their historic and geographic reach.

On behalf of the faculty of law, it is my pleasure to welcome all of the participants from all over the world at the 6th conference of Juris Diversitas. Thank you for bringing this exciting and challenging event to Potchefstroom, South Africa. The conference is a collaborative event of Juris Diversitas, the Southern African Society for Legal Historians and the faculty of law, which celebrates 30 years of the Convention on the Rights of the Child. I congratulate you for your commitment and active participation in what promises to be an eventful three days.

Andrea Bauling, Secretary & Treasurer of the Southern African Society of Legal Historians

The Southern African Society of Legal Historians is honoured by the invitation to participate in this conference with Juris Diversitas. The purpose of the Society is the promotion of legal historical research. The theme, Roots, Law and Space, allows for engagement from a legal historical perspective and we look forward to the papers that will be presented, in particular those with regard to the roots of law.

Stephen de la Harpe, Executive Dean: Faculty of Law

Olivier Moréteau

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A discourse on normative forces and the fuzziness of their historic and geographic reach.
15 APRIL 2019

8:00—9:00  REGISTRATION  Senate Hall | Building F1, Room 201 - Registration will continue in the Gallery, Building E7 till 15:30

9:00—9:30  PLENARY – OPENING & WELCOMING ADDRESS  Venue: Senate Hall | Building F1, Room 201  Chair: Christa Rautenbach, North-West University (South Africa)

Dan Kwandali, Vice-Chancellor of the North-West University

8:00—9:00  REGISTRATION  (Senate Hall | Building F1, Room 201) - Registration will continue in the Gallery, Building E7 till 15:30

9:30—10:30  PLENARY – KEYNOTE  Venue: Senate Hall | Building F1, Room 201  Chair: Olivier Mâleco, University of South Africa Law School, President of Juris Diversitas

Pragmatic legal pluralism as a growth engine and stabiliser for development in Asia and Africa

VENUE: SENATE HALL, F1, ROOM 201

VENUE: FACULTY OF LAW, F5, ROOM 120

VENUE: OLD SENATE HALL, F4, ROOM G22

10:30—11:00  Coffee & Tea Break  | NWU Gallery, Building E7

11:00—12:30  PARALLEL SESSIONS I

<table>
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<tr>
<th>I.A. THEME: LAW, MORALITY AND RELIGION</th>
<th>I.B. THEME: ROOTS / LEGAL HISTORY</th>
<th>I.C. LAW AND CHILDREN</th>
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<tr>
<td>CHAIR: FRANCIS VEINER</td>
<td>CHAIR: WILLEMEN DU PLESSIS</td>
<td>CHAIR: RENÉ KORAAN</td>
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Law and morality, the dilemma of the Siamese twins

Abdul Oyedeyi, University of Pretoria (South Africa)

The impact of the doctrine of religious entanglement on human rights in South Africa

Wahedi Amlen, University of Cape Town (South Africa)

Law in the fourth dimension

Rostam J Neuwirth, University of Macau (China)

12:30—13:30  Lunch  | Gallery, Building E7

13:30—15:00  PARALLEL SESSIONS II

<table>
<thead>
<tr>
<th>II.A. THEME: JURIS DIVERSITAS</th>
<th>II.B. THEME: LAW AND SPACE</th>
<th>II.C. THEME: LAW AND CHILDREN</th>
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<tr>
<td>CHAIR: IGNAZIO CASTELLUCI</td>
<td>CHAIR: WIANKERLANG</td>
<td>CHAIR: ANTUVAGOB</td>
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Rule of geography and rule of law: A legal assessment of the concept of zone

Renato Santopietro, University of Trento (Italy)

The roots of law of the cyberspace: A new field for comparative lawyers

Olivier Beddeleem, EDHEC Business School (France)

Berefincking the choice of termination of Pregnancy Act 92 of 1996

Mathabo Baase, University of the Free State (South Africa)

15:00—15:30  Coffee & Tea Break  | Gallery, Building E7

15:30—17:00  PARALLEL SESSIONS III

<table>
<thead>
<tr>
<th>III.A. THEME: ROLE OF THE LAW</th>
<th>III.B. THEME: ROOTS / LEGAL HISTORY</th>
<th>III.C. LAW AND CHILDREN</th>
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</tr>
<tr>
<td>CHAIR: KRYRIAKI TOPIDIO</td>
<td>CHAIR: MATHABO BAASE</td>
<td>CHAIR: ROBERT NAMINA</td>
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A meta-review of existing literature on social media and the law

Emmanuel Didier, University of Helsinki (Finland)

Reading Patrick Glenn’s idea of law as normative information: Legal pluralism and engendered conflicts in Malawi (1950-2016)

Avitus Agbor, University of Technology (South Africa)

Dealing with spatial limits when addressing corporate human rights abuse abroad: Roots and current tendencies in business & human rights legislation

Oyesola Animashaun, University of the Western Cape (South Africa)

17:00  Dinner not included

TUESDAY 16 APRIL 2019

8:00—15:30  REGISTRATION  | Gallery, Building E7

08:30—09:30  PLENARY – OPENING & KEYNOTE ADDRESS  Venue: Old Senate Hall | F4, Room G22  Chair: Allison Geduld, North-West University (South Africa)

Gandhian Thought on Law and Justice: Relevance and Reappraisal for the 21st Century World

Richa Rocky Mulchandani, Gujarat National Law University (India)
09:45-11:15 PANELS AND PLenary SESSION IV

IV.A. THEME: POLICY DEBATES ON MEDICAL PLURALISM IN AFRICA

VENUE: BESEMBOS, E7 (LIBRARY) * YOU NEED YOUR NAME TAG FOR ACCESS

CHAIR: CHRISTA RAUTENBACH
CHAIR: SALVATORE MANCUSO
CHAIR: KARIN CALITZ

Panel discussion: Medical pluralism in Africa: defining traditional health practitioners to “fit” conventional healthcare systems

Renee Street, Medical Research Council of South Africa (South Africa)
Mosa Moshabela; University of KwaZulu-Natal (South Africa)
Amber Abrams, Medical Research Council of South Africa, South Africa

Siyabonga Xolimane, Africa Health Research Institute (South Africa)

The leading role of global South in environment. The National Green Tribunal of India at the crossroads between science, environment and society

Domenico Amilante, Università Delta Campania (Italy) [paper will be presented by Amilante’s research team, Università Delta Campania (Italy)]

The relationship between land and community in Andean culture and its constitutional implications for the environment

Silvia Baghi, University of Bologna (Italy)

Post-development paradigms from a constitutional top-down approach: An outline on some relevant environmental experiences in Asia and Africa

Pasquale Voia, Università della Campania Luigi Vanvitelli

Liable to whom? Revisiting the North-South divide

Olivier Moréteau, Louisiana State University (USA)

Child marriage - Acceptance by association

Arthur van Collier, Fort Hare University (South Africa)

The South African courts failure to take into account the grave nature of child pornography

Milary Visser, North-West University (South Africa)

A reformed approach to the concept of the best interest of the child

Brenda Njoko, North-West University (South Africa)

The Constitution and the politics of memory

Elmien du Plessis, North West University (South Africa)

Restrictions in the solutions and mechanisms used in the South African division of an inheritance: Reflection on innovative approaches from the Old Babylonian Period 2000-1600 BCE

Susandra van Wyk, North-West University (South Africa)

The Constitution as customary law, or: the future of legal pluralism in sub-Saharan Africa

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17:00 SHUTTLE BUSES WILL LEAVE FROM THE PARKING SPACE BEHIND THE LAW BUILDING TO TRANSFER GUESTS TO THE VENUE

18:00 CONFERENCE BANQUET | CRISTA GALLI ON THABO MBEKI ROAD - R501 - 26.6732°, 28.1706°

DRESS CODE: CASUAL FORMAL. * Time for pickup after dinner will be announced at the dinner.

* Paid delegates only.

WEDNESDAY 17 APRIL 2019

8:00–11:30 REGISTRATION | Gallery, Building E7

09:00–10:00 PLenary AND KEYNOTE ADDRESS

Venue: Senate Hall
Chair: Salvatore Mancuso, University of Palermo (Italy)

A discourse on actual historicity and spatiality of law and its complex interactions with other laws (Ignazio Costellici), Roma (Italy)

10:00–11:30 PARALLEL SESSIONS VI

VI.A. THEME: LAW, EQUALITY AND DIVERSITY

VENUE: SENATE HALL, F1, ROOM 201

CHAIR: OLIVIER MORETEAU
CHAIR: IRMA KROEZE
CHAIR: BOITUMELO (TUMI) MMUSINANE

The equality of diversity, People and justice systems in Europe

Angela Parisi, University of Palermo (Italy)

Sexual orientation, societal intolerance, constitutional equality and the Traditional Courts Bill: The meaning of freedom post-apartheid

Gideon Rossouw, University of South Africa

Michel Deguy : Jugement et Obligation

Adélaïde M Russo, Louisiana State University (USA)

On the origin, nature and content of academic freedom: An analysis of the various approaches to its professional, legal, and human rights protection at the international, regional and national level

Klaus B melt, North-West University (South Africa)

The vicarious liability of educational authorities for sexual abuse by educators

Karim Calitz and Cecile de Williers, Stellenbosch University (South Africa)

Violation of children’s rights in African armed conflicts in the lenses of the Convention of the Rights of the Child

Leonard Opara and Leah Ndimurimo, Nelson Mandela University (South Africa)

The Convention on the Rights of the Child: A South African historical perspective

Mariza Carneley, North-West University (South Africa)

11:15–11:45 Coffee and Tea Break | Gallery, Building E7

11:45–13:00 JURIS DIVERSITAS GENERAL MEETING | OLD SENATE HALL, F4, ROOM G22

13:00–14:00 Lunch | Gallery, Building E7

14:00–15:30 PARALLEL SESSIONS V

V.A. THEME: SPACE, LAND, WATER AND CUSTOM

VENUE: BESEMBOS, E7 (LIBRARY) * YOU NEED YOUR NAME TAG FOR ACCESS

CHAIR: HOWAKO RABOSHAGA

CHAIR: PAUL SWANEPoEL

CHAIR: MARITA CARNELLY

The Constitution and the politics of memory

Elmien du Plessis, North West University (South Africa)

Restrictions in the solutions and mechanisms used in the South Africa division of an inheritance: Reflection on innovative approaches from the Old Babylonian Period 2000-1600 BCE

Susandra van Wyk, North-West University (South Africa)

The Constitution as customary law, or: the future of legal pluralism in sub-Saharan Africa

Anthony Dalia, University of the Western Cape (South Africa)

13:00–14:00 Lunch | Gallery, Building E7

14:00–15:30 PARALLEL SESSIONS V

V.B. THEME: ROOTS / LEGAL HISTORY

VENUE: FACULTY OF LAW, F5, ROOM 120

VENUE: OLD SENATE HALL, F4, ROOM G22

CHAIR: ONYANGI ORIGI

CHAIR: NAEEMA GABRU

CHAIR: ODILE LIM TUNG

Child marriage: The Nordic experience

Marita Carnelley, North-West University (South Africa)

The sandrine family experience

Gideon Rossouw, University of South Africa

Feminist perspective

Brenda Njoko, North-West University (South Africa)

Who are you if you lose your island?

Olivier Moréteau, Louisiana State University (USA)

Domenico Amilante, Università Delta Campania (Italy)

Are the rights of Muslim children being overlooked by section 88 of the Administration of Estates Act?

Naeema Gabru, North-West University (South Africa)

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12:15—13:15  PARALLEL SESSIONS VII

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<tr>
<td>CHAIR: KLAUS BEITER</td>
<td>CHAIR: ELMIEN DU PLESSIS</td>
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**Twisting the roots and bridging the spaces: Legal cooperation of the BRICS countries and its impact on global governance regimes**
Alexandr Svetlicinii, University of Macau (China)

**Democracy as a (non-)source of legal authority**
François Venter, North-West University (South Africa)

**La force normative des incriminations du droit des affaires OHADA**
Chalibou Dan Inna Bachir, Université de Zinder (Niger)

**All law is customary law**
Aysha Jessica Beavers, Zhongnan University of Economics and Law (China)

**The roots of South African law: A discourse on Ubuntu**
Irma Kroeze, University of South Africa (South Africa)

**Cultural expressions and the media: folklore tales of indigenous communities and intellectual property rights in South Africa**
Kagiso Annette Maphalle, University of Cape Town (South Africa)

| 13:15—14:15 PLENARY: CLOSING SESSION | SENATE HALL, F5, ROOM 110* |

* LIGHT TAKE-AWAY LUNCH WILL BE PROVIDED DURING THE CLOSING SESSION

- Olivier Moréteau, President
- Ignazio Castellucci, Vice President (Projects)
- Salvatore Mancuso, Vice President (Conferences)
- Lukas Heckendorn Urscheler, Treasurer
- Christa Rautenbach, General Secretary
- Emmanuel Didier, Communication Officer

**BON VOYAGE!**

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Contact details

For more information, please contact any of the following people:

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Annelie Pheiffer  
Annelie.Pheiffer@nwu.ac.za

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Christa Rautenbach  
Christa.Rautenbach@nwu.ac.za

**NWU Convention on the Rights of the Child:**
René Koraan  
Rene.Koraan@nwu.ac.za

**Southern African Society of Legal Historians:**
Willemien du Plessis  
Willemien.duplessis@nwu.ac.za

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http://www.nwu.ac.za  
http://law.nwu.ac.za/law/juris-diversitas-general-conference-home
A special (spatial) thank you to:

North-West University:
- Faculty of Law
- Deputy Vice-Chancellor: Research and Innovation
- Deputy Vice-Chancellor: Teaching and Learning
- Marketing and Student Recruitment
- Deputy Vice-Chancellor: Assigned Functions and Campus Operations - Potchefstroom Campus