



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



Olivier Moréteau

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



Stephen de la Harpe

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.

Stephen de la Harpe,
Executive Dean: Faculty
of Law



Andrea Bauling

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.

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

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 may 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.

MONDAY 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 Kgwadi, Vice-Chancellor of the North-West University
Stephen de la Harpe, Dean of the Faculty of Law, North-West University
Olivier Moréteau, Louisiana State University Law Center, President of Juris Diversitas
Andrea Bauling, University of South Africa, on behalf of the chair, South African Society of Legal Historians*

9:30–10:30 PLENARY—KEYNOTE
Venue: Senate Hall | Building F1, Room 201
Chair: Olivier Moréteau, Louisiana State University Law Center, President of Juris Diversitas

Pragmatic legal pluralism as a growth engine and stabiliser for development in Asia and Africa
Werner Menski, Emeritus School of Oriental and African Studies, London, United Kingdom

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

11:00–12:30 PARALLEL SESSIONS I

I.A. THEME: LAW, MORALITY AND RELIGION	I.B. THEME: ROOTS / LEGAL HISTORY	I.C. LAW AND CHILDREN
VENUE: SENATE HALL, F1, ROOM 201	VENUE: FACULTY OF LAW, F5, ROOM 120	VENUE: OLD SENATE HALL, F4, ROOM G22
CHAIR: FRANCOIS VENTER	CHAIR: WILLEMEN DU PLESSIS	CHAIR: RENÉ KORAAAN
Law and morality, the dilemma of the Siamese twins <i>Abe Oyeniya, University of Pretoria (South Africa)</i>	Bullying at work : The then, the now and the future <i>Denine Smit, University of the Free State (South Africa)</i>	Contextualising the African child: Appraising and apprising the socio-economic cultural realities <i>Avitus Agbor, North-West University (South Africa)</i>
The impact of the doctrine of religious entanglement on human rights in South Africa <i>Waheeda Amien, University of Cape Town (South Africa)</i>	The development of racially defined punishment in colonial Natal : the early history of Durban's Point Prison <i>Paul Swanepoel, University of KwaZulu-Natal (South Africa)</i>	Emerging jurisprudence on remedies and due diligence: Lessons for the CRC from the ACRWC? <i>Julia Sloth-Nielsen and Robert Nanima, University of the Western Cape (South Africa)</i>
Law in the fourth dimension <i>Rostam J Neuwirth, University of Macau (China)</i>	The roots of the Chinese leniency policy : A journey in time and space from the Ancient Chinese legal institution of the Tzu-Shou or zi shou to the US model <i>Anne Tercinet, EM Lyon (France)</i>	The status of refugee children post-Convention on the Rights of the Child <i>Molya ND Vundamina, Nelson Mandela University (South Africa)</i>

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

13:30–15:00 PARALLEL SESSIONS II

II.A. THEME: JURIS DIVERSITAS	II.B. THEME: LAW AND SPACE	II.C. THEME: LAW AND CHILDREN
VENUE: SENATE HALL, F1, ROOM 201	VENUE: FACULTY OF LAW, F5, ROOM 120	VENUE: OLD SENATE HALL, F4, ROOM G22
CHAIR: IGNAZIO CASTELLUCCI	CHAIR: WIAN ERLANK	CHAIR: AVITUS AGBOR
Rule of geography and rule of law : A legal assessment of the concept of zone <i>Gianmatteo Sabatino, University of Trento (Italy)</i>	The roots of law of the cyberspace : A new field for comparative lawyers <i>Olivier Beddeleem, EDHEC Business School (France)</i>	Rethinking the choice of termination of Pregnancy Act 92 of 1996 <i>Mathabo Baase, University of Cape Town (South Africa)</i>

Mixed legal systems - A 'loving' marriage of legal systems or a curse - the case study of Malta in the EU context <i>Ivan Sammut, University of Malta (Malta)</i>	The application of international human rights instruments in outer space settlements: Today's science fiction, tomorrow's reality <i>Anél Ferreira-Snyman, University of South Africa (South Africa)</i>	Realising children's rights in corporate mineral supply chains. Whose responsibility? Contextualising the state v corporate nexus <i>Kabukabu Laura Lisita, North-West University (South Africa)</i>
A discourse-oriented theory of horizontality for constitutional rights <i>Eleni Frantziou, Durham University (UK)</i>	How 'roots' and 'space' can influence family law? <i>Domitilla Vanni Di San Vincenzo, University of Palermo (Italy)</i>	Rights of children currently under threat in the Central African Republic: Where is the CRC? <i>Kesolofetse Olivia Lefenya, North-West University (South Africa)</i>

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

15:30–17:00 PARALLEL SESSIONS III

III.A. THEME: ROLE OF THE LAW	III.B. THEME: ROOTS / LEGAL HISTORY	III.C. LAW AND CHILDREN
VENUE: SENATE HALL, F1, ROOM 201	VENUE: FACULTY OF LAW, F5, ROOM 120	VENUE: OLD SENATE HALL, F4, ROOM G22
CHAIR: KYRIAKI TOPIDI	CHAIR: MATHABO BAASE	CHAIR: ROBERT NANIMA
A meta-review of existing literature on social media and the law <i>Seraphin Desire Eyono-Obono, Durban University of Technology (South Africa)</i>	Legal pluralism and engendered conflicts in Ilorin Nigeria's Frontier Emirate (1950-2016) <i>Oyesola Animashaun, North-West University (South Africa)</i>	Is there a case for protecting the identities of children who reach majority during criminal proceedings <i>Clement Marumoagae, University of the Witwatersrand (South Africa)</i>
Law as normative information: Reading Patrick Glenn's idea of legal tradition through the lenses of recent work on the philosophy of information <i>Adolfo Giuliani, University of Helsinki (Finland)</i>	From African customary law to the concept of public trusteeship: The full circle of South Africa's water regulatory framework <i>Germarié Viljoen, North-West University (South Africa)</i>	The need to overcome language barriers confronting children as victims, complainants and/or witnesses of sexual offences in criminal proceedings <i>Boitumelo (Tumi) Mmusinyane (North-West University) and Lesibana Refapa, University of South Africa (South Africa)</i>
What metaphor and metonymy bring to comparative law <i>Emmanuel Didier, Attorney at law (Ontario, New York, Québec and New Brunswick) [paper will be read by Ignazio Castellucci]</i>	Dealing with spatial limits when addressing corporate human rights abuse abroad: Roots and current tendencies in business & human rights legislation <i>Lukas Heckendorn Urscheler, Swiss Institute of Comparative Law (Switzerland)</i>	Children, rights and Pacific judges <i>Sue Farran, University of Northumbria, Newcastle upon Tyne (England)</i>

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	IV.B. THEME: GLOBAL SOUTH CONSTITUTIONALISM AND ENVIRONMENTAL PROTECTION: RELOCATING ENVIRONMENT AT THE CENTRE OF THE CONSTITUTIONAL DISCOURSE	IV.C. LAW AND CHILDREN
VENUE: BESEMBOS, E7 (LIBRARY) * YOU NEED YOUR NAME TAG FOR ACCESS	VENUE: FACULTY OF LAW, F5, ROOM 120	VENUE: OLD SENATE HALL, F4, ROOM G22
CHAIR: CHRISTA RAUTENBACH	CHAIR: SALVATORE MANCUSO	CHAIR: KARIN CALITZ
<p>Panel discussion: Medical pluralism in Africa: defining traditional health practitioners to 'fit' conventional healthcare systems</p> <p><i>Renée Street</i>, Medical Research Council of South Africa (South Africa)</p> <p><i>Mosa Moshabela</i>, University of KwaZulu-Natal (South Africa)</p> <p><i>Amber Abrams</i>, Medical Research Council of South Africa, South Africa</p> <p><i>Siyabonga Nzimande</i>, Africa Health Research Institute (South Africa)</p>	<p>The leading role of global South in environment. The National Green Tribunal of India at the crossroads between science, environment and society</p> <p><i>Domenico Amirante</i>, Università Della Campania (Italy) [paper will be presented by <i>Amiclaire D'Andrea</i>, Università Della Campania (Italy)]</p> <p>The relationship between land and community in Andean culture and its constitutional implications for the environment</p> <p><i>Silvia Bagni</i>, University of Bologna (Italy)</p> <p>Post-development paradigms from a constitutional top-down approach: An outline on some relevant environmental experiences in Asia and Africa</p> <p><i>Pasquale Viola</i>, Università della Campania Luigi Vanvitelli</p> <p>Liable to whom? Revisiting the North-South divide</p> <p><i>Olivier Moréteau</i>, Louisiana State University (USA)</p>	<p>Child marriage - Acceptance by association</p> <p><i>Arthur van Collier</i>, Fort Hare University (South Africa)</p> <p>The South African courts failure to take into account the grave nature of child pornography</p> <p><i>Hilary Visser</i>, North-West University (South Africa)</p> <p>A reformed approach to the concept of the best interest of the child</p> <p><i>Brenda Njoko</i>, North-West University (South Africa)</p>

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	V.B. THEME: ROOTS / LEGAL HISTORY	V.C. THEME: LAW AND CHILDREN
VENUE: BESEMBOS, E7 (LIBRARY) * YOU NEED YOUR NAME TAG FOR ACCESS	VENUE: FACULTY OF LAW, F5, ROOM 120	VENUE: OLD SENATE HALL, F4, ROOM G22
CHAIR: NGWAKO RABOSHAKGA	CHAIR: PAUL SWANEPOEL	CHAIR: MARITA CARNELLY
<p>The Constitution and the politics of memory</p> <p><i>Elmien du Plessis</i>, North West University (South Africa)</p>	<p>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</p> <p><i>Susandra van Wyk</i>, North-West University (South Africa)</p>	<p>The Constitution as customary law, or: the future of legal pluralism in sub-Saharan Africa</p> <p><i>Anthony Diala</i>, University of the Western Cape (South Africa)</p>

<p>Who are you if you lose your island?</p> <p><i>Sue Farran</i>, University of Northumbria, Newcastle upon Tyne (England)</p> <p>Law and geographical spaces: legal dynamics in contemporary Africa</p> <p><i>Salvatore Mancuso</i>, University of Palermo (Italy)</p>	<p>Defective products and liability: Roots and evolution of product liability in South Africa</p> <p><i>Odile Lim Tung</i>, North-West University (South Africa)</p> <p>The 'Maltese marriage question': Pope versus Privy Council in 19th century Malta</p> <p><i>David E Zammit</i>, University of Malta (Malta)</p>	<p>Are the rights of Muslim children being overlooked by section 88 of the Administration of Estates Act?</p> <p><i>Naeema Gabru</i>, North-West University (South Africa)</p>
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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° S, 27.1052° E

[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 Castellucci, Roma (Italy)

10:00-11:30 PARALLEL SESSIONS VI

VI.A THEME: LAW, EQUALITY AND DIVERSITY	VI.B. ROOTS / LEGAL HISTORY	VI.C. THEME: LAW AND CHILDREN
VENUE: SENATE HALL, F1, ROOM 201	VENUE: FACULTY OF LAW, F5, ROOM 120	VENUE: OLD SENATE HALL, F4, ROOM G22
CHAIR: OLIVIER MORÉTEAU	CHAIR: IRMA KROEZE	CHAIR: BOITUMELO (TUMI) MMUSINYANE
<p>The equality of diversity, People and justice systems in Europe</p> <p><i>Angelo Parisi</i>, Prosecutor in Venezia (Italy)</p> <p>Sexual orientation, societal intolerance, constitutional equality and the Traditional Courts Bill: The meaning of freedom post-apartheid</p> <p><i>Gideon Rossouw</i>, North-West University (South Africa)</p> <p>Elastic identities : Religious diversity, public education and non-discrimination in Israel and South Africa</p> <p><i>Kyriaki Topidi</i>, European Centre for Minority Issues (Switzerland)</p>	<p>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</p> <p><i>Klaus Beiter</i>, North-West University (South Africa)</p> <p>Michel Deguy : Jugement et Obligation</p> <p><i>Adelaide M Russo</i>, Louisiana State University (USA)</p>	<p>The vicarious liability of educational authorities for sexual abuse of learners by educators</p> <p><i>Karin Calitz and Cecile de Villiers</i>, Stellenbosch University (South Africa)</p> <p>Violation of children's rights in African armed conflicts in the lenses of the Convention of the Rights of the Child</p> <p><i>Leonard Opara and Leah Ndimurimo</i>, Nelson Mandela University (South Africa)</p> <p>The Convention on the Rights of the Child: A South African historical perspective</p> <p><i>Marita Carnelly</i>, North-West University (South Africa)</p>

11:45–12:15 Coffee and Tea Break | Gallery, Building E7

12:15–13:15 PARALLEL SESSIONS VII

VII.A JURIS DIVERSITAS	VII.B. LAW AND CUSTOM
VENUE: SENATE HALL, F1, ROOM 201	VENUE: OLD SENATE HALL, F4, ROOM G22
CHAIR: KLAUS BEITER	CHAIR: ELMEN DU PLESSIS
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)	All law is customary law Aysha Jessica Beavers, Zhongnan University of Economics and Law (China)
Democracy as a (non-)source of legal authority Francois Venter, North-West University (South Africa)	The roots of South African law: A discourse on Ubuntu Irma Kroeze, University of South Africa (South Africa)
La force normative des incriminations du droit des affaires OHADA Chaibou Dan Inna Bachir, Université de Zinder (Niger)	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!

Contact details

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

General enquiries:

Annelie Pheiffer
Annelie.Pheiffer@nwu.ac.za

Juris Diversitas:

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:

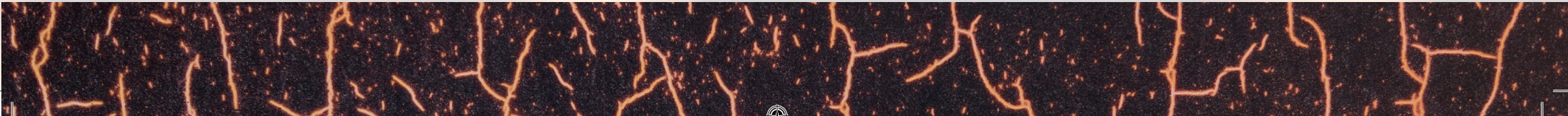
Willemien du Plessis
Willemien.duPlessis@nwu.ac.za

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<http://law.nwu.ac.za/law/juris-diversitas-general-conference-home>



CAMPUS MAP





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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