Third Annual Conference of The Younger Comparativists Committee of the American Society of Comparative Law

April 4 - 5, 2014
Conference Schedule Overview

**Friday, April 4, 2014**
Schwabe, Williamson & Wyatt
1211 SW 5th Avenue #1900
Portland, Oregon 97204

5:00 – 7:00 p.m.  Opening Reception
                 Welcome and Award Presentations

**Saturday, April 5, 2014**
Lewis & Clark Law School
10015 S.W. Terwilliger Boulevard
Portland, Oregon 97219

8:00 – 9:00 a.m. Check-in and Continental Breakfast
8:30 - 9:00 a.m. Welcome and Greeting
9:00 - 10:30 a.m. Panel Sessions I
10:30 – 10:45 a.m. Break
10:45 a.m. – 12:15 p.m. Panel Sessions II
12:15 – 2:15 p.m.  Plenary Panel and Lunch
2:15 – 3:45 p.m.  Panel Sessions III
3:45 – 4:00 p.m.  Break
4:00 – 5:30 p.m.  Panel Sessions IV
Conference Schedule
Saturday, April 5

8:00 – 9:00 a.m.  CHECK-IN AND CONTINENTAL BREAKFAST, LRC Student Lounge

8:30 a.m.  Welcome and Dean’s Greeting
Robert Klonoff, Dean and Jordan D. Schnitzer Professor of Law, Lewis & Clark Law School
Richard Albert, Boston College Law School  
Chair, YCC
Ozan Varol, Lewis & Clark Law School  
Chair, Program Committee

9:00 – 10:30 a.m.  PANEL SESSIONS I

Panel I-1: Arbitration and Dispute Resolution, McCarty Room 1

Med-Arb: A Choice Between Scylla and Charybdis
Daniela Antona, Cornell Law School

15 Years of the Handover: The Rise, Discontent, and Convergence of Cross-Border Arbitration in Hong Kong
Weixia Gu, University of Hong Kong

How Should International Arbitrators Interpret Commercial Contracts?
Joshua Karton, Queen’s University

The Tide of the Times? A Sectoral Approach to Latin America’s Resistance to the Investor-State Arbitration System
Tom Brower, University of Virginia

Panel I-2: Human Dignity and Socioeconomic Rights, McCarty Room 2

Comparing Diverse Approaches to the Margin of Appreciation: The Case of the European and the Inter-American Court of Human Rights
Gonzalo Candia, Universidad Católica de Chile

Socio-Economic Rights and the Newness Hypothesis
James Fowkes, University of Pretoria

Judicialization of Socioeconomic Rights in Brazil: Mercantilization of the Fundamental Rights as a Deviance in Rights Protection
Vanice Lírio do Valle, Estácio de Sá University, Rio de Janeiro
The New French Marriage in an International and Comparative Perspective
Angelique Devaux, *Indiana University, Indianapolis*

Panel I-3: Comparative Assessments of Law and Governance, McCarty Room 3

The Future of Bicameralism in Europe: A Comparative Analysis of Challenges and Reforms
Antonia Baraggia, *University of Milan*

Towards a Varifocal Model of the Separation of Powers
Eoin Carolan, *University College Dublin*

The Failure of Constitutional Jurisprudence: Constitutional Law and Demographic Change in Venezuela
Nicolás Figueroa, *New School for Social Research*

Electoral Management Bodies and Judicial Oversight of the Law of Democracy
Michael Pal, *University of Toronto*

Panel I-4: Cultural and Historical Approaches to Comparative Law, McCarty Room 4

Christianity, Islam, and Secular Law
Zachary Calo, *Valparaiso University*

State of Culture and Mediterranean Transitions: The Cases of Turkey and Morocco
Valentina Rita Scotti, *LUISS “Guido Carli” University of Rome*

Blood’s Empire: Historical Explorations of Parent-Child Relationships in Canada
Régine Tremblay, *University of Toronto*

Cultural Differences in Game Theory and the Comparative Law
Viktor Lőrincz, *Université Paris 1 Panthéon-Sorbonne*

Panel I-5: State Sovereignty, Law Making, and Legal Reform, LRC Room 5

The Enlarged State Power to Declare Nullity: On the Hidden State Interest under Article 52 (1) of the Chinese Contract Law
Hao Jiang, *Tulane University*

Precedents Rule: How Informal Institutions in Legal Systems Control Personnel Policy, Induce Judicial Outcomes, and Compete with Formal Law?
Ching-Fang Hsu, *University of Toronto*

Taiwan’s Great Crime Decline and Policing Policy: An Empirical Perspective
Kai-Ping Su, *University of California, Berkeley*
Secular and Religious Forums: Religious Arbitration in Western Liberal Democracies
Yvonne Tew, Columbia Law School

10:30 – 10:45 a.m. BREAK: McCARTY BREEZEWAY

10:45 a.m. – 12:15 p.m. PANEL SESSIONS II

Panel II-1: Financial Regulation, McCarty Room 1

The Impact of Private Actions for Damages on US and EU Public Antitrust Law Enforcement
Baskaran Balasingham, King’s College London

Perseverare Diabolicum: The Shortcomings of Pre-Crisis Financial Regulation, and the Repetition of the Same Mistakes in the Regulatory Response to the Crisis
Riccardo de Caria, University of Torino

A Failed Remedy? English and American Remedies and The Consumer Credit Litigation Explosion
Emanwel Turnbull, University of Maryland

Capital, Credit, and Shadow Banking: Understanding China’s New Banking System in an Era of Crisis
Shruti Rana, University of Maryland

Moderation the Highest Virtue!? Revisiting the Control Transaction and Exploring a Middle Way
Yueh-Ping (Alex) Yang, Harvard Law School

Panel II-2: Crime and Punishment, McCarty Room 2

Crime and Punishment, A Global Concern: Who Does It Best and Does Isolation Really Work?
Melanie Reid, Lincoln Memorial University

Pluralism by Unification: Overcoming the History of International Criminal Law
James Stewart, University of British Columbia
Asad Kiyani, University of British Columbia

A Comparative Analysis of Exclusion of Evidence from Criminal Trials in Canada, the USA and Europe
Adelina Iftene, Queen’s University
Panel II-3: Judicial Design, McCarty Room 3

Gender and the Judiciary: Contextualising Judicial Appointment Procedures to the Supreme Court of India
Vipasha Bansal, Columbia Law School

Not Only in the Global South: Transformative Constitutionalism in Comparison
Michaela Hailbronner, Max Planck Institute for Comparative Public Law and International Law, Heidelberg

Standing, Islam, and Constitutionalism: The Rise of “Islamic Judicial Review” in Indonesia
Stefanus Hendrianto, Santa Clara University

Constraining States: Constitutional Court Lessons for International Courts
Shalev Roisman, New York University

Panel II-4: Social and Environmental Challenges: Regulation and Protection, McCarty Room 4

Compliance Through Collaboration: Enlisting Third Parties to Assist Temporary Migrant Workers Realize Workplace-Related Standards in Canada and Australia
Manoj Dias-Abey, Queen's University

A Comparative Analysis of the Protections Against Waste
Sally Brown Richardson, Tulane University

Comparison Between Water Markets in California and in Spain: A Cautionary Tale of Governmental Failure
Vanessa Casado-Pérez, Stanford Law School

A Comparative Research of Workplace Sexual Harassment Law in the U.S. and Taiwan: Its Legal Transplantation, Transformation and Implementation
Bo-Shone Fu, University of Wisconsin, Madison

Panel II-5: Comparative Jurisprudence, LRC Room 5

Unwrapping Gifts in European Private Law
João de Sousa Assis, University of Glasgow

The Dynamic Allocation of Burden Doctrine as a Mitigation of the Undesirable Effects of Iqbal’s Pleading Standard
Nicolás J. Frías Ossandón, University of California, Los Angeles

Revisiting Equity Jurisprudence in a Comparative Context: Learning from India's Interpretive Framework
Sujata Gadakar-Wilcox, Quinnipiac University
Tobacco Regulation, Free Speech and Eminent Domain: Comparing Recent Developments in Australia, India, and the United States
Fadi Semaan, Columbia University

12:15 – 2:15 p.m. PLENARY PANEL AND LUNCH, LRC Student Lounge

Modern Challenges to Constitutional Democracy
Moderator: John Parry, Jeffrey Bain Faculty Scholar and Professor of Law, Lewis & Clark Law School

I. The American Common Law of Constituent Power
   William Partlett, Columbia Law School

II. Amending Constitutional Amendment Rules
    Richard Albert, Boston College Law School

III. Dynamic Constitutional Theory
     David Landau, Florida State University

IV. Do Constitutional Rights Make a Difference?
    Mila Versteeg, University of Virginia

V. Stealth Authoritarianism
   Ozan Varol, Lewis & Clark Law School

2:15 – 3:45 p.m. PANEL SESSIONS III

Panel III-1: Corporate Governance and Practices, McCarty Room 1

Convertible Preferred Stock: Constructing an Institutional Bridge Between the United States and People’s Republic of China Venture Capital Models
Olivia Adamski, University of British Columbia

Gender Diversity on Indian Boards
Afra Afsharipour, University of California, Davis

Putting the “Corporate” Back into Corporate Personhood
Caroline Kaeb, Northwestern University

Enforcing Corporate Governance in China: Or Why We Should Stop Worrying and Learn to Love the CSRC
Alan K. Koh, National University of Singapore
Chun Zhou, Peking University
Panel III-2: Legal Traditions and Legal Transplants, McCarty Room 2

BRINGING CERTAINTY AND ORDER OUT OF THE WILDERNESS OF LAW: A COMMON TENDENCY FOR THE CLARIFICATION AND SIMPLIFICATION OF THE LAW
Alessandro Martinuzzi, University of Bologna

LAW, FINANCE AND POLITICS: CASE STUDY OF EGYPTIAN CAPITAL MARKET
Mohamed Okasha Abdelaal, University of California, Berkeley

THE DE(CON)STRUCTION OF FIDUCIARY LOYALTY
René Reich-Graefe, Western New England University

COMPARING THE RESPONSE OF THE JUDICIARY TO IMMIGRATION DETENTION IN THE UNITED STATES AND AUSTRALIA
Daniel Ghezelbash, Macquarie Law School

Panel III-3: State Power and the Rule of Law, McCarty Room 3

THE OCCUPATION OF THE LAW: POWER DYNAMICS BETWEEN THE ISRAELI JUDICIAL AND LEGISLATURE OVER CONTROLLING PALESTINIANS’ TORT CLAIMS AGAINST IDF
Gilat Bachar, Stanford University

THE LAW IS A CAUSEWAY: METAPHOR AND THE RULE OF LAW IN RUSSIA
Jeffrey Kahn, Southern Methodist University

THE PROBLEM WITH IMPLEMENTING PUBLIC ORDER IN A PLURALIST LEGAL SYSTEM: A STUDY OF INDONESIAN PRIVATE INTERNATIONAL LAW
Yu Un Oppusunggu, University of Washington

POWERFUL PENS: PRESIDENTIAL LEGISLATION IN COMPARATIVE PERSPECTIVE
Shubhankar Dam, Singapore Management University

Panel III-4: Comparative Constitutionalism, McCarty Room 4

CONSTITUTIONAL JUDGMENTS ON THE EURO-CRISIS LAW: THE CRISIS WITHIN THE JUDICIAL DISCOURSE IN ITALY, PORTUGAL AND SPAIN
Cristina Fasone, European University Institute

OF TERRITORY, GOVERNMENT, PEOPLE AND PRAGMATISM: COMPARING THE EXTRATERRITORIAL SCOPE OF CONSTITUTIONAL RIGHTS
Noura Karazivan, University of Montreal

DISTINCTIVE IDENTITY CLAIMS IN FEDERAL SYSTEMS: JUDICIAL POLICING OF SUBNATIONAL VARIANCE
Antoni Abat i Ninet, University of Copenhagen
Democratic Integrity
Julien du Vergier, Davis Polk & Wardwell LLP

Judges on Remedial Discretion
Robert Leckey, McGill University

Panel III-5: Legal Language, Narrative, and Discourse, LRC Room 5

Women’s Rights and Women’s Rights Discourse in Postcolonial Tunisia and Morocco
John Hursh, McGill University

“Watch and Learn”: Illegal Behavior and Obedience to Legal Norms Through the Eyes of Popular Culture: The Case of Popular American and Israeli TV Shows
Itay Ravid, Stanford University

“Fishing” and the Adversary System
Irene Ten Cate, Marquette University

3:45 – 4:00 p.m. BREAK: McCARTY BREEZEWAY

4:00 – 5:30 p.m. PANEL SESSIONS IV

Panel IV-1: Investment, Innovation, and Bankruptcy, McCarty Room 1

Carrots and Sticks as Incentive Mechanisms for the Optimal Initiation of Bankruptcy Proceedings
Jaka Cepec, University of Ljubljana

The Impact on Patient Access to Genetic Test and Research After the Myriad Decision: Experience from Taiwan
Lung-Sheng Chen, National Chung Hsing University

Innovation in the Global Arena: What Does the Comparative Intellectual Property Collateralization Laws Teach Us?
Claire Wan-Chiung Cheng, Taipei Medical University

EU Comprehensive Investment Policy: Flying Too Close to the Sun?
Dominik Moskvan, University of Antwerp

Panel IV-2: Judicial Review, McCarty Room 2

Exporting Counter-Interpretation: Redeeming the U.S. Constitution in the United Kingdom and Abroad
Joshua Braver, Yale University
Direct Democracy and Judicial Review as Complementary Mechanisms – A Comparative Study of US and Swiss Legal Systems
Begüm Bulak, University of Geneva

Transnational Nonestablishment (Redux)
Claudia Haupt, Columbia Law School

Legal Nationalism and European Judicial Review
Alyssa King, Law Clerk to Judge Nicholas G. Garaufis, U.S. District Court for the Eastern District of New York

Panel IV-3: Law-Making and Methodological Inquiries, McCarty Room 3

Private International Law and Comparative Law – A Cross-Reference of Methodologies
Roxana Banu, University of Toronto

Comparative International Lawmaking
Kevin Cope, Georgetown University

Comparative Legal Methodology and Islamic Law: Special Considerations Regarding the Transferability of Laws
Hamid Harasani, King's College London

Toward a Theory of Constitution-Making
Eugene Mazo, Wake Forest University

Panel IV-4: Law and Contemporary Social Issues, McCarty Room 4

You Can Talk Me Into Anything: Lobbying and Constitutional Rights in Canada and the United States
Dan Gold, University of Ottawa

Government Surveillance and Information Privacy: A Comparative Perspective
Hsiang-Yang Hsieh, Formosa Transnational, Attorneys at Law

The Eagle’s Talons and the Bull’s Horns: Plutocracy, Partyocracy, and the Elusive Design of Democratic Integrity
Timothy Kuhner, Georgia State University

Towards a Better Solution for Private Interest: Comparative Law Study of Piracy Ransom
Xuelei Xu, Tulane University

Panel IV-5: Human Rights in Constitutional Courts, LRC Room 5

Constitutional Islamization and Human Rights: The Surprising Origin and Spread of Islamic Supremacy in Constitutions
Dawood Ahmed, University of Chicago
Proportionality Analysis in Institutional Context: What the Experiences of South Africa and Canada Might Suggest for India
Juliette Duara, National University of Singapore

Legislative Inconsistency and the “Smoking Out” of Illicit Motives
Niels Petersen, Max Planck Institute for Research on Collective Goods, Bonn

Should Reasons be Given? A Comparative Critique of Certiorari
Daniel Yip, University of Pennsylvania

5:45 p.m. Shuttle pick up
6:00 p.m. Shuttle pick up
Modern constitutionalism faces new challenges for which there are so far few answers. These challenges line the entire path of constitutionalism from creation to interpretation to enforcement to amendment and to replacement. Constitutional theory used to debate whether constitutional democracy demands a particular constitutional form—largely written as in the United States, mostly unwritten as in the United Kingdom, or partially written and unwritten as in Canada—but today constitutional theory recognizes that form matters less than function. The modern challenges of constitutional democracy raise questions of both form and function, the former often used to distort the latter with the formal trappings of constitutionalism.

Faced with the susceptibility of constitutional forms to non-democratic capture and low democratic outcomes, constitutional theory should reorient itself to these new challenges. This panel begins that work by asking important questions about modern constitutionalism. What are the optimal institutional designs for democratic constitution-making? How should constitutional democracies structure the process of constitutional amendment? Are there super-constitutional rights whose enforcement catalyzes broader constitutional protections? What is the proper conception of the judicial role in a poorly-functioning democracy? Finally, at the sub-constitutional level, how should constitutional democracies guard against political practices, national legislation and executive actions that risk undermining their formal constitutional commitment to democracy? The purpose of this panel is to illustrate and evaluate these modern challenges to constitutional democracy.

I. John Parry (Moderator): Introduction of panel and panelists

II. William Partlett: Constitution-Making

III. Richard Albert: Constitution-Changing

IV. David Landau: Judicial Role

V. Mila Versteeg: Comparative Constitutional Law: Rights

VI. Ozan Varol: Sub-Constitutional Practices and the Constitutional Order

VII. Group discussion and audience participation
Younger Comparativists Committee
Graduate Student Paper Prizes
Third Annual YCC Global Conference

Prize Paper: Inaugural Recipient of the Colin B. Picker Prize

Gilat Bachar
J.S.D. Candidate, Stanford University

The Occupation of the Law: Power Dynamics Between the Israeli Judiciary and Legislature Over Controlling Palestinians’ Tort Claims Against IDF

Honorable Mention

1. Itay Ravid
J.S.D. Candidate, Stanford University

"Watch & Learn": Illegal Behavior and Obedience to Legal Norms Through the Eyes of Popular Culture: The Case of Popular American and Israeli TV Shows

2. Alan K. Koh & Chun Zhou
LL.M. Candidate, Boston University; Ph.D. Candidate, Peking University

Enforcing Corporate Governance in China: Or Why We Should Stop Worrying and Learn to Love the CSRC

The Colin B. Picker Prize honors the contributions of the founding chairperson of the YCC, currently Associate Dean (International) and Associate Professor at the University of New SouthWales. The Prize is awarded annually for the most meritorious paper written by a graduate law student and submitted to the Annual YCC Global Conference.

With special thanks to the YCC’s Scholarship Advisory Group for applying the highest standards of academic integrity in reviewing these selections among outstanding submissions from graduate law students around the world. The Scholarship Advisory Group is chaired by David Landau (Florida State), and consists of Christopher Bruner (Washington & Lee), Eoin Carolan (University College Dublin), Neha Jain (Minnesota) and Adam Shinar (IDC Radzyner).
Phanor J. Eder Prize in Comparative Law
—Sponsored by the University of Kansas School of Law—
Third Annual YCC Global Conference

Prize Paper

Tom Brower
J.D. Candidate, University of Virginia School of Law

The Tide of the Times? A Sectoral Approach to Latin America's Resistance to the Investor-State Arbitration System

First Honorable Mention

Geoffrey Yeung
LL.B. Candidate, Hong Kong University Faculty of Law

Religious Exemptions in Sexual Orientation Anti-Discrimination Laws: A Comparative Study

Second Honorable Mention

Lawrence David
BCL/LL.B. Candidate, McGill University Faculty of Law

Subnational Constitutionalism and the Concurrent Protection of Religious Freedom: The Canada-Quebec Experience

The Phanor J. Eder Prize in Comparative Law honors the contributions of the first President of the American Society of Comparative Law. The Prize is awarded for the most meritorious paper written by an LL.B. or J.D. student and submitted for the Annual YCC Global Conference.

With special thanks to the University of Kansas School of Law for sponsoring this generous award and to the YCC’s Affiliates’ Advisory Group for applying the highest standards of academic integrity in reviewing these submissions received in response to our Call for Papers. The 2013 Affiliates’ Advisory Group was chaired by Virginia Harper Ho (University of Kansas) and consists of Kevin Cope (Washington & Lee University School of Law), Cristina Fasone (European University Institute), Joshua Karton (Queen’s University Faculty of Law), Jaclyn Neo (National University of Singapore Law).
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The Younger Comparativists Committee gratefully acknowledges the support of the American Society of Comparative Law, Lewis & Clark Law School, Dean Robert Klonoff, and Schwabe, Williamson & Wyatt. In addition, the Committee expresses its deepest gratitude to Sue Page for her central role in organizing the conference. Finally, the Committee thanks Professor John Parry, and Lewis & Clark law students Katherine Davis, Elizabeth Hilliard, Bryce Kunz, Allison Melgaard, Philip Thoennes, Braden Wolf, and Charis Wolfe for moderating the conference panels.
Campus Wifi Connection

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