



Editorials

Reviews

Analysis

Developments

New Voices

I-CONnect

**Blog of the International
Journal of Constitutional Law**[Home](#) » [Developments](#) » Conference Report: « Le droit global existe-t-il ? » — University of Louvain

Conference Report: « Le droit global existe-t-il ? » — University of Louvain

— **Alicia Pastor y Camarasa**, PhD Candidate, Centre de recherche sur l'Etat et la Constitution (CRECO), University of Louvain (Belgium)

Reviving the tradition of medieval *disputatio*, Professors [Sophie Weerts](https://applicationspub.unil.ch/interpub/noauth/php/Un/UnPers.php?PerNum=1198672&LanCode=8) (<https://applicationspub.unil.ch/interpub/noauth/php/Un/UnPers.php?PerNum=1198672&LanCode=8>) and [Céline Romainville](https://uclouvain.be/fr/repertoires/celine.romainville) (<https://uclouvain.be/fr/repertoires/celine.romainville>) convened a debate at the University of Louvain around globalization and public law under the title, *Does Global Law Exist?*, with Professors [Maxime Saint-Hilaire](https://www.usherbrooke.ca/droit/faculte/personnel/corps-professoral/maxime-st-hilaire/) (<https://www.usherbrooke.ca/droit/faculte/personnel/corps-professoral/maxime-st-hilaire/>) (University of Sherbrooke) and [Benoît Frydman](http://www.philodroit.be/Frydman-Benoit?detail=publications&lang=fr) (<http://www.philodroit.be/Frydman-Benoit?detail=publications&lang=fr>) (Free University of Brussels). What follows is a summary of the key issues that emerged from intensive debate, where two radically different perspectives were proposed on how to defend the *Rule of Law* [*l'Etat de droit*]^[1] (#_ftn1) from the threats emerging from globalization. The debate revolved around questions regarding the nature of global law, the state, the role for lawyers, and the fairness of global law. It can be seen in full – [here](https://www.youtube.com/watch?v=i4LxyeZaPoA) (<https://www.youtube.com/watch?v=i4LxyeZaPoA>).

Benoît Frydman embraced a pragmatist approach, arguing that any norm with legal consequences is thus a legal norm. He referred to all these non-formal legal norms as “U.L.O.s” or “Unidentified Legal Objects”. These norms go beyond state law and include what is traditionally gathered under soft law; such as, guidelines, recommendations, labels, and indicators produced by both public and private actors. He argued that legal scholars and actors (i.e. judges and lawyers) should think of these norms as law, as this is the only pathway through which these norms – currently emerging in the global realm – can be controlled and submitted to the Rule of Law. Frydman ultimately advocated for the legal community to dive into these different normative orders.

Maxime Saint Hilaire chose an opposite strategy. As a fierce critic of legal pluralism and ‘panjuridism’ (which pushes us to see law everywhere), he argued that, in order to protect the Rule of Law, it is essential to stick to the rule of recognition, which allows legal rules to be distinguished from other

Subscribe to I-CONnect

Enter your email address:

<http://www.iconnectblog.com>[/feed/rss2/](http://www.iconnectblog.com/feed/rss2/)
https://twitter.com/iconnect_blog

Submit to I-CONnect

We welcome substantive submissions via email on any subject of comparative public law. Submissions usually, though not always, range from 750 to 1000 words. All submissions will be reviewed in a timely fashion. Please send submissions to contact.iconnect@gmail.com.

[EJIL: Talk!](#)

[The WTO Panel Ruling on the National Security Exception: Has the Panel 'Cut' the Baby in Half?](#) April 12, 2019 Iryna Bogdanova
[Julian Assange arrested in London; Omar al-Bashir being deposed](#) April 11, 2019 Marko Milanovic

[Humanitarian Assistance and Security Council Sanctions: Different Approaches to International Humanitarian Law](#) April 11, 2019
Ruwanthika Gunaratne

Recent Comments

Simon Drugda on [What's New in Public Law](#)

Alvin Y.H. Cheung on [What's New in Public Law](#)

[Basic Law: Nation and occupation in Israel – part 2 | SOAS Blog](#) on [Symposium– Part 6 of 7: Is there Constitutional Capture in Israel?](#)

[Basic Law: Nation and occupation in Israel – part 2 | SOAS Blog](#) on [Introduction to I-CONNECT/ICON-S-IL Symposium: Constitutional Capture in Israel?](#)

Michael Scott on [Special Symposium on "Towering Judges"—Jointly Hosted at I-CONNECT and IACL-IADC Blog—Introduction: Towering Judges in Comparative Perspective](#)

Archives

[April 2019](#)

[March 2019](#)

[February 2019](#)

[More Archives \(#more-archives\)](#)

legal inquiry should be devoted to formal sources of law – that is, rules recognized by the state – and that this is a necessary condition for the survival of the Rule of Law as a principle grounded in political values. It follows that he defended the role of lawyers as actors fighting for a more formal, rather than substantive, form of justice.

As public lawyers facing the challenges and the effects of globalization on public law, the questions raised by these two different strategies invite us all to take a step back and engage in self-reflection. How should we define our project of inquiry as public lawyers? Should we engage with actors beyond judges and the legislature? Where should we draw the line? Should we limit our role as defenders of formal modes of justice, or should we consider the law to be a tool of emancipation and protection for those who have traditionally been marginalized and invisibilized by public law given their gender, race, sexual orientation, ability, geographical location (ie the Global South)? Should we engage in a pragmatic way with the effects of globalization, or should we refine the conceptual tools we already have at our disposal, such as the rule of recognition, to preserve the Rule of Law and the political values underpinning it?

Related Publications

Benoit Frydman with Jean-Yves Chérot, *La science du droit dans la globalisation*, Bruxelles, Bruylant, 2012.

with L. Hennebel, G. Lewkowicz, "Coregulation and the Rule of Law", avec in E. Brousseau, M. Marzouki., C. Meadel, (dir.), *Governance, Regulation and Powers on the Internet*, Cambridge University Press, 2012.

"L'évolution des normes de scientificité en droit", in Hélène Desbrousses, *Normes de scientificité et objet des sciences sociales*, Paris, L'Harmattan, 1997, pp. 91-109

Maxime Saint Hilaire, "Standards constitutionnels mondiaux : épistémologie et méthodologie", in Mathieu Disant, Gregory Lewkowicz et Pauline Türk (dir.), *Les standards constitutionnels mondiaux*, Bruxelles, Bruylant, 2017, p. 11-75.

"Global Standards of Constitutional Law: What Knowledge? Which Method?", in Asma Ghachemet Henri Pallard (dir.), *Une Cour constitutionnelle internationale au service du droit démocratique et du droit constitutionnel*, actes du colloque de Rabat des 16-17 juin 2015, Beyrouth, Konrad Adenauer Stiftung, 2016, p. 23-28.

"The Study of Legal Plurality outside "Legal Pluralism": The Future of the Discipline?", in Shauna Van Praagh et Helge Dedek (Eds), *Stateless Law: Evolving Boundaries of a Discipline*, Farnham (UK), Ashgate Pub, 2015, p. 115-132.

[1] (# ftnref1) See M. Loughlin, "Chapter 11. Rechtsstaat, Rule of Law, l'Etat de droit", *Foundations of Public Law* (Oxford University Press, 2010).

Published on [April 12, 2019](#)

Author: [Alicia Pastor y Camarasa](#)

Filed under: [Developments](#)

Tags: [Global Law](#), [Legal Pluralism](#), [Panjuridism](#), [Pragmatism](#), [rule of law](#)

« Same Sex Marriage in the Cayman Islands is Unconstitutional... »



No Comments

Leave a Reply

Your email address will not be published. Required fields are marked *

Comment

Name *

Email *

Website