



PhD Day

LILLE - BRUXELLES - GAND - LIÈGE - LOUVAIN

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Centre d'Histoire Judiciaire - Salle A.3.17

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PhD Day

Résumés des sujets de thèse

- **Louis Bremond**, PhD student, GRI (UGhent)

A Century of Law and Emergency in France: The Impact on Fundamental Rights and Legal Thought

This research has been focusing on the uses of exceptional laws of emergency from 1914 onward, to develop a better understanding of these exceptional regimes through their applications. 6 key periods are being observed, and currently the research focuses on the states of emergency declared in New Caledonia and Algeria. The objective is to understand the emergency laws contextually, believing that they are enacted principally due to perceptions – of crises, of needs to bring back public order. The project also postulate that these regimes have a long-term effect on the legal frame as well as on the political and legal thinking and is trying to understand this effect as well as to show it clearly. With the multiplication, nowadays, of crises and the need to adapt the legal frame accordingly, such research seems topical, to deepens the perception of this legal institution that is the exceptional law of emergency.

It is a fundamentally interdisciplinary work, as while its core lies in legal history, it borrows from political sciences and social sciences. It also takes place within a larger ERC grant research project, led by Professor Cosmin Cercel, and in which other PhD students focus on emergency and law in other countries. This comparative element is of great help to understand emergency laws in general and to be able to develop a better conceptual mapping of them.

- **Mihai Claudiu-Dragomirescu**, PhD student, GRI (UGhent)

The International Connection: Limiting Human Rights in Romania through Emergency Measures (1920-2020)

So far I have been working on the interwar period in Romania, during which emergency legislation was most prolific. I am planning to publish an article on the utilisation of the state of siege in the Romanian province of South Dobruja in 1926, and how was it connected to the process of interwar state building within Romania and the Balkans in general. Furthermore, I am investigating the interactions between the development of international law and the domestic law limitations on fundamental rights. For the next years of my PhD I plan to advance on the WW2 legislation and Holocaust in Romania, followed by the Soviet occupation of Romania and the Revolution of 1989, all which be analysed through the prism of emergency as a legal and political concept.

- **Louis Debersaques**, PhD student, CORE (VUB) & Architectural Engineering (VUB)

Normativity and Expertise through Construction Law and Litigation (c. 1870-1950)

In my PhD research, I focus on construction law and litigation in Belgium between 1870 and 1950. Within Legal History, the construction industry remains highly understudied. On the one hand, this is not wholly surprising, given the lack of explicit historical sources. To a certain extent, this coincides with the lack of knowledge concerning practical knowledge and organization of the construction site itself. On the other hand, this potential of construction history through legal history research remains ‘untapped’, which is disproportionate given the role the sector has in state infrastructure and general everyday life.

Some building actors exclaimed the need to understand legal stipulations given their responsibility to build ‘greatly and safely’. Still, in the second half of the 19th century, there was no “Construction Code”, but a scattered framework of stipulations in the Civil Code, like the “ten-year-liability” for architects and contractors (art. 1792 & art. 2270 C.C.) and the local prescriptive regulation for construction works based on project specifications (*cahier des charges*).

However, in the first year of my research, I retrieved certain ‘legal manuals’, predominantly written by lawyers, where (French and Belgian) jurisprudence is discussed by annotation. This still does not unveil how builders themselves operated on the construction site and how ‘aware’ or ‘receptive’ they were of a continuously changing legal framework. In order to tackle this last research gap, I focus on proceedings of first instance tribunals, and more specifically: the cabinet of the investigating judge. These files preserve excellent ‘windows of the past’, where builders are ‘formally forced’ to make their practice explicit in times of legal conflict. Through targeted discourse analysis, I analyze interrogation files, margin notes and expert reports. These documents unveil not only which type of infrastructure was built and what types of damage and faults were most common, but also with what mentality and norms builders (architects, engineers, contractors, masons, ...) practiced. Through discerning ways in which liability (e.g. site accidents) was allocated, it becomes clear how professions were ‘actually’ delineated – which is surprisingly troubled before legal recognition of e.g. the title of the architect (1939) – and to what extent responsibilities were distributed. Here, expertise through ‘rules of the trade/art’ clashes with legal stipulations, culminating into inevitable compromises, articulated through discourse about normativity.

- **Elias Dessantis**, PhD student, Department of Metajuridica, Private and Business Law (UGhent)

Navigating Crisis: Emergency Legislation and Governance in Modern Belgium

The research project — part of the ERC project EMERGE — titled "Navigating Crisis: Emergency Legislation and Governance in Modern Belgium", is a legal-historical study that examines five pivotal moments in Belgium’s modern history, beginning with World War I as the first major application of emergency powers in 20th-century Belgium. Although Article 187 of the Belgian Constitution prohibits a formal state of emergency, Belgium has repeatedly implemented exceptional emergency measures during major crises. This paradox positions Belgium as a unique case for studying the exercise of emergency powers in the absence of explicit legal frameworks. The primary objectives of this research are to analyze the creation and application of the state of emergency and emergency powers in Belgium, to assess their impact on crisis response, and to explore the interplay between the state of emergency and the process of securitization. By examining this dynamic, the study aims to contribute significant theoretical insights into the concepts of the state of emergency and the state of exception.

- **Alexandra Garifullina**, Doctorante contractuelle, CHJ (CNRS-ULille)

Vladimir Hrabar (1865-1956) : un historien du droit et internationaliste européen ? L'histoire de la science du droit international entre l'Europe occidentale, l'Empire de Russie et l'URSS

My PhD dissertation delves into Vladimir Hrabar's contribution to the history of international law. Vladimir Hrabar (1865-1956) was a distinguished professor at the University of Tartu before the October Revolution and notably avoided prosecution in the early USSR. Hrabar's works focus on exploring the literary history of international law prior to Grotius in Western Europe (paralleling the research of Belgian historian Ernest Nys) and on the development of the science of international law in the pre-revolutionary Russia. Often expressing views distinct from official communist thought, Hrabar occasionally echoed aspects of Soviet legal doctrine, albeit to a lesser extent. Given this combination of his views, my research aims to offer new insights on the interplay between European and Russian traditions of international law by analyzing Hrabar's works and comparing them with contemporaneous authors from Western Europe, the Russian Empire and the Soviet Union. Hrabar's archives, preserved at the University of Tartu Library, will also be studied to shed light on Hrabar's unpublished writings and unknown biographical details.

- **Antoine Leclère**, Aspirant du FRS – FNRS, GEDHSR (ULiège), CLHD (ULiège) et CORE (VUB)

Le droit constitutionnel révolutionnaire de la principauté de Liège et des Pays-Bas autrichiens : entre innovation, tradition et influence

Mon sujet de thèse porte sur l'histoire du droit constitutionnel révolutionnaire de la principauté de Liège, sur l'influence des diplomates européens dans les débats constitutionnels de la Révolution liégeoise ainsi que sur l'éventuelle survivance de ce droit après la réunion de la principauté à la France. La période envisagée va de 1772 (élection d'un prince-évêque francophile à Liège) à 1804 (avènement de l'Empire français).

- **Robin Navez**, PhD student, GRI (UGhent) & CLHD (ULiège)

Pierre-Thomas Nicolaï : de juge liégeois à législateur universel

Le projet de recherche propose une nouvelle lecture de l'élaboration du *Burgerlijk Wetboek* de 1838, qui s'attache à explorer à la fois le processus même de codification, et le contenu du code au travers de l'influence déterminante du juriste liégeois Pierre-Thomas Nicolaï (1763-1836). L'analyse de l'influence de Nicolaï sur le *Burgerlijk Wetboek* se fonde sur l'étude, à partir des sources d'archive, de sa vie, sa participation au projet législatif et le code proposé en 1830, dans un cadre d'analyse tenant compte tant des aspects procéduraux que matériels de la codification.

- **Hugo Neuhauser**, Doctorant contractuel, CHJ (CNRS-ULille)

Les prémices de l'internationalisation de la protection légale du travail (1889-1914). Naissance de la législation internationale ouvrière ?

Si la création de l'Organisation Internationale du travail (OIT) apparaît comme un moyen pour les États d'assurer la paix à l'issue de la Première Guerre mondiale, on peut explorer le moment « pré-OIT » qui précède le premier conflit mondial, au cours duquel s'expriment des revendications multiformes en faveur de la consécration d'une véritable « législation internationale ouvrière ». Cette expression, qui commence à s'imposer dans le vocabulaire juridique dans les dernières décennies du XIX^e siècle, sollicite l'attention de nombreux États européens mais aussi celle d'acteurs privés d'horizons très divers.

Ces acteurs privés se réunissent régulièrement entre 1889 et 1908 lors de Congrès internationaux des accidents du travail pour questionner les possibilités d'encadrement juridique du travail et explorer les modalités de mise en œuvre d'un socle minimum de protection de la main-d'œuvre, dans un contexte de concurrence et de rivalité entre les nations industrielles.

Il s'agit d'étudier les discours qui s'affrontent au sein des Congrès internationaux des accidents du travail et d'évaluer l'incidence de ces débats sur l'idée d'une législation internationale du travail dont un certain nombre de juristes défendent la promotion pour répondre à la « question sociale ».

- **Nicolas Ruys**, Aspirant du FRS-FNRS, CPRI (UCLouvain)

La clémence princière à la rescousse des débiteurs. Des lettres de répit, de cession de biens et de sûreté de corps sous les Pays-Bas espagnols (ca. 1531 - 1700)

Princely Pardon to the Rescue of Debtors. Letters of atterminatio, cessio bonorum and securitas corporis in the Spanish Netherlands (ca. 1531-1700)

My research project aims at studying within the Spanish Low Countries (*id.* the different principalities that were governed by the Burgundian-Habsburg dynasty between the 16th & 17th century) the development and the impact of a specific expression of the royal grace, namely the civil power to pardon in order to help debtors, confronted with payment difficulties. By civil power to pardon, I am simply referring to the power of the Prince as well in the Kingdom of France as in the Low Countries to interfere in civil legal issues (thus not criminal) in order to express mercy and clemency *vis-à-vis* His subjects by delivering them the so-called letters of pardon. I actually have identified three specific kinds of letters of pardon which were aimed at rescuing debtors: the letters of *atterminatio* or respite, the letters of *cessio bonorum*, and finally, the letters of *securitas corporis*.

Firstly, the letters of *atterminatio* (*lettres d'attermination ou de répit* in French) were the legal mechanism by which the monarch could grant a *dilatio debiti* or debt suspension to good faith debtors who wrote a request to their Prince. By obtaining such debt deferral, the debtor could not be tried by his creditors and no execution measure on his goods or his person could be applied.

Furthermore, by delivering a *cessio bonorum* letter (*lettre de cession*), the King granted unfortunate and good faith debtors the opportunity to sell equitably and publicly all his goods in order to satisfy his creditors & to avoid being thrown in jail or yet, to be released from the same place.

Finally, next to *cessio bonorum*, there were also letters of *securitas corporis*, whose aim was precisely to immunize a petitioner debtor against imprisonment for debt or yet to liberate him in case he was already imprisoned.

The primary contribution of this PhD project will be to address a research topic that remains significantly underexplored and overlooked within the academic community concerned with the legal history of the former Low Countries. At its core, this work aims to fill a substantial gap in the literature while also shedding new light on the concept of sovereign grace, particularly as a form of assistance that the Prince could extend to debtors trapped by insolvency. The dissertation will demonstrate that princely clemency extended well beyond criminal matters, thereby underscoring that the King had the authority to intervene in the private matters of his subjects. In this respect, another fundamental contribution of this research is to show that, through his power of pardon, the King effectively appropriated what we would consider the realm of private law. Finally, the dissertation's relevance extends to contemporary law by enabling a better understanding of how this power to pardon in cases of insolvency may have influenced various mechanisms of debtor support that persist even nowadays.

More concretely, from a methodological point of view, this thesis project proposes to undertake an in-depth analysis of the roots and historical developments of the civil grace, focusing on the Netherlandish early modern period and the rich theological and legal literature it contains. A particular feature of this work will be a careful study of the judicial archives of the Privy Council (*Conseil Privé/Geheime Raad*) of the Low Countries, a princely institution empowered to issue the three types of pardon letters designed to aid indebted supplicants.

- Rodrick Van Der Smissen, Teaching assistant, CORE (VUB)

Roman Law and the Formative Interpretation of History in the Nineteenth-Century Insolvency Law

19th century lawyers in France and Belgium used Roman law as a backdrop to understand contemporary insolvency law or new legislation. These scholars did not strictly distinguish between legal history and the positive law and often relied on historical arguments.

However, the scarcity of sources in Roman insolvency law and the different layers of interpretations throughout history made that the concepts in insolvency law are "moving" concepts, which means that the Roman law concepts as such remained but underwent changes in meaning and interpretation over time. For example, the Roman '*Cessio bonorum*' and the 19th century '*Cession de biens*'.

The historical interpretation of Roman law in the 19th century insolvency law is not thoroughly researched yet. This research project aims to assess how the historical arguments and concepts used referred to policy considerations, ideological views and genuine historical interpretation. For France and Belgium, 19th century legislative documents, commentaries and doctoral dissertations will be examined via the contextual and comparative legal history method, and these sources, their authors, the different legal concepts will also be related to each other via network analysis in order to determine if Roman law was formative for the 19th century insolvency law.