

האוניברסיטה העברית בירושלים
The Hebrew University of Jerusalem



הפקולטה למשפטים

Third International Congress

of the

World Society of Mixed Jurisdiction Jurists

METHODOLOGY AND INNOVATION IN MIXED LEGAL SYSTEMS

20-23 June 2011

at the

Hebrew University of Jerusalem, Israel

Mixed legal systems, both the classical ‘mixed jurisdictions’ combining common law and civilian law and more exotic hybrids, are increasingly important touchstones for comparative law. The Third Congress of the *World Society of Mixed Jurisdiction Jurists* focuses on legal methodology and innovation in mixed systems in the twenty-first century: investigating past experiences, exploring present practices, and predicting future possibilities.

Venue

The Reception and Opening Session of the conference will be held in the Faculty of Law of the Hebrew University of Jerusalem on Mount Scopus. All other sessions will be held in Beit Maierdsdorf, the Hebrew University Faculty Club, on Mount Scopus. The language of the conference will be English

Registration and Fees

To register, please use **Registration Form Attachment**

For those registering for the conference by 28 February 2011, the fee is \$300.

For those registering for the conference from 1 March onwards, the fee is \$350.

Registration fee for conference lecturers is \$100.

Please note: registration and payment for the conference are separate from registration and payment for hotel accommodation (see below).

Accommodation

All participants are responsible for making their own arrangements for accommodation. Hotels in Jerusalem are quite expensive in June. The **Hotel Reservation Attachment** provides details of four hotels that have a number of rooms reserved for conference participants at a special conference rate. These must be booked by 28 February and can be booked only via Kenes Tours on the form provided. Information on other hotels and bed and breakfast accommodation can be found on the internet.

Please note: registration and payment for hotel accommodation are separate from registration and payment for the conference (see above).

Website and Information

The conference website will be updated as new information becomes available:

<http://law.huji.ac.il/eng/iruim.asp?cat=2199&in=776>

For further information, please contact Ms Tali Algazy:

law-conferences@savion.huji.ac.il

The Conference is co-sponsored by:

The Hebrew University of Jerusalem, Faculty of Law

Harry and Michael Sacher Institute for Legislative Research and Comparative Law,
Faculty of Law, Hebrew University of Jerusalem

The Eason Weinmann Center for Comparative Law, Tulane Law School

The International Association of Legal Science

Organising Committee

Vernon Valentine Palmer, Tulane University (WSMJJ President)
Hector MacQueen, Edinburgh University (WSMJJ Vice President)
Jacques du Plessis, Stellenbosch University (WSMJJ Vice President)
Efrén Rivera-Ramos, University of Puerto Rico (WSMJJ Vice President)
Lionel Smith, McGill University (WSMJJ Vice President)
Rohan Edrisinha, University of Colombo, Sri Lanka (WSMJJ Vice President)
John Lovett, Loyola University (WSMJJ Vice President)
Seán Donlan, University of Limerick, Ireland
Xavier Blanc-Jouvan, University of Paris 1, Panthéon-Sorbonne
Symeon Symeonides, Willamette College of Law
Reinhard Zimmermann, Max Planck Institute for Private Law, Hamburg
Celia Wasserstein Fassberg, Hebrew University of Jerusalem (WSMJJ Secretary-General)

Visas and Travel

A tourist visa is required for entry to Israel. For travelers from many countries the visa is issued at the point of entry. Travelers from some countries must apply for a visa before arrival in Israel. For information please check with your local travel agent and Israeli Consulate. For general information see

<http://gov.il/FirstGov/TopNavEng/EngSituations/ESVisitingIsrael/ESVGettingToIsrael/>

Ben Gurion Airport is approximately 40 km. from Jerusalem. There is no train service between the airport and Jerusalem. The best way to reach Jerusalem is by taxi.

Private taxis: These are lined up outside the terminal on the left. The price is fixed and varies according to the destination, the number of passengers and the amount of baggage. **Check the price with the dispatcher and the driver before setting out** (the price should be approximately 300 N.S.) No tip is expected.

Shared taxis (Sherut): These are also lined up outside the terminal, on the right, with service to major cities. The price is fixed (at approximately 80 N.S.) The driver will drop you off at whatever hotel or address you give. No tip is expected.

For tourist information in Jerusalem see:

http://www.goisrael.com/Tourism_Eng/Tourist+Information/Discover+Israel/Cities/Jerusalem.htm

Cancellation policy

Fees must be paid in full before the conference begins. Cancellations received in writing by 31 May 2011 will incur a 20% administrative fee. After this date, fees will not normally be refunded. The Hebrew University reserves the right to cancel the conference, in which case all fees will be fully refunded. In the event of cancellation, the Hebrew University will not be liable for travel and accommodation costs incurred by participants. The WSMJJ reserves the right to change the programme if necessary with little or no notice.

Provisional Program

Monday, 20 June

17:00-18:00 **Registration**

18:00-19:00 **Reception**

19:00-21:00 **Opening Session**

Greetings:

Justice Eliezer Rivlin, Deputy President, Supreme Court of Israel

Opening Keynote:

Lord Rodger of Earlsferry, Justice of the Supreme Court, U.K.

Mixed Jurisdictions in a Mixed-Up Legal World

Tuesday, 21 June Methodology

09:00-09:45 **Keynote:**

Professor Vernon Palmer, Tulane University, Louisiana

Double Reasoning in Codified Mixed Systems:

Code and Case law as Simultaneous Methods

10:00-13:00 **Parallel Sessions I**

Session I.A Judicial Techniques

Rosalie Jukier, *Judicial Methodology in the Mixed Legal System of Quebec*

Gerrit Pienaar, *The Methodology to Interpret Customary Land Tenure*

Break

John Lovett, *From Rules to Discretion: The Judicialization of the Louisiana Civil Code*

Santiago Legarre, *Precedent in Argentina*

Mary Algero, *Precedent in Louisiana*

Session I.B The Dynamics of Diverse Systems

Janet Walker, *Adjudication in Mixed Jurisdictions: The Strange Case of Private International Law in Canada*

Monika Pauknerová, *Unilateral Juridical Acts and Uniform Conflict-of-Law Rules*

Markus Puder, *Mixed Jurisdiction Dynamics in Federal-State Frameworks: American Court-Structure Federalism and Louisiana's Codal Core*

Break

Nikitas Hatzimihail, *Reconstructing Mixity: Sources of Law and Legal Method in Cyprus*

Marta Infantino, The Italian Legal Recipe: Basic Ingredients and the Bustle of Time

Yasunori Kasai and Emi Matsumoto, Two Perspectives on Mixed Systems – Japan

13:00-15:00 **Lunch break and campus tour**

15:00-17:30 **Parallel Sessions II**

Session II.A Sri Lanka to the Philippines

Anton Cooray, Interplay of Judicial Traditions and their Influence on Substantive Law: The Case of Sri Lanka

Ignazio Castellucci, Mixity in the Legal Systems of Hong Kong and Macau

Break

Salvatore Mancuso, Creating New Mixed Jurisdictions: Some Methodological Reflections on Legal Integration in the SADC Region

Justin Holbrook, Mixed Jurisdictions and the Problem of Deontological Asymmetry - The Philippines

Session II.B Method and Substance: Selected Topics

P.J.W. Schutte, An Abstract System for the Transfer of Property in South African Law

Eric Descheemaeker, Defamation and Truth: Scots and South African Law Compared

Break

Adam Hofri, Slow Rise: The Gradual Incorporation of the Express Private Trust in Israeli Law

Shael Herman, Plus Ça Change, Plus C'est La Même Chose: Commonalities and Variations in Regulations of Gifts Omnium Bonorum in Jewish and Louisiana Law

Wednesday, 22 June Innovation

09:00-09:45 **Keynote:**

Professor Thomas Bennett, University of Cape Town
Ubuntu: A New Doctrine of Equity in South African Law

10:00-13:00 **Parallel Sessions III**

Session III.A Innovation: Concepts and Contexts

Elmarie van der Schyff, Innovation Through Mixing the Mixed: Determining the Probable Outcome of Introducing an Anglo-American Concept to the South African Roman-Dutch Based Property Concept

J.H.M. van Erp, *The Changing Structure of European Property Law: Subjects, Objects, Relations*

Break

Ádám Fuglinszky, *Civil Liability in a Mixed Jurisdiction: Quebec and the Network of 'Ratio Communis'*

Pavel Šturma, *International Criminal Justice as a New Example of 'Mixed Jurisdictions'*

Colin Picker, *Innovation in International Law: A Comparative Law/Mixed Jurisdiction Perspective*

Session III.B Tradition and Innovation

Lukas Heckendorn, *Innovation in a Hybrid System: The Example of Nepal*

Biagio Andò, *Innovation and Tradition in Maltese Law*

Break

David Yarrow and Melissa Castan, *Is Australia a Mixed Legal System? The Clash of Interpretive Positivism and Indigenous Tradition in Australian Property Law.*

Antonios E. Platsas, *The Enigmatic but Unique Nature of the Israeli Legal System*

Guy Carmi, *Rethinking Israel's Classification as a Mixed Legal System*

13:00–15:00 **Lunch break and tour of Botanical Gardens**

15:00-17:30 **Parallel Sessions IV**

Session IV.A Innovation in Constitutional and Administrative Law

François du Bois, *The Creation and Transformation of the Constitutional Court of South Africa: The Rise and Demise of a Civilian Institution in a Mixed Legal System*

Haim Sandberg, *'Negotiating' with the Legislator - A New Weak-Form Israeli Pattern of Constitutional Judicial Review*

Break

Margit Cohn, *Pure or Mixed? The Evolution of the Grounds of Judicial Review in British and Israeli Administrative Law*

Francois Venter, *South Africa: A Diceyan Rechtsstaat ?*

Session IV.B Innovation: Selected Topics

Tamar Gidron and Max Loubser, *Liability of the State and Public Bodies for Negligence: A Comparative View of Israeli and South African Law*

Jacques Mathee, *African Customary Values in the Context of South African Criminal Values: Has There Been a Change in Judicial Policy since 1996?*

Break

Robert Leckey, *Reform on Two Paths: Legislative and Judicial Recognition of Same-Sex Parents in Quebec*

Christa Rautenbach and Willemien du Plessis, *Interaction between South African Family Laws: Judicial Innovatio or Confusio*

Thursday, 23 June Mixed Systems and Institutions

09:00 – 10:30 **Parallel Sessions V - Universities, Scholars and Judges**

Session V.A

Seán Donlan, *Mediterranean Legal and Normative Hybridity: A Project for the Social Sciences*

Mauro Bussani, *Mixed Approaches to Mixed Jurisdictions*

Session V.B

Olivier Moréteau, *Teaching Legal Traditions in Louisiana: Theory, Practice, and Lessons from Experience*

Stephen A. Smith, *Comparative Legal Scholarship as Ordinary Legal Scholarship*

Break

11:00-12:00 **Closing Keynote:**

Judge Nicholas Kasirer, Court of Appeal, Quebec
How Legal Institutions Think

12:30-14:00 **Lunch break**

14:00–16:00 **Tour of the Supreme Court**

17:30–18:30 **WSMJJ business meeting**

19:00 **Closing Reception and Dinner**