



“Filling the Gaps: The Study of Judicial Creativity and Equity in Mixed Jurisdictions and Beyond”

Dipartimento di Scienze Politiche e Sociali
Università degli Studi di Catania
Department of Political and Social Sciences
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Aula Magna
University of Catania
Via Vittorio Emanuele II, 49, 2nd Floor
Catania, Italy

May 27-28, 2013

PROGRAM AGENDA



Day 1: May 27, 2013

09:00-09:30 Welcome Remarks

Mohamed Mattar, Senior Research Professor of International Law, Executive Director, The Protection Project at The Johns Hopkins University-SAIS, Washington, DC, USA

Vernon Palmer, Thomas Pickles Professor of Law, President, World Society of Mixed Jurisdiction Jurists, Co-Director, Eason Weinmann Center for Comparative Law, Tulane Law School, New Orleans, LA, USA

Giuseppe Vecchio, Professor of Private Law, Head, Department of Political and Social Sciences, University of Catania, Catania, Italy

09:30-10:30 Panel I: Legal Gaps in Mixed Jurisdictions and Beyond

Chair: Mohamed Mattar, The Johns Hopkins University-SAIS

— ***“Toward an Anatomy of Legal Gaps”***

Vernon Palmer, Thomas Pickles Professor of Law, President, World Society of Mixed Jurisdiction Jurists, Co-Director, Eason Weinmann Center for Comparative Law, Tulane Law School, New Orleans, LA, USA

— ***“Brief Introduction to the Problem of Judicial Gaps”***

Claudia Irti, Professor of Law, Unicusano University, Rome, Italy

10:30-10:45 Coffee Break

10:45-12:15 Panel II: Gap-Filling as an Expression of Legal Cultures

Chair: Vernon Palmer, Tulane Law School

— ***“Mind the Gap, Mend it or Hide it! What Gap-Filling Reveals about Legal Systems and Cultures”***

Olivier Moréteau, Professor of Law, Holder of the Russell B. Long Eminent Scholars Academic Chair, Louisiana State University (LSU) Paul M. Hébert Law Center, Baton Rouge, LA, USA

— ***“A Gap is a Gap Everywhere? An African Contribution to the Taxonomy of Legal Gaps”***

Salvatore Mancuso, Chair, Professor, and Director, Centre for Comparative Law in Africa, University of Cape Town, Cape Town, South Africa

— ***“Filling the Gaps in Latin America: Mixed Patterns in the 19th and 20th Century”***

Ignazio Castellucci, Professor of Asian Legal Traditions and Chinese Law, University of Trento, Trento, Italy; Professor of Comparative Legal Systems, University of Macau, Macau, China

12:15-01:45 Lunch

01:45-03:45 Panel III: Foundational Principles of the Law and Judicial Engagement in Gap-Filling

Chair: Nikitas Hatzimihail, University of Cyprus

— ***“Appraisal of what Constitutes Legal Gaps and how they Are Filled in Different Jurisdictions”***

Michael Ogwezy, Professor of Law, Lead City University, Ibadan, Nigeria

— ***“General Principles of Law as Gap-Fillers”***

Neha Jain, Associate Professor of Law, University of Minnesota Law School, Minneapolis, MN, USA

— ***“Filling Lacunae by Judicial Engagement with Constitutional Values and Comparative Methods”***

Francois Venter, Professor of Law, Faculty of Law, North-West University, Potchefstroom Campus, Potchefstroom, South Africa

— ***“Gaps in the Civil Codes in the Louisiana and Italian Legal Systems: Legal Rulings and Judicial Discretion”***

Biagio Andó, Lecturer in Comparative Law, Department of Political and Social Sciences, University of Catania, Catania, Italy

Day 2: May 28, 2013

09:30-11:00 Panel IV: Judicial Creativity and Equity in Gap-Filling: Case Studies of the European Mixed Jurisdiction System

Chair: Biagio Andó, University of Catania

— ***“Judicial Creativity in the European Mixed Jurisdiction”***

Barbara Pasa, Associate Professor, Private Comparative Law, Department of Law, University of Torino, Turin, Italy & Lorenzo Bairati, Senior Research Fellow, Department of Law, University of Torino, Turin, Italy

— ***“The Equitable Dimension of the CJEU’s Approach to Gap-Filling in EU Law”***

Francesca Fiorentini, Assistant Professor in Private and Comparative Law, Faculty of Law, University of Trieste, Trieste, Italy

— ***“The Problem of Gap-Filling and Judicial Activism in the European Court of Human Rights’ Case Law”***

Daria Sartori, PhD Candidate, Doctoral School of Comparative and European Legal Studies of Trento, Trento, Italy

11:00-11:15 Coffee Break

11:15-12:45 Panel V: Gap-Filling in Criminal Law vs Private Law Matters

Chair: Salvatore Mancuso, University of Cape Town

— ***“Filling the Gap in Favor of the Accused: The Approach of Islamic Criminal Law in Light of the Rule: “Do not Enforce Punishments in Cases of Doubt”***

Hossein Mir Mohammadsadeghi, Professor of Law, Shahid Beheshti University, Tehran, Iran

— ***“Living With/Out Proximity: The Absence of a Contested Concept in the Civil Law of Tort”***

Carl Stychin, Dean, City University Law School, London, UK & Clemens Rieder, Faculty Academic Fellow, Lancaster University Law School, Lancaster, UK

— ***“Legal Drafting in the Egyptian Civil Code and the Approaches to Gap Filling”***

Fayez Mohamed, Professor of Law, Alexandria University, Alexandria, Egypt

12:45-02:15 *Lunch*

02:15-04:00 **Judicial Creativity and Equity in Gap-Filling: Country Case Studies**

Chair: Ignazio Castellucci, University of Trento

- ***“The Role of Judicial Creativity and Equity in the Turkish Covert Hybridity”***
Esin Orücü, Professor Emerita of Comparative Law, University of Glasgow, School of Law, Glasgow, UK
- ***“The Nobile Officium in Civil Jurisdiction: An Outline of Equitable Gap-Filling in Scotland”***
Stephen Thomson, PhD Candidate, Tutor, Part-time Lecturer, University of Edinburgh, Edinburgh, Scotland
- ***“Filling the Gaps: Case of Russia”***
Irina Moutaye, Senior Researcher, Department of Foreign Countries’ Civil Legislation, Institute of Legislation and Comparative Law, Moscow, Russian Federation
- ***“Of Gaps and the Common Law in the Cyprus Law of Obligations”***
Nikitas Hatzimihail, Professor of Private Law, University of Cyprus, Nicosia, Cyprus

04:00-04:30 **Closing Remarks**

Vernon Palmer, Thomas Pickles Professor of Law, President, World Society of Mixed Jurisdiction Jurists, Co-Director, Eason Weinmann Center for Comparative Law, Tulane Law School, New Orleans, LA, USA

Mohamed Mattar, Senior Research Professor of International Law, Executive Director, The Protection Project at The Johns Hopkins University-SAIS, Washington, DC, USA

Biagio Andó, Lecturer in Comparative Law, Department of Political and Social Sciences, University of Catania, Catania, Italy