

Workshop

Methodological pluralism in comparative constitutional research

Date: 3 June 2019, 2.30-6.00 p.m.

Venue: Sigmund Freud University Vienna, Freudplatz 1, Room 2004, 1020 Vienna

2.45-3.00 p.m. Welcome and Opening Remarks, Konrad Lachmayer

3.00-3.45 p.m. Paper Presentation: Theunis Roux, UNSW Sydney, Australia

Paper title: Interdisciplinary Research in Comparative Constitutional Law: Benign Toleration or Critical Engagement?

Abstract: This paper considers the call for the integration of legal-interpretive and social science perspectives in comparative constitutional law (CCL). It argues that two features of the field complicate how we respond to this call. First, whatever the possibilities of interdisciplinary research are at an ideal level, the practical implementation of this call depends on the field's capacity to transcend the competing views of this issue in different national research traditions. The second complicating factor is the contrasting ways in which scholars from different disciplines and regions of the world have been defining the field's object of study. Concluding on this score that what matters is not how we define the field, but how we interact in it, the paper maps two ideal-typical models of interdisciplinary interaction – the *critical engagement* and *benign toleration* models – and explains why the former is to be preferred.

3.45-4.30 p.m. Paper Presentation: Konrad Lachmayer, SFU Vienna, Austria

Title: A knowledge-based approach towards constitutional comparison

Abstract: Beyond the discussion of empirical and hermeneutical methodology the comparison of constitutional law can be understood from a knowledge-based approach. Based on legal knowledge of a particular legal system constitutional comparison creates an inter-legal knowledge, which is *per se* not part of legal order, but determines a specific interrelation between different legal systems. This comparative constitutional knowledge is the result of abstraction and interrelation. It does not create legal knowledge itself, but can be used for different purposes (like theoretical conclusions or practical legal argumentation). In a pluralistic understanding comparative constitutional knowledge transforms the knowledge of different legal orders, while using a plurality of comparative methods. The latter are determined by the purpose of the comparison itself, which shall be made transparent in the overall comparison of constitutional law.

4.30-4.45 p.m. Coffee Break

4.45-5.00 p.m. Discussant: Alexander Somek, University of Vienna, Austria

5.00-6.00 p.m. Open Discussion

6.00 pm. End of Workshop

7.30 p.m. Joint Dinner (Qero, Börseplatz 5, 1010 Vienna)