

**AMERICAN SOCIETY OF COMPARATIVE LAW
YOUNGER COMPARATIVISTS COMMITTEE
6th ANNUAL CONFERENCE
KOÇ UNIVERSITY LAW SCHOOL – ISTANBUL
28-29 April 2017**

PROGRAM

FRIDAY, 28 APRIL 2017

08:45 **Registration & Coffee** – Koç University Campus Sevgi Gönül Auditorium

09:00 – 09:30 **OPENING SPEECHES**

Prof. Umran İnan – *President of Koç University*

Prof. Bertil Emrah Oder – *Dean of Koç University Law School*

Prof. Virginia Harper Ho – *YCC Chair*

09:30- 10:15 **KEYNOTE SPEAKER SEMINAR**

Prof. Helena Alviar Garcia

Robert F. Kennedy Visiting Professor at Harvard Law School

Former Dean of the Law School at the Universidad de Los Andes

10:30 -11:50 **PARALLEL PANELS**

Panel I: “Regulating Markets”

Venue: SOS B07

Chair: Ayşegül Buğra

Speakers:

- Virginia Harper Ho: *China's Green Credit Reforms: Creditor Monitoring & Environmental Transparency*
- Daniele D'Alvia: *The remarkable story of SPACs between a legal standardised regulation and a standardisation by market practices*

- Emek Toraman Çolgar: *The Mandatory Bid Rule: A Comparative Analysis of Turkish, European Union and English Laws*

Panel II: “Democratic Decay: Challenges for Constitutional Democracies in a Changing World and Challenges to the democratic principle in National and Supranational Legal Orders”

Venue: SOS B08

Chair: Saadet Yüksel

Speakers:

- Ali Ersoy Kontacı: *Judicial Protection of Rights and Liberties in State of Emergency: An Evaluation of the Turkish Constitutional Court’s Past and Present Performance*
- Malwina Ewa Kolodziejczak: *The Extraordinary Measures in Selected Countries: Legal Aspects*
- Atagün Mert Kejanlıoğlu: *The Unconstitutional “Semi-Presidentialism” in France and Turkey: How Do Popular Consent Enable Presidents to Abuse Power?*
- Stefan Somers: *Constitutional review as leveler of the differences between common law and civil law*

Panel III: “Observing the Observance of International Law: A Comparative Analysis of Normative Pull to Enforceability”,

Venue: SOS B21

Chair: Başak Çalı

Speakers:

- Zeynep Elibol Brönneke: *“The effect of the perception of the authority of international law on passing the ‘object and purpose test’ – a comparative analysis of the ICCPR reservations of Turkey and France”*
- Valentina Azarova: *Intentionality in the Observance of International Law: From Compliance to Obedience (through Internalisation)*
- Irina Crivet: *Observing the depths of (non-)compliance with ECtHR judgments: The cases of Moldova and Lithuania*
- Betül Durmuş: *Testing the Adequacy of Home-Grown Norms: The Notion of ‘Indirect Discrimination’ before the UN Human Rights Treaty Bodies*

Panel IV: “Trade, Movement of Goods and Consumer Protection”,

Venue: SOS B11

Chair: Yasin Alperen Karaşahin

Speakers:

- Lydia Velliscig: *EU New Approach to Customer Protection in the Insurance Market: The Example of “Product Governance”*.
- Belma Bulut: *Smart Containers and Their Possible Effects in Transport Law: A Comparative Study Between English Law and Turkish Law*
- Rosa Maria Rojas Vertiz Contreras: *A comparative analysis of Consumer Bankruptcy in Latin America*

- Meltem Ece Oba: *The Law Applicable to the Non-Contractual Liability of the Producer Against Third Parties*

11:50- 12.10 **Coffee Break**

12:10- 13:30 **PARALLEL PANELS**

Panel I: “Good Governance and the Economy”,

Venue: SOS B08

Chair: Emek Toraman Çolgar

Speakers:

- Radwa Salah Elsaman: *How Could Corporate Governance Contribute to the Development of the Economy in the MENA Region?*
- Seda Palanduz: *One Size Doesn't Fit All: Business Ethics and Corporate Governance for the Sharing Economy*
- Cem Veziroğlu: *Buyout Remedy For Oppressed Minority Shareholders: Comparative Analysis of Turkish, Swiss and English Laws*

Panel II: “Education, Freedom of Speech and Cultural Rights: Global Challenges”,

Venue: SOS B07

Speakers:

Chair: Zehra G. Kavame - Eroglu

- Jing Li: *Legal Profession of China in a Globalized World: Innovations and New Challenges*
- Manvendra Singh Jadon, *The Modern Law of Sedition and Freedom of Speech and Expression in India with a Comparative Discussion on the State of Law in Malaysia, UK, USA*
- Yin Cheng Hsu, *Cultural Rights, Digital Culture and Self-Regulation for ‘Cyberians’*
- Amir Mostaghel: *Using Technology for Making Governments More Accessible To People: The Comparison between Successful and Unsuccessful Countries*

Panel III: “Limits of Civil Liability from a Comparative Perspective”

Venue: SOS B21

Chair: Francisco de Elizalde

Speakers:

- Işıl Yelkenci: *When ‘Full Compensation’ Fails to Compensate Torts: Challenging Civil Law Jurisdictions through a Social Justice Perspective*
- Tuğçe Oral: *A Comparative Approach to the Violation of Personality Rights of Legal Entities*

- Işık Önay: *Legal Consequences of the Birth of an Unplanned Child due to a Wrongful Act: A Comparative Overview of Wrongful Conception, Wrongful Birth and Wrongful Life Cases*

Panel IV: “Women and Children: Their Right to Political Participation and to be Free from Violence and Exploitation”

Venue: SOS B11

Chair: Mehmet Polat Kalafatoğlu

Speakers:

- Valentina Rita Scotti *“Women’s Political Participation in Turkey between secular and religiously-oriented policies”*
- Fulya Ezgi Akkuş, *“Violence Against Women: Comparative Constitutional Law Perspective”*
- Amna Rashid, *“CEDAW and the Rights of Women in Pakistan—Hopes and Realities”*
- Mina Sadat Sharifian, *“Role of NGOs in Children’s Rights During Armed Conflicts: Comparative Analysis of the Wars in Syria, Kosovo and Iraq”*

13:30 – 15:00 **Lunch**

15:00 - 16.20 **PARALLEL PANELS**

Panel I: “Criminal Law in Comparative Context”

Venue: SOS B11

Chair: R. Murat Önok

Speakers:

- Rajat Banerjee: *The Effectiveness of the Law on Plea Bargaining: A Comparative International Perspective*
- Reem Radhi: *Modernising Corporate Criminal Law: Restorative Justice for Corporate Criminal Liability and Sentencing in the UK and USA*
- Shama Farooq: *Lawyering Up: Contemporary Challenges & Solutions in Implementing the Privilege against Self-Incrimination*
- Irmak Erdoğan: *Offences Against the Confidentiality, Integrity and Availability of Computer Data and Systems*

Panel II: “Powers of the Executive in Comparative Perspective”

Venue: SOS B21

Chair: Bertil Emrah Oder

Speakers:

- Giacomo Fantini: *The Coup and the Referendum: Ascent and Decline of military influence on Turkish Constitutionalism*

- Matteo Frau / Elisa Tira: *The Interpretation of the Commander in Chief Clause in the American Living Constitution in Comparison with the Recent Transformation of the Prerogative Power to Deploy Troops in the Unwritten British Constitution*
- Mehmet Utku Öztürk: *A Comparative Analysis Regarding the Role of Prime Minister in Differentiating Parliamentary Government Models: United Kingdom and Germany – A Suggestion for Turkish Quest for System of Government*
- Abdulkareem Azeez: *How Democratic is the Removal of Presidential Term Limit Cum Electoral College?*

Panel III: “Religious and Societal Influences on Public Institutions”

Venue: SOS B07

Chair: Yiğit Sayın

Speakers:

- Sara Saosan Razai: *Judicialization of Politics in the Arab World*
- Danya Shocair Reda: *The Rule of Law in Comparative Perspective: Islamic Law and Contemporary China*
- Raphael Lorenzo Aguilang Pangalangan: *Relative Impermeability of the Wall of Separation: An Uphill Battle for Marriage Equality in the Philippines*

Panel IV: “Comparative Concerns with Dispute Resolutions”

Venue: SOS B08

Chair: Virginia Harper Ho

Speakers:

- Estu Dyah Arifianti: *Challenges of Implementing Small Claims Court in Indonesia*
- Mehmet Polat Kalafatoğlu: *Online Dispute Resolution for Cross-Border (International) E-Consumer Disputes*
- Amr Elattar: *Enforcement of Annulled Arbitration Award: The Resurrection of Chromalloy and justifying clear criteria*
- Wasıq Abass Dar: *Decrypting the Role of ‘Public Policy’ in Private International Law and International Commercial Arbitration*

SATURDAY, 29 APRIL 2017

09:30 - 10: 50

PARALLEL SESSIONS

Panel I: “State Rights (Sovereignty), Human Rights, and Various Tensions”

Venue: SOS B07

Chair: R. Murat Önok

Speakers:

- Umar Rashid, *Analyzing the Impact of International Investment Law and Human Rights Law on the Doctrine of Sovereignty*
- Anna Lukina, *Russia v. ECtHR-Resistance or Dialogue: a Comparative Analysis*
- Ivan Mugabi, *A Comparative Study of the Models of Disability Under Treaties of Int’l Human Rights and Int’l Humanitarian Law*
- Gwenaelle Dereymaeker: *The Constitutionality of Criminal Procedure and Prison Laws in Africa – A Comparative Analysis*

Panel II: “Legal Transplants and Judicial Review in a Comparative Perspective”

Venue: SOS B21

Chair: Valentina Rita Scotti

Speakers:

- Fernanda Mambrini Rudolfo: *The Utilization of Italian Doctrine by Brazilian Supreme Court (STF)*
- Mulki Shader: *Human Rights-Based Approach on the Protection of Right to Speedy Trial in the Settlement of Judicial Review of Legislation in the Constitutional Court of Indonesia*
- Nafay Choudhury: *Legal Transplants and Development: A Social Networks Approach*
- Valentin Rétornaz - *Private Law Legal Transplants and Public Law Context: A Tale of Soil and Weather*

Panel III: “Performance of Obligations and Instruments Ensuring Performance”,

Venue: SOS B11

Chair: Francisco de Elizalde

Speakers:

- Başak Başoğlu and Kadir Berk Kapancı: *Close Link Between the Right to Specific Performance and Penalty Clauses: A Comparative Approach*
- Safak Parlak Börü: *The Enforcement of Penalty Clauses in the Light of Comparative Law*
- Uğur Sarper Boz: *Punitive Damages; a Necessity in Civil Law*
- Yasin Alperen Karasahin: *Non-Possessory Security Rights on Movable Goods*

Panel IV: “Contemporary Challenges to Commercial Insurance Contract Law”

Venue: SOS B16

Chair: Virginia Harper Ho

Speakers:

- Ayşegül Buğra: *The convoluted state of voyage conditions: increase of the risk of loss, applicability of the Insurance Act 2015 and of the Principles of European Insurance Contract Law*
- Katie Richards: *Redressing the balance: Fabricated insurance claims and (harsh) civil remedies*
- Christopher Whitehead: *Why there was a PPI scandal in England but not in France—according to an Anglo-French insurance lawyer*

10:50 – 11:10

Coffee Break

11:10 – 12:30

PARALLEL SESSIONS

Panel I: “Judicial Interpretation in Comparative Perspective”

Venue: SOS B11

Chair: Valentina Rita Scotti

Speakers:

- Arina Kostina: *Consistency in the Interpretation of the Constitutional Norm*
- John J. Magyar: *English and American Textualism*

- Nazim Ziyadov: *Comparing Judicial Interpretation Techniques of the Russian Constitutional Court with Its Foreign Counterparts: Judgment of 14 July 2015, No21-II – Misinterpretation of International and Comparative Law?*
- Luigi Lonardo: *The Political Question Doctrine for EU Foreign Affairs Law*

Panel II: “State Regulation of Social Relationships and Identities: New Comparative Insights on Its Gendered Dimensions”

Venue: SOS B21

Chair: Zeynep Elibol Brönneke

Speakers:

- Thiago Amparo: *“Zika epidemic and Regulation of Women’s Bodies in Latin America: a Solid Ground for Legal Change?”*
- Daniela Alaattinoğlu: *“Framing Violations in the Nordic Welfare State: Involuntary Sterilization and Castration, Rights and Responsibility”*
- Stefano Osella: *“Legal Gender Classification and the Disciplinary Creation of the Gendered Subject in the Italian Constitutional Jurisprudence”*

Panel III: “Courts and Flows in Institutional Design”

Venue: SOS B08

Chair: Saadet Yüksel

Speakers:

- Pablo Echeverri: *The 2015 Power-Balancing Reform in Colombia: A Missed Opportunity to Disrupt the Ecosystem of Structural in the Halls of Justice*
- Muhammad Reza Winata: *Relations Trend between Constitutional Court and Lawmaker in Indonesia: Legislative Overrides Constitutional Review Decision*
- Shams El Din El Hajjai - *Judicial Accountability in Egypt*
- Riccardo de Caria: *Interest Representation Before Courts: A Comparative Analysis*

Panel IV: “Contract Law from a Comparative Perspective”

Venue: SOS B16

Chair: Işık Önay

Speakers:

- Francisco de Elizalde: *The sources and effects of contractual terms. Towards an approximation of Common Law and Civil Law*
- Dimitar Stoyanov: *The Contractual Prohibition of Assignment of Receivables in a Comparative Perspective*
- Aysha Jessica Beavers: *The Apparent Agency: A Comparison Between Italian and Chinese Solutions*
- Sanne Jansen: *Consumer Sales Remedies: Hierarchy and Self-Help*

12:30 – 13:30

Lunch

13:30 – 14:50 **PARALLEL SESSIONS**

Panel I: “Judicialization of Social Rights, Global Public Goods and Sustainable Development”

Venue: SOS B07

Chair: Bertil Emrah Oder

Speakers:

- Serkan Yolcu: *Enhancing of Judicial Protection: A Comparative Study of Monitoring in Constitutional Adjudication of Social Rights*

- Dustin Klautdt: *Can a 'Living Tree' Constitution Remedy Climate Change? A Review of Foreign Climate Litigation and the Potential to Seed Climate Justice with Canadian Litigation*
- Feyzan Özbay: *An Illustration of the Challenges to the Application of Environmental Constitutionalism in Turkey: Mehmet Kurt Case*

Panel II: “Issues on Regulation and Tax Law”,

Venue: SOS B16

Chair: Zehra G. Kavame - Eroglu

Speakers:

- Asim Jusic: *Technologizing Financial Regulation: FinTech, RegTech, and the International Anti-Money Laundering Standards and Regulatory Regimes*
- Chuanman You: *A Comparative Study of Recent Development of FinTech Regulations in China*
- Ezgi Arık: *Protection of the Tax Payers' Rights during the Tax Audits: Impartiality within the Scope of the Proportionality Principle*

Panel III: “The International Criminal Court: Entrenching Legal Authority in the Midst of Conflicting Norms”

Venue: SOS B21

Chair: Zeynep Elibol Brönneke

Speakers:

- Alexander Skander Galand: *“Is it time for the International Criminal Court to adopt the foreseeability test?”*
- Dorothy Makaza: *“African States and ICL; Re-thinking the Narrative and Contextualising the Discourse”*
- Marina Aksenova: *“Sentencing Perpetrators of Atrocities in Colombia: Where International and Domestic Values Converge”*

Panel IV: “Competition Law Around the World”

Chair: Zeynep Ayata

Venue: SOS B11

Speakers:

- Payam Ahmadi Rouzbahani: *Archaic Concepts of Competition Law under Islamic Rule; a Comparative Perspective on the Origins of Hısbah*
- Ayşe Gizem Yaşar: *Article 9(3) in Turkish Competition Law - A Discussion on Due Process Issues in Antitrust Proceedings*

14:50: 15:10 **Coffee Break**

15:10 – 16:30 **PARALLEL SESSIONS**

Panel I: “Big Data, Big Problems”,

Venue: SOS B11

Chair: Yasin Alperen Karaşahin

Speakers:

- Nafiye Yücedağ: *Data Protection Concerns in Cyberspace: Making Data Available to the Public by its Subject*

- Yıldız Sekban: *Striking the Balance between Big Data and Privacy: A Comparative Perspective*
- Elena Falletti: *Could wearable technology transform the traditional concept of habeas corpus?*

Panel II: “Historical and Cultural Challenges in Legal Frameworks”

Venue: SOS B16

Chair: Yiğit Sayın

Speakers:

- Chiara Correndo: *Cognitive Mistakes in the Colonial Works about the Indian Village Institution and Their Impact on the Independent India Governmental Policies*
- Elisa Bertolini: *The Western Constitutional Thought in the Shaping of the Role of the Japanese Emperor in the 1889 and 1946 Constitutions*
- Julie Rocheton: *An endeavor to find the 19th century United-States Civil Codes project*

Panel III: “International Crimes Tribunals of Bangladesh Through the Prism of Comparative Law”

Chair: Işık Önay

Venue: SOS B21

Speakers:

- Rayhan Rashid: *Prescription versus Obligation to Import Foreign Norms: The Case of the International Crimes Tribunals of Bangladesh*
- Bahzad H. Joarder: *Prosecuting Crimes Against Humanity at the International Crimes Tribunals of Bangladesh*
- M Sanjeeb Hossain: *Trials in absentia at the International Crimes Tribunals of Bangladesh: Jurisprudence and Commentary*

Panel IV: “Protecting Knowledge and Creativity”

Venue: SOS Z21

Chair: Zeynep Ayata

Speakers:

- Andrea Borroni: *Protecting Recipes?*
- Giovanna Carugno: *Copyright Protection and Choreographies: New Issues, Old Solutions?*
- Marco Seghesio: *The Protection of Traditional Knowledge in a Globalized World*

16:30-17:15

CLOSING CEREMONY – Founders’ Hall

Presentation of Awards & Closing Speeches