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# LSU PAUL M. HEBERT LAW CENTER



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## ***The Russell Long Chair and CCLS Newsletter***

**March 2016 – No. 35**

### ***Journal of Civil Law Studies, Volume 8, No. 2: Invitation au voyage***

Vol. 8, #2 of the JCLS is now available at <http://digitalcommons.law.lsu.edu/jcls/>. Here is a summary:

*Invitation au voyage*: is there better title to our Volume 8, Number 2? Our journey starts in Louisiana, to take us to Switzerland and Turkey. In *One into Three, Three into One*, Esin Örüçü creates a magic triangulation between the Louisiana, Swiss, and Turkish civil codes, translation making the first spread to new horizons, and one of three linguistic versions of the second supporting the creation of the third and generating a new civil law system in Turkey. Translated into French and Spanish, the Civil Code of Louisiana could regain its historical influence in Latin America and be more accessible in other parts of the world. There is no migration of legal ideas without translation, and translation is in itself a linguistic and cultural voyage. This was the 38<sup>th</sup> John H. Tucker, jr. Lecture in Civil Law on March 17, 2015.

We then leave Glasgow-based Professor Esin Örüçü in Istanbul to meet Professor Kjell Å Modéer in Lund, wherefrom he invites us to explore uncharted legal links between Sweden and Louisiana. At an annual meeting of the American Society for Legal History in Austin, Louis de la Vergne introduced himself to Professor Modéer as a descendant of Gustavus Schmidt, who was a famous attorney in 19<sup>th</sup> century New Orleans. Gustavus's brother Carl Schmidt was a prominent judge in Sweden, the Schmidt brothers' home country. The two brothers founded law reviews in Sweden and Louisiana, and established a rich comparative law conversation between both jurisdictions. Loads of books and legal ideas crisscrossed the Atlantic, including Gustavus Schmidt's *Civil Law of Spain and Mexico*, published in 1851, which was well received by the King of Sweden. Navigating private correspondence, novels, and poetry, the reader will discover a rich and unexpected transatlantic intercultural communication between Sweden and Louisiana. The journey ends in the basement of the Lund law library where the author rediscovers one of the six copies of *The Civil Law of Spain and Mexico* once sent to Sweden by Gustavus Schmidt, a lost treasure now available in reprint (Hein 2008).

The Australia-based Italian comparatist Luca Siliquini-Cinelli has us embark on a worldwide trip, showing that a global destination means nowhere. He shows how the traditional jurist, the *homo juridicus*, loses his way on the soft-networked channels of the new liberal global order, as a consequence

of a shift from the individual's active will to the sterile behavioral schemes prompted by the universalization of liberalism and economic analysis of social interactions. Inviting Susan Sontag and Josef Esser's accounts against and for the interpretative task, he urges us to rediscover the anthropological and ontological function of the jurist to be based on the re-affirmation of the will as constitutive of human uniqueness. This philosophical reflection focuses on the centrality of interpretation, which happens to be the cornerstone of the civil law tradition: all roads lead to Rome!

In Rome we are escorted by an enthusiastic Louisiana student, who fell in love with the civil law at first sight in his first year of law school. *Secundum Civilis* is a second-to-none guide where Derek Warden connects the Eternal City to Washington via Prussia, the Habsburg Empire and revolutionary France, to depict the United States Constitution as an Enlightenment Code. This could not be done without a *voyage initiatique*, taking us from Rome to the seminal civil codes, visiting Justinian in Constantinople and Napoléon in the *Ville Lumière*. This *grand tour* ends up as a *tour de force*, making sense of the Ninth Amendment as an invitation to interpret the whole Constitution as a code so that its spirit may transcend its letter.

Civil Law of the World then transports us to South Africa, where François du Toit discusses trusts and the patrimonial consequences of divorce in a mixed jurisdiction, navigating the reception of trust in a legal system that does not differentiate law and equity. The discussion is technical and moves the reader from port to port or case to case, and is very informative for all civil law jurisdictions having received the trust technique.

Back to Louisiana, the reader is offered the full French translation of Book II of the Louisiana Civil Code, which can be read side by side in English and in French. Book II features the law of property (Things and the Different Modifications of Ownership), entirely revised under the leadership of Professor Yiannopoulos of Tulane University. This will no doubt interest English-speaking and French-speaking civilians around the globe. From Montreal, Lyon-educated Yaëll Emerich reviews *Louisiana Property Law—The Civil Code, Cases and Commentary* (John A. Lovett, Markus G. Puder & Evelyn L. Wilson eds., Carolina Academic Press 2014), which serves as a guide for navigating Book II of the Louisiana Civil Code.

Last but not least, another traveler from Quebec reviews the *Dictionary of the Civil Code* (Alain Levasseur & Marie-Eugénie Laporte Legeais eds., LexisNexis 2014), which is no less than the translation of the *Vocabulaire juridique* of Gérard Cornu. The French jurilinguist Jean-Claude Gémar shows how this gigantic project, conducted by French and Louisiana teams, is faithful to the spirit of its author and to the style of the civil law, offering guidance to navigate the civil law in English not only in Louisiana, but everywhere in the world.

For, to pastiche Baudelaire,

*Là, tout n'est qu'ordre et beauté,  
Luxe, calme et civilité.*

Olivier Moréteau

Submissions are welcome for volumes 9 (2016) and 10 (2017); please email to [moreteau@lsu.edu](mailto:moreteau@lsu.edu).

## ***Louisiana Law Review Symposium on the Future of the Civil Law***

Louisiana—as the lone civil law jurisdiction in the United States—has been instrumental in developing and maintaining one of the major legal traditions in the world, the civil law, in the English language. Indeed, having as its source Roman and Canon law, with Spanish and French influences dating back centuries, the civil law has developed over time to best suit the needs of the citizenry at the relevant time period. The development of this venerated legal tradition in English, particularly in Louisiana, has contributed to its influence and accessibility around the globe.

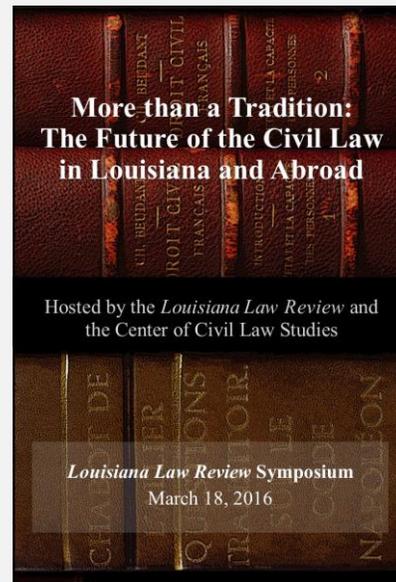
The continued viability of the civil law in Louisiana is possible because of the hard work of scholars throughout the state, and particularly the work of the great legal minds of the LSU Law Center. One such legal scholar is our very own **Alain Levasseur**, who has worked diligently to ensure that the civil law is accessible in English in Louisiana and abroad. This accessibility enables legal scholars from around the globe to share experiences and ideas regarding the history and future of the civil law tradition.

*Please join the Louisiana Law Review, the Center of Civil Law Studies, and the Paul M. Hebert Law Center as we celebrate the development of the civil law in Louisiana, the accomplishments of Professor Levasseur, and the future of the civil law around the world.*

**For more information and to register,**

go to: <http://www.law.lsu.edu/symposium/>

**Venue:** Paul M. Hebert Law Center, Louisiana State University, Baton Rouge, Louisiana



### **Schedule of Events**

Opening Remarks

8:00 AM - 8:15 AM

Panel 1: The Law of Obligations in Louisiana and Abroad

8:15 AM - 10:00 AM

Break 10:00 AM - 10:15 AM

Commentator: Civil Code Drafting Styles and Conflicts of Law

10:15 AM - 11:00 AM

Lunch 11:00 AM - 12:00 PM

Panel 2: Translation of the Civil Law

12:00 PM – 1:15 PM

Commentator: Challenges and Rewards of Teaching Comparative Law in the Commonwealth Caribbean

1:15 PM - 2:00 PM

Break 2:00 PM – 2:15 PM

Commentator: U.S. Discovery and Foreign Blocking Statutes

2:15 PM - 3:00 PM

### Presentations

**Opening Remarks by Melissa Lonegrass:** Professor, Paul M. Hebert Law Center, Louisiana State University

#### **Panel 1: The Law of Obligations in Louisiana and Abroad**

Participants will discuss the development of the Law of Obligations in Louisiana and in France.

**Ronald Scalise:** A.D. Freeman Professor of Civil Law, Tulane Law School

**David Gruning:** Professor, Loyola University College of Law

**Michel Séjean:** Professor, Université de Bretagne-Sud, France

**Mustapha Mekki:** Professor, Université Paris 13

#### **Commentator: Civil Code Drafting Styles and Conflicts of Law**

Professor Symeonides will discuss the extent to which judges may deviate from the text of a statute by examining recent statutes in which the legislature itself authorizes such a deviation.

**Symeon Symeonides:** Professor, Willamette University College of Law

#### **Panel 2: Translating the Civil Law**

Participants will discuss how the civil law was translated using French and Spanish sources and how the law has been translated contemporarily.

**Agustín Parise:** Assistant Professor, Faculty of Law, Maastricht University, The Netherlands

**Randy Trahan:** Professor, Paul M. Hebert Law Center, Louisiana State University

#### **Commentator: Challenges and Rewards of Teaching Comparative Law in the Commonwealth Caribbean**

Professor Ostroukh will discuss the challenges she has faced in teaching comparative law at a university in the West Indies, and will focus on how certain characteristics of the region have shaped her experience of teaching comparative law.

**Asya Ostroukh:** Senior Lecturer, Cave Hill Campus of the University of the West Indies in Barbados

#### **Commentator: U.S. Discovery and Foreign Blocking Statutes**

Professor Curran will discuss the relationship between U.S. discovery practices and blocking statutes in France and Germany that have for decades impeded discovery efforts by U.S. entities.

**Vivian Grosswald Curran:** Professor, University of Pittsburgh School of Law

Also featured in **Volume 76, Issue IV of the Louisiana Law Review, Liber Amicorum: Professor Alain A. Levasseur**, without presentation:

**Nicholas Kasirer:** Justice of the Court of Appeal for Québec

**Jean-Louis Baudouin:** Counsel, Fasken Martineau DuMoulin LLP

## **Tucker Lecture: Mark the Date!**

The 39<sup>th</sup> John H. Tucker, jr. Lecture in Civil Law will be given by Professor **Francisco Reyes Villamizar**, current President of the United Nations Commission on International Trade Law (UNCITRAL). He prepared the draft which led to the law on simplified joint stock companies in Colombia. In 2010 and 2012 he chaired governmental commissions for the reform of insolvency law and prepared new legislation on secure transactions.



A graduate of the Javeriana University (Bogota), he holds an LL.M. from the University of Miami and a Doctorate in Law from the University of Tilburg (Netherlands).

He has been a visiting professor at Louisiana State University (Baton Rouge), Stetson University College of Law (Gulfport), Arizona (Tucson), Jean Moulin (Lyon, France), Agostinho Neto (Luanda, Angola), Freiburg (Switzerland) and Tilburg (Netherlands). His books have been published in Colombia, Brazil and the United States.

He will talk about “The Proposed Model Law on Simplified Corporations” based on his experience in Colombia and at UNCITRAL.

**Date & venue: Tuesday, May 31, 2016, LSU Law Center.**

The Tucker Lecture will be a keynote event of the Juris Diversitas 2016 Annual Conference (see below).



## **The Juris Diversitas 2016 Annual Conference at LSU**

### **Unity and/or Diversity**

*An International, Interdisciplinary Conference on Comparative Law*

**May 30 - June 1, 2016, Louisiana State University Law Center,  
Baton Rouge**

**The Theme:** Comparative legal studies have long been perceived as an engine pulling legal traditions and systems towards convergence, harmonization, and unification. Today, legal pluralism pushes towards the recognition of human and social diversity. Does this mean that we have to choose between unity and diversity, *Jus unum* or *juris diversitas*? To what extent do pluralistic societies embrace or reject harmonization and uniformity, or simply ignore them? Do we unify or add layers, increasing the complexity of legal orders? Does history reflect a move from diversity to unity or an ongoing conflict between the two? What makes unity successful or sustainable? This is an invitation to discuss, in an interdisciplinary way, the development of laws and social norms, in the dialectical tension between the ontological unity of human beings and mankind and the plurality of individual aspirations and social arrangements.

**Registration fees:** €200 or €125 for *Juris Diversitas* members paid up for 2016. Membership and fee payment information is available on the *Juris Diversitas* Blog (<http://jurisdiversitas.blogspot.com/>). Please note that fees *don't* cover travel, accommodation, or the conference dinner (€50).