



**Current Trends in Comparative Law:  
A Symposium of the Younger Comparativist Committee  
of the American Society of Comparative Law**

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It is my great pleasure to present to the readers of the Milan Law Review this comparative law symposium by the Younger Comparativist Committee (hereinafter YCC) of the American Society of Comparative Law. Writing this introduction provides to me an opportunity to celebrate two of the most exciting comparative law projects of the last few years.

The first project is the launching of the Milan Law Review<sup>(1)</sup>. This online, open access, multi-lingual, and interdisciplinary journal promises to be a prime venue for the publication of cutting-edge comparative law work, and for the creation of new channels of communication and understanding between Italy and the rest of the world. The University of Milan is perfectly situated to advance such a project, as a prime research university located in a truly global city, and in a country that has been a leader in comparative law for centuries, long before the contemporary academic discipline of comparative law was founded.

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<sup>(1)</sup> On the foundation and purposes of the Milan Law Review, see Antonio Gambaro, [Editoriale](#), 1 *MLR* 1 (2020).

The second project is the YCC, a committee of the American Society of Comparative Law currently under the leadership of Antonia Baraggia (Assistant Professor of Comparative Law at the University of Milan) and Vera Korzun (Assistant Professor of Law at the University of Akron). The YCC has created a true global network of younger scholars, and already produced several generations of comparative law academics and leaders. The YCC annual conference has been a crucial tool to advance these goals by providing a venue for young scholars to present and get feedback on their research, and to meet and get to know young and more established comparative law scholars.

This symposium is an excellent example of YCC's persistent and important work. The year 2020 presented many challenges as the world faced a global and deadly pandemic. In this context, many organizations understandably cancelled their annual meetings and other events. But not the YCC and the American Society of Comparative Law. They held instead fully on-line annual meetings to keep advancing their missions. After releasing its annual call for papers, the YCC got dozens of paper proposals, selected about thirty, and held its annual conference online on October 17, 2020. As a participant of the conference, I was impressed by the quality of its presentations. This symposium is a product of this conference since it includes a small subset of the papers presented there.

In *A Comparative View of Chinese Municipal Social Credit Systems*, Marta Infantino and Weiwei Wang discuss the Chinese "social credit system." They argue against the criticisms in Western media and scholarship that have characterized this "social credit system" as a way to establish a total surveillance society through new technologies such as algorithms, artificial intelligence, video cameras, and facial recognition. Infantino and Wang argue, first, that "the social credit system" is not a unitary system and has been implemented differently in different locations. The authors study pilot programs set up by several Chinese cities and conclude that, at least for the time being, Chinese cities make limited use of social scoring, the programs rely on low-tech and backward-looking methodologies, and they rely on a relatively transparent framework.

In her paper *A Comparative Study of the Political Question Doctrine in the Context of Political-System Failures: The United States and the United Kingdom*, Hayley N. Lawrence compares the political question doctrines of the United States and the United Kingdom, and engages in a critical analysis of *Roucho v. Common Cause*—a 2019 decision in which the Supreme Court of the United States invoked the political question doctrine to reject challenges to partisan gerrymandering in North Carolina and Maryland. Relying on John Hart Ely's representation-reinforcement theory of judicial review and the 2019 decision of the Supreme Court of the United Kingdom in *R (on the application of Miller) v The Prime Minister*, she criticizes the U.S. Supreme

Court for abdicating its role and proposes judicially manageable standards for evaluating partisan gerrymandering.

In his paper *Democratic Experimentalism in Comparative Constitutional Social Rights Remedies*, Gaurav Mukherjee analyzes several contributions to the literature on democratic experimentalism and social rights. He first argues that democratic experimentalism is an analytic, rather than a descriptive, category of judicial approaches. He then maintains that democratic experimentalism approaches are best understood as: a) ways of arriving at a remedy in social rights litigation, and b) ways of following up, monitoring, and evaluating compliance with the judgements and orders of a court. He then critically analyzes cases from India and South Africa on social rights.

In her paper *Comparative Legal Perspectives on Cultural Land Trusts for Urban Spaces of Culture, Community, and Art: A Tool for Counteracting Displacement*, Sara Ross discusses how live/work space for the arts and culture has become less available as many cities redevelop and retake previously less desired or marginalized portions of the city. Focusing on Canada—a country that combines civil law and common law—and with references to Scotland, the United Kingdom, and the United States—the paper explores techniques for protecting the arts and culture from this trend and proposes to use culture land trusts to advance this goal.

These four symposium papers thus cover jurisdictions in four different continents—Africa, Asia, Europe, and North America—and in seven different countries—Canada, China, India, Scotland, South Africa, the United Kingdom, and the United States. Their topics include surveillance, the political question doctrine, social rights remedies, and cultural land trusts. Their methodologies range from the empirical study of how the law works in practice to doctrinal analysis of case law, from legal theory perspectives on judicial practices to the explanation of common law concepts, civil law statutes, and human rights regulations. In terms of their goals, these papers illustrate the power of comparative law to help us understand and explain legal phenomena, and to provide insight for critical analysis, normative arguments, and proposals for legal and political change. The richness of these papers is testimony not only of the intellectual curiosity and academic promise of their authors, but also of how vibrant and productive of an academic community the YCC is.