



## Conference

# Debating 'Transitional Cosmopolitanism' through Courts

## University of Oslo

3-4 March 2014

**Galleriet – Håndverkeren Kurs- og Konferansesenter – Rosenkrantzgate 7,  
0159, Oslo**

Norwegian Centre for Human Rights- University of Oslo (NCHR-TAG- Human Rights and Conflict)

Norwegian Resource Bank for Democracy and Human Rights – NORDEM

Democracy as Idea and Practice Programme – University of Oslo

MultiRights Project, European Research Council Advanced Grant #269841 at the University of Oslo

During the last decades, cosmopolitan justice has become one of the major fields of multidisciplinary research. Mostly starting from various reinterpretations of Kant's Perpetual Peace, theories about cosmopolitan justice have emphasized either the relevance of centralized agencies, or have combined – alternatively – nation-state approaches showing a 'universalist' scope. Issues concerning the advancement of a cosmopolitan condition have also involved the role of the global civil society, civil disobedience and social activists and so on. Yet, little weight has been given to the assessment of the role of courts, either at the local or at the international level in the promotion of a "cosmopolitan law". This flaw may reflect a deep scholarly divergence in understanding the multi-faced aspects of post-national law, either regional (i.e. EU), international or – still in progress – cosmopolitan. Particularly in this latter case, the ever growing influence of international courts in adjudicating individual and state behaviors (as in the case of the ICJ and the ICC) requires the clarification of what is the philosophical and legal significance, if any, of cosmopolitan law.

One approach could be that of actualizing the Kantian idea of cosmopolitan law as the "right to hospitality" and to evaluate how this claim has been incorporated, for instance, in the Geneva Convention on the Status of Refugees as a principle of non-refoulement (United Nations, 1951). What is implied by the principle is that refugees and asylum seekers should not be repatriated when there is a danger to their lives and freedom. On this reading it can appear as if a definition of transitional cosmopolitan law must be capable of intersecting transitionality and cosmopolitanism along formal and substantive lines. Moreover, it must show the "transformative" function of transitional justice law as oriented towards the

construction of a unified world legal community. In this regard, regional and international courts seem to play a central role. One very effective example of this transformative/progressive action towards a (regional) legal community is the function played by ECtHR judgments in transitional post-communist states.

In view of the above considerations, the primary goal of the conference will be not only to present a general framework, but rather to analyze the role of Courts in the advancement they bring forth to (state and regional) cosmopolitan progression.

Some of the key questions that the conference will address are:

- How can transitional cosmopolitan law be defined?
- How can it be said to play a “transitional” function?
- Can we draw from key components of transitional justice law in order to define the properties of a transitional cosmopolitan law?
- How respectively human rights courts and criminal courts address the problem?

Resulting from the involvement of academics and judges, the foreseen outcome will be of a truly interdisciplinary discussion targeting philosophical, legal and applied/case studies.

### **Publication Plan**

Conference papers will be submitted to peer-review assessment and published with a leading publisher



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## Conference Programme

### First Day: Monday 03 March 2014

**8.15-8.30** Registration

**8.30-8.40** Opening Addresses

Inga Bostad, Norwegian Centre for Human Rights, University of Oslo

**8.40-8.50** Presentation of the ERC Advanced Grant – MultiRights

Andreas Føllesdal and Geir Ulfstein, University of Oslo

### 8.50-10.45 Opening Session

*Chair: Andreas Follesdal, University of Oslo*

#### Keynote Speakers

8.50-9.20 Differential Cosmopolitanism

**Patrick Glenn**, McGill University

9.20-9.50 On the Very Idea of 'Transitional Cosmopolitanism' through Courts

**Claudio Corradetti**, University of Oslo

9.50-10.30 Discussion

**10.30-10.45** Coffee Break

### 10.45-13.00 First Session - Theorizing "Transitional Cosmopolitanism"

*Chair: Reidar Maliks, University of Oslo*

#### Keynote Speaker

10.45-11.15 'If Human Rights is What Comes After Evil, Something Must Come Next'

**Robert Meister**, University of California, Santa Cruz

11.15-11.35 Discussion

**Panel Speakers**

11.35-12.00 The Idea of Global Transitional Justice in Cosmopolitan Law

**Garrett Brown**, University of Sheffield

12.00-12.25 Judicial Cosmopolitanism: Progressive Interpretations by the ECtHR

**Andreas Føllesdal**, University of Oslo

12.25-12.35 Discussant: **Silje Ambø Langvatn**, University of Oslo

12.35-13.00 Discussion

**13.00-14.30 Lunch**

**14.30-16.50 Second Session - Legal and Philosophical Determinants of “Transitional Cosmopolitanism”: General Principles I**

*Chair: Geir Ulfstein, University of Oslo*

**Panel Speaker**

14.30-14.55 Transitional Constitutionalism: at the Limits of Judicial Cosmopolitanism?

**James Sweeney**, University of Lancaster

**Key note speaker**

14.55-15.15 Humanity’s Law: Minimalist or Progressive?

**Ruti Teitel**, *New York Law School* (By Skype)

15.15-15.35 Discussion

**Panel Speaker**

15.35-16.00 Constitutionalism in indigenous context: communal Magna Chartas in Totonicapán

**Stener Ekern**, University of Oslo

16.00-16.10 Discussant: **Kjetil M. Larsen**

16.10-16.35 Discussion

**16.35-16.50 Coffee Break**

**16.50-18.15 Third Session - Legal and Philosophical Determinants of “Transitional Cosmopolitanism”: General Principles II**

*Chair: Johan K. Schaffer, University of Oslo*

16.50-17.15 The ‘Right to Stay’ as a Cosmopolitan Freedom: Towards a Liberal Theory of Immigration Law?

**Mario Savino**, University of Viterbo

17.15-17.40 Transitioning after Conflict: Role of the International Human Rights Judiciary

**Matthew Saul**, University of Oslo

17.40-17.50 Discussant: **Amrei Müller**, University of Oslo

17.50-18.15 Discussion

**Second Day: Tuesday 04 March 2014**

**8.30-13.00 Fourth Session - The practice of “Transitional Cosmopolitanism”: Interplay of Courts & Case Studies**

*Chair: Pia Skjelstad Lahnthaler, Nordem*

**Keynote speaker**

8.30-9.00 The Dialogue of Judges: the Role of the Courts as Conflict-Solvers in the Global Space

**Sabino Cassese**, University of Pisa and Judge at the Italian Constitutional Court

9.00-9.20 Discussion

**Panel Speakers**

9.20-9.45 The Monitoring Bodies in the Promotion of an Evolving Global Social Contract

**Asbjørn Eide**, University of Oslo

9.45-10.10 “The UN-related Criminal Courts and Other Initiatives: Top-Down or

Bottom-Up Transitional Justice?”

**Gentian Zyberi**, University of Oslo

10.10-10.20 Discussant: **Theresa Squatrito**, University of Oslo

10.20-10.45 Discussion

**10.45-11.00 Coffee Break**

11.00-11.25 Experiences of Transitional Justice in the Case of Kosovo

**Vidar Stensland**, EULEX Judge, Kosovo,

11.25-11.35 Discussant: **Sofie Hogestøl**, University of Oslo

11.35-12.00 General Discussion

**12.00-12.35 Concluding Remarks: The Prospects of ‘Transitional Cosmopolitanism’ -  
Claudio Corradetti, Andreas Follesdal and Geir Ulfstein**