



The Human Rights Mandate Of Regional Integration Courts In The World

CONFERENCE



Friday 15th November 2024

FACULTÉ DES SCIENCES JURIDIQUES ET
ÉCONOMIQUES,
AMPHITHÉÂTRE MÉRIL, CAMPUS DE
FOUILLOLE, POINTE-À-PITRE.



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The Human Rights Mandate Of Regional Integration Courts In The World

Friday 15th November 2024
8h30 - 17h30

Conference convened by François-Xavier Millet, Professor of Public Law at the University of the Antilles (French West Indies), Jean Monnet Chair in Comparative Regional Integration, PHEEAC-CAGI

There is a proliferation of international courts in the world nowadays, especially at the regional level. While three of them are specifically dedicated to human rights protection, many courts have been established in the framework of the numerous regional integration organisations that exist throughout the world. These courts usually aim at ensuring economic integration in the first place, with an ever closer union between states, peoples and individuals as their ultimate implicit or explicit objective.

Accordingly, regional integration courts are assumingly entrusted primarily with the building up of a single market where goods and services (possibly also workers and capital) can move freely within the region. Their case-law is thus expected to consist, on the one hand, in guaranteeing the enforcement of regional norms, in particular against Member States that could be tempted to impede free trade, and, on the other hand, in empowering individuals and companies by conferring upon them subjective rights deriving from regional law that they can invoke before courts.

Against that background, both because of their integration mandate and because some other regional courts are dedicated to the protection of human rights, the development of a human rights case-law by regional integration courts was somewhat unexpected. Several of those courts have nevertheless embraced human rights to such an extent that one may wonder whether their integration mandate, if it existed as such, has not been replaced – or, at any rate, substantially mitigated – by a human rights mandate.

Although that paradox certainly concerns the Court of Justice of the European Union, the aim of this conference, however, is not to rehearse at length the latter's contribution to human rights protection. In the wake of contributions by political scientists such as Amitav Acharya who have warned against approaching regionalism studies in a purely EU-centered way, it appears paramount for lawyers to depart from the view whereby the CJEU would obviously, as the most 'accomplished' regional integration court, set the stage for other courts that would have no choice but to receive, passively and unreservedly, the former's case-law through top-down processes of diffusion and mimicry.

This conference will examine how regional integration courts other than the CJEU have started protecting human rights and whether they have developed an indigenous human rights case-law. It will test in particular the assumption under which those courts have, by and large, developed a similar line of case-law in response to the joint challenges that they are all facing as courts situated in the Global South (decolonisation, fight against poverty and inequalities, transitional justice...).

Accordingly, this conference will examine regional integration courts for what they are worth in their respective institutional and political contexts. To what extent and how have courts, which, arguably, were primarily meant to ensure (economic) integration, become human rights courts where other regional courts are dedicated to human rights protection? How do those courts interact with one another? What have been the trajectories of regional integration courts regarding the respective weights of their integration mandate and their human rights mandate? What are the factors, internal and external, that explain the development (or lack thereof) of an indigenous human rights case-law?

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PROGRAMME

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8.30: Opening address

Prof. Michel Geoffroy, President of the University of the Antilles (French West Indies)

8.45: Beyond the Court of Justice of the European Union

Prof. François-Xavier Millet, University of the Antilles (French West Indies, Guadeloupe), Jean Monnet Chair in Comparative Regional Integration (CRI)

Panel 1: The relationship between regional institutional setups and the development of a human rights case-law

Chair: Sir Dennis Byron, former President of the Caribbean Court of Justice

9.00: Integration and Human Rights Before the ECOWAS Court of Justice

Prof. Alioune Sall, Cheikh Anta Diop University, Dakar (Senegal), former judge at the ECOWAS Court of Justice

9.30: The Caribbean Court of Justice and the free movement of private persons in the context of the CSME: what progress has been made on fundamental rights since the Myrié decision?

Dr. Karine Galy, University of the Antilles (French West Indies, Martinique)

10.00: The good, the bad and the EAC Secretariat: The pursuit of human rights in the Eastern African political and institutional context

Mrs. Patricia Ouma, Leiden University (The Netherlands)

- Coffee break -

Panel 2: Regional integration courts in context I

Chair: Prof. James Thuo Gathii, Loyola University, Chicago (USA)

11.00: European courts as new hegemons in the Global South?

Prof. Cesare Romano, Loyola Marymount University, Los Angeles (USA)

11.30: The influence of human rights regional courts on the human rights mandate of regional integration courts

Prof. Laurence Burgorgue-Larsen, Sorbonne School of Law, Paris (France)

12.00: Divergent Courts, Converging Goals: Comparing the Jurisdictional Mandates of the ACtHPR and the EACJ

Dr. Mihreteab Tsighe Taye, Buffalo School of Law (USA)

- Lunch break -

Panel 3: Regional integration courts in context II

Chair: Prof. Fred Reno, University of the Antilles (French West Indies, Guadeloupe)

14.00: Budding Democracies and Flowering Jurisprudence: Regional courts and development in Africa

Prof. Ada Ordor, Dr. Yakubu Nagu, University of Cape Town (South Africa)

14.30: The Caribbean Court of Justice and Regional Integration: Decolonisation and the Development of Human and Economic Rights

Prof. David Berry, University of the West Indies (Barbados)

Panel 4: Rights and litigation strategies before regional integration courts

Chair: Prof. Ada Ordor, University of Cape Town (South Africa)

15.00: When the Sun, the Moon and the Stars Align. Litigating LGBTQIA+ Rights and the Death Penalty in East Africa and the Caribbean

Dr. Salvatore Caserta, Prof. Mikael Rask Madsen, iCourts, University of Copenhagen (Denmark)

- Coffee break -

15.45: The environment and NGOs before regional integration courts

Prof. James Thuo Gathii, Loyola University, Chicago (USA)

16.15: The right to life and the death penalty before regional integration courts in the Caribbean context

Dr. Fred Deshayes, University of the Antilles (French West Indies, Guadeloupe)

16.45: The Right to Education Before Regional Integration Courts: Insights from the ECOWAS and EAC Courts of Justice

Dr. Henok Asmelash, University of Birmingham (United Kingdom)