

Comparative Law in the Age of Governance

Abstract Prof Aurelia Colombi Ciacchi

University of Groningen, the Netherlands

The contemporary age of governance suggests a new understanding of comparative law, and a new research methodology: comparative law and governance. This is more than the mere sum of comparative law and comparative governance. When comparing different regulatory solutions adopted in different countries, a focus on the 'laws' is not sufficient. Firstly, laws are instruments of governance: they aim at solving certain societal problems. Secondly, laws are embedded in (private, public, or public-private) governance structures. They are produced, interpreted and applied by a plurality of public, private and public-private actors, whose powers and decisions are coordinated by systems of governance.

I propose a tridimensional comparative law-and-governance method:

- (1) Its first dimension compares laws (including judicial decisions and out of court settlements), regulatory arrangements and modes of governance in different countries. This may be called "geographical" or "external" comparison.
- (2) Its second dimension embraces different legal disciplines. It compares how the same regulatory problem is addressed by private law, public law, criminal law, etc. This may be called "internal" comparison.
- (3) Its third dimension looks at the societal problems that laws and modes of governance are supposed to address. It compares the effectiveness and quality of different regulatory and governance arrangements in different countries and different disciplines, from the viewpoint of a specific societal concern. This may be called "socially oriented" or "good governance" comparison.