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IACL ROUND TABLE

# The Principle of Equality. New and Old Challenges

University of Siena, Certosa di Pontignano

June 15-16, 2023

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# Jointly organized by:

**DIPEC**

Gruppo di ricerca e formazione sul  
diritto pubblico comparato ed europeo



**IACL**

International Association of  
Constitutional Law

with the collaboration of:



# Background

Equality, as a concept, is as old as mankind and, as a principle, it has been part of many constitutional documents since the American and the French Revolutions. After the Second World War it became a core element of the “Postwar paradigm”, as part of international documents and national constitutions. Afterwards, it has been entrenched in many constitutions willing to fight against social inequalities, in the context of the “transformative constitutionalism” movement, especially in the Global South.

The different understandings of equality always raised challenges for constitutional law: How to reconcile the tension between formal and substantive equality? Which nondiscrimination clauses should be considered? Could written constitutions be interpreted progressively, in order to broaden the nondiscrimination principle? How can substantive equality be protected, if the legislator is inactive? Could courts make up for legislators, to fill in their omissions? Is gender equality more likely to be achieved through the formal or substantive equality principle?

New challenges have developed in the 21st century, in the context of democratic decay. In many democracies, old and new, political forces hostile to liberal democracy appear to attack the rule of law and constitutional guarantees, after winning electoral majorities in the polls.

The Roundtable will be co-organized by the DIPEC Research Group at the University of Siena, within the research projects PRIN 2017 “Framing and diagnosing constitutional degradation: a comparative perspective”, Principal Investigator: Prof. Tania Groppi and PRIN 2017 “The constitutional implications of European separatist claims”, Principal Investigator: Prof. Alessandro Torre – Siena Unit “Separatist claims, minority rights and citizenship transformation”, Responsible: Prof. Valeria Piergigli and the Jean Monnet Module EUGENIA (responsible prof. Tania Groppi).



# Overview

The Roundtable is structured around a keynote speech, three main sessions, a young scholars' session and a final speech:

- **Keynote speech:** *The Expressive Complexities of Constitutional Equality*
- **First Session:** *The Principle of Equality and Social Justice*
- **Second Session:** *Gender Equality*
- **Third Session:** *Pluralism and Minorities*
- **Special Session for Junior Scholars:** *The Principle of Equality and Rule of Law*
- **Final Speech:** *Non-discrimination Principle as a Major Source of Equality*

15

June

9:30/10:30, Opening Session

Keynote Speech: The Expressive Complexities of  
Constitutional Equality

11:00/13:00, First Session

The Principle of Equality and Social Justice

14:00/16:00, Second Session

Gender Equality

16:30/19:00

Special Session for Junior Scholars

The Principle of Equality and Rule of Law

16

June

9:30/11:30, Third Session

Pluralism and Minorities

12:00/13:00, Final Speech

**Thursday**

**15**

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**June**



# Opening Session

## 9:30/10:30

Chair: **Tania Groppi**, University of Siena

Opening Speeches

**Helle Krunke**, President of IACL

**Roberto Di Pietra**, Rector of University of Siena

**Rolando Tarchi**, President of DPCE

**Barbara Pozzo**, President of SIRD





Keynote Speech

# TOM GINSBURG

“The Expressive Complexities of Constitutional Equality”



# FIRST SESSION

11:00/13:00

## The principle of Equality and Social Justice

Chairs: Helle Krunke, *University of Copenhagen* & Marek Zubik, *University of Warsaw*

David Bilchitz, *University of Johannesburg*

"Equality of What? The Need for Minimum Thresholds in Giving Effect to Socio-Economic Rights"

Irene Spigno, *Academia Interamericana de derechos humanos, Saltillo, Coahuila, México*

"Social Rights in Mexican Constitutionalism"

Akiko Ejima, *Meiji University, Tokyo*

"The Principle of Equality in Transforming Society: Achievements and Challenges"

Siri Gloppen, *University of Bergen*

"Can Social Movements Advance Substantive Equality through Social Rights Lawfare?"



# Gender Equality

Chairs: **Susanna Mancini**, *University of Bologna* & **Tom Daly**, *University of Melbourne*

**Angelo Schillaci**, *University Sapienza of Rome*

"A Matter of Equal Dignity. New Paths in the Recognition and Protection of Gender Identity in European Constitutional Experiences"

**Selin Esen**, *University of Ankara*

"Protecting the Women's Rights Through a Constitutional Court: the Case of Turkey"

**Iris Nguyen Duy**, *University of Agder, Norway*

"Gender Equality in France: Constitutional Framework and Challenges"

**Neila Chaabane**, *University of Carthage* & **Salwa Hamrouni**, *University of Carthage*

"Gender Equality in the Tunisian Constitutions"

# SECOND SESSION

14:00/16:00





16.30/19.00

# Special Session for Junior Scholars: The Principle of Equality and Rule of Law



Chairs: **Jens Elo Rytter**, *University of Copenhagen* & **When-Chen Chang**, *National University Taiwan*

**Ayushi Agarwal**, *University of Oxford*

Interpreting ‘Equality’: What can it Contribute for The Rule of Law in Sports?

**Arca Alpan**, *Marmara University*

Degrowth or Sustainable Development: Can We Hold Governments Responsible for Shrinking Their Economies to Make Room for Justice and Equality?

**Maria Francesca De Tullio**, *University of Napoli “Federico II”*

Which Data Governance for a Social Post-Pandemic Recovery?

**Micol Ferrario**, *University of Neuchâtel*

The Principle of Equality Amidst the Protection of Sexual Orientation and Gender Identity: The Case of Switzerland

**Toni Fickentscher**, *University of Regensburg*

Social Security Generational Justice as a Constitutional Justifiable Mandate?

**Garcia Maia Tainá**, *University of Münster*

The Right to Equality of LGBTI Persons in the Inter-American Court of Human Rights: A Prototypical Case of the Negligible Role of Consensus?

**Miki Kadota**, *Keio University Tokyo*

Reviving “The Social Obligation of Property” Against the Exclusion from Public Spaces

**Sato Naito**, *Waseda University Tokyo*

Equality principle in Japanese Case Law

**Suresh Sandeep**, *Jindal Global Law School*

Equality = Non-Arbitrariness? Locating This Equation in the Indian Equality Jurisprudence Using the Rule of Law Framework

**Davide Zecca**, *University of Pavia*

Equality of Arms in Politics: the Role of Courts in Adjudicating the Openness of Political Processes

**Zheng Zhu**, *China University of Political Science and Law*

The Unconstitutionality of Mandatory Disclosure of IP-Addresses and Its Impact on Regional Discrimination on Chinese Social Media

**Rueven Ziegler**, *University of Reading*

Are all LGBT+ Asylum-Seekers Created Equal?



**16**

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**June**

**Friday**

# Pluralism and Minorities

Chairs: Valeria Piergigli, *University of Siena* & Anna Cornell Jonsson, *University of Uppsala*

Dumarou Narey, *Université Abdou Moumouni de Niamey-Niger*

"Les droits des minorités en Afrique: jeux et enjeux"

Josè Maria Serna, *Instituto de Investigaciones Jurídicas, UNAM, Mexico*

"Pluralism and the Rights of Indigenous Peoples in Mexico: the Difficult Coexistence of State and Non-state Judicial Systems"

Sionaidh Douglas-Scott, *Queen Mary's University, London, UK*

"Pluralism in the UK: Inequities, Devolution and Independence in Scotland"

Jens Woelk, *University of Trento*

"Political Participation and Representation of Minorities in the Western Balkans"

# THIRD SESSION

09:30/11:30





**Closing Remarks**  
**12:00/13:00**

# GIULIANO AMATO

"Non-discrimination Principle as a Major Source of Equality"

Chair: **Pablo Riberi**, National University of Cordoba, Argentina





# IACL ROUNDTABLE

## Siena, Italy

# *The Principle of Equality. New and Old Challenges*

June 15-16, 2023  
Certosa di Pontignano (Siena, Italy)

To attend the Roundtable (only in presence), please register [here](#)

Live streaming on [DIPEC Youtube Channel](#)