

Public Properties in Comparative Law

Special issue of the Review of Comparative Public Law

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Presentation of the review:

Droit Public Comparé - Comparative Public Law (DPC-CPL) is a biannual peer-reviewed journal entirely dedicated to Comparative Public Law. Its aim is to develop and to promote the study and comparison of national and supranational public laws. The publication is exclusively digital and open access. DPC-CPL is supported by two committees, whose members are mostly academics: an editorial board, and a scientific committee of more than 40 experts from 15 different countries.

The journal's editorial line embraces Comparative Public Law, understood in the broadest sense, namely: studies of foreign Public Law (Administrative Law, Constitutional Law); the comparison of national public laws; the comparison of supranational laws; the migration of legal models; the interactions between legal systems; the theory of Comparative Law. The approaches may be varied: theoretical, historical, sociological, philosophical, linguistic, and, of course, positive law. Interdisciplinary work with other humanities and social sciences is therefore welcome.

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Procedure:

- Abstracts of no more than two pages should be sent to us by 31 May 2022 .
- Abstract can be sent in English or French.
- Abstracts should be sent to: Estelle Chambas : estelle.chambas@gmail.com
- All abstracts will be anonymised and submitted to the double blind review procedure for selection. The answer will be given by 30 June 2022.
- Papers will be due by 15 January 2023 and submitted again to a double blind peer review procedure. Articles cannot exceed 50,000 characters.

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Presentation of the topic:

This special issue welcomes papers in the field of comparative public property law. All forms of approaches (historical, positivist, comparative, sociological) are relevant to this neglected field of comparative public law.

The topics are intended to cover the following issues, but are in no way limited to these:

- Historical perspective: how public property and the relevant law historically developed?
- Colonial and indigenous issues: in former colonies, how the law on public property was adapted and which issues or debates did it raise compared to the colonial power? Are there debates or reforms in your countries to atone for the spoliation of land by European States (for instance the move in New Zealand to give legal personality to a river is a way to restore the link Maoris had with the land that was taken from them)?
- How are property rights defined? In what sense are they public or private?
- The significance of the establishment of any special regime that may apply for example the use of the public trust in the common law world, “Öffentliche Sache” in German Law, “domaine public” in French administrative law, “asignación de recursos escasos” in Spain.
- How are public property rights governed and held accountable ?

- Do the debates on “the commons” have consequences for the governance of public properties?
- There are increasing calls to enhance the profitability of private assets in a context of budgetary constraints and financial austerity. These properties are indeed used in an increasingly commercial way at the expense of other uses. Are there problems in your jurisdictions? For instance, these spaces being extremely profitable (the beach or certain cultural heritage) could be the source of corruption if proper procedures are not carried out when deciding upon their uses. At the same time, selection procedures may conflict with other interests, e.g. identity or cultural interests at national level, or it may need to be coordinated with other schemes, e.g. preemption rights to reward those who have prepared and submitted a project aimed at enhancing the value of the assets. Also, increasing the amount of money required to occupy the public domain means the commercial aspect could raise issues of inequality of access to the amenities of public spaces.
- Budgetary pressures can sometimes lead to the sale of assets. Are there debates in your jurisdictions on the inalienability of some properties? The privatization or publicization of public properties remains very much a debate in many legal systems.
- Civic management of urban facilities and public spaces by associations and NGO are also an increasing trend in public property governance.
- How is the use of the property monitored over time? In fact, a procedure to award access to some public assets may have been followed, but then over the years changes in the use (or the users) may happen. How is this monitored?
- Cultural heritage: Public or private ownership (of castles for instance) : what is the best solution for the preservation (and better sharing) of the cultural heritage? Are there also debates about the restitution of works of art to their original community?
- Royal families and their use of public properties : questions of legitimacy, regulation, accountability.
- Right to roam: in the United Kingdom and in Nordic countries, laws were passed to give a right of access to private properties in the countryside. The “publicisation” of private property could be an interesting topic as well.