

Concluding conference

A number of clear lines have emerged during the conference series on “Thinking about the role of the judge”, which was deliberately based on a fragmentary approach to cover an inventive and diverse range of topics. Ms Poillot-Peruzzetto showed how—all the judges who had been invited, alongside lawyers and academics, to reflect on their role, including reflecting on themselves, and while emphasising the invariable elements and certainties of their mission, had expressed their desire to retain their humanity as well as their technical capability in a changing judicial landscape in a way that speaks to the strength of their reflection, their inventiveness and their ethical commitment to maintaining a sustainable judicial space.

The series sought to stimulate thinking from a comparative law perspective. For Ms Ferrand, this perspective was both panoramic, in terms of the overall transformations taking place – including the changes to the substance and role of the law, making the judge, through preliminary rulings and requests for opinion, a co-author, the evolution of the rule of the supreme courts in stimulating dialogue between judges and the necessity for positive communication between judges and litigants – and focused on certain institutions, including – because the law cannot be cut off from reality – the role of the judge in providing support.

This perspective, in the breathlessness of general and abstract principles, creates a fresh vision of the role of the judge that uses checks on proportionality, comparison, the mode of dialogue and source of appropriation, which is necessarily acculturated, of foreign practices. The role of the judge is becoming more assertive: they are engaging in new issues, such as the challenge of climate change, and should intensify their role in stating the law and systematically referring to the applicable norms, in accordance with adversarial proceedings and dialogue with the parties; as is the case with many of our European partners, judges should be under an obligation to apply conflict of law rules, which are now broadly shared. In a larger arena, curiosity and dialogue are essential between the different elements of one court and between different courts, both domestically and at the European level, as is the organisation, for certain disputes, of open tribunals that give all the parties involved the opportunity to engage in dialogue and are visible to citizens.

Europe, in all its remarkable diversity, driven by the determination to move forwards together, was another area for reflection during this cycle. For Mr Rass-Masson, admittedly from an institutional point of view, the judge is at the heart of the European construct, through the questions for a preliminary ruling they pose and the fundamental rights of the rule of law they guarantee, but also through the coordinated diversity of national laws they ensure by applying conflicts of law rules and the transformation of the roles of the supreme courts: dialogue becomes a structural element in the new sphere of influence represented by the European Union. The conferences demonstrated that in the field of justice, it is, in practical terms, judges who allow us to find the meaning in debate and the ethics of discussion, and look beyond binary perceptions to find complementarity in diversity: the dialogic of justice, of which dialogue is simply an illustration. Ultimately, however, it is European

society, not just institutional Europe, that is built by the role of the judge: first, the sustainable judicial space, far from being a purely procedural space, is also an economic space for trade, an ecological space in which the judge, as an active co-author, including in response to the systemic cases that go beyond it, provides the means for shared deliberation; then, in order to create European society, judges put people at the heart of sociality, both in its individual dimension, in particular through protecting freedoms or guaranteeing the balance of contracts, and in its collective dimension: the dynamic conception of their role guarantees a sustainable space for justice.

The utopia posited in the final conference proved a stimulating space in which to reflect, as an experimental laboratory of a changing society, on the role of the judge; for Mr Bellagamba, science fiction, as a reflection of the human imagination, has always questioned that role. Exploring the topic through utopias ranged from the concept of maternal protection through natural laws in Thomas More, the importance of the freedom of imagination for good judgement in *Cyrano* and a necessary madness in Samuel Butler's *Erewhon*, in response to the cold and simplistic rational justice of the Age of Enlightenment (which resulted in the withdrawal of judges before the legislature), not to mention the strange, judge-less justice, based on precognition of the identity of future criminals, in Steven Spielberg's film, *Minority Report*, inspired by Philip K. Dick. In this, judges had such extensive power that they could convict the Earth itself and justice was robotic, based on strict compliance with every rule. While legal anthropology shows the diversity of forms of justice, not necessarily with the support of statute law, and the degree of divination involved based on a shimmering form of reasoning in our syllogism, according to Mr Bellagamba, the utopian view has always been that without judges there is neither society, nor civilisation nor humanity, proof that as long as artificial intelligence remains within the bounds of its programming, it is simply an adjunct to the role of the judge.

Thinking about judges and their role ultimately reveals and expresses our notion of humanity.

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Conference series academic leads