LAWYERS AND JURISTS IN THE 21ST CENTURY: CELEBRATING THE CENTENNIAL OF COMPARATIVE LAW IN THE UNITED STATES AND THE UNIVERSAL CONGRESS OF LAWYERS AND JURISTS, 1904-2004

A centennial celebration of the 1904 Universal Congress of Lawyers and Jurists was held on November 12-13, 2004. The event was organized and sponsored by the Harris Institute in cooperation with the Center for International and Comparative Law, St. Louis University School of Law and the American Society of Comparative Law. There were nine panels with over 25 outside speakers and panelists in addition to seven discussants.

Above: Hauwa Ibrahim and Anita Esslinger
Top: From left, Leila Sadat, William Schabas, Stefan Trechsel, Christine Van den Wyngaert David Sloss
Bottom: From left, Leigh Greenhaw, Whitney Harris, Anna Harris

From left: Geoffrey Hazard, Frederick Bloom, Michele Taruffo, Peter Ehrenhaft, Stefan Trechsel, Constance Wagner, Jerry Zhu, Davis Sloss
The Universal Congress of Lawyers and Jurists, St. Louis, 1904

From Remarks by Dorsey D. Ellis, Jr.

“American Bar Association planning for the Universal Congress began in 1901 in response to a request from the Louisiana Purchase Exposition Company [organizing the St. Louis World’s Fair]. The request read:

The Centennial Exposition to be held in 1903 is in charge of the Louisiana Purchase Exposition Company, and the plans of the management contemplate a World’s Fair greater and more wonderful than any ever held. It has an appropriation from Congress of five million dollars, the largest aid ever given by the United States to a like purpose, and it has the promise of full support by the Government. It will not be like any of its predecessors in architecture, landscapes, designs, or the arrangement of its exhibits. It will be a stupendous monument to the material growth and commercial and manufacturing development, not only of the Louisiana Purchase and the United States, but of the whole world.

But it will be more than that. It is a part of the plan to gather together the learned men of the world in the several departments of arts and sciences, including the science of jurisprudence.

There will be held in the city of St. Louis, Missouri, during the Centennial Exposition of the Louisiana Purchase, a Universal Congress of Lawyers. This congress will be composed as follows:

1. Lawyers and jurists from every nation of the world.
2. Teachers of law and persons learned in special branches of jurisprudence.
3. Persons learned in ancient law, including teachers of the history of law and students of the laws of peoples and nations now extinct.

The foregoing summary is an outline of the underlying idea of the plan. The character, constitution, and management of the Congress itself will be developed hereafter, and chiefly, it is hoped, by the American Bar Association.

The following subjects, among others, will be considered by the Congress, and papers will be presented as a foundation for the discussion of some or all of them.

First: The promotion of the settlement of international controversies by resort to The Hague Tribunal or reference to special commissions.

Second: The preferable method of regulating the trial of civil actions with respect to pleading and evidence.

Third: A review of the Four Hague Conferences on private international law, the object of the conferences and probable results.

Fourth: To what extent should judicial action by courts of a foreign nation be recognized? (Considered with special reference to the status of individuals as affected by divorce or other decrees, and the right to represent the person or property of another.)

Fifth: The protection which should be accorded to private property on the high seas in time of war.

The ABA president appointed a committee to consider the request, which reported back favorably and an organizing committee chaired by Frederic W. Lehman of St Louis was then appointed.

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with the exception of Spain, Portugal, and some of the Scandinavian countries. Delegates also came from Brazil, Canada, Ceylon, China, Egypt, and Mexico. Notably absent were Russia, which had withdrawn entirely from participation in the exposition, and Japan. They were then engaged in a violent contretemps on the Pacific Rim.

We may be confident that none of the delegates suffered from jet lag, as the Wright brothers had made their maiden flight only nine months previously. Although one delegate referred to the “celebrity of travel” that characterized the age, it is nonetheless remarkable and emblematic of the perceived significance of the Congress that so many had come so far to be a part of it. Each delegate received a badge that resembled a medal.”

From Remarks by David S. Clark

In the United States “sustained scholarly activity, together with organized networks of communication, commenced early in the twentieth century...with the 1904 St. Louis Universal Congress of Lawyers and Jurists, the first international congress of comparative law in the United States ... the ABA president had appointed Simeon Baldwin of Yale to the ABA’s Executive Committee to implement the Congress, which occurred from September 28 to 30, 1904, immediately after the ABA’s annual meeting. Baldwin was one of the ABA’s founders, a former ABA and
AALS president, a Yale law professor, and a member of the Institut de droit comparé in Brussels. He would later be chief justice of the Connecticut Supreme Court, Governor of Connecticut, and director of the Comparative Law Bureau from 1908 to 1919.

Unlike the 1900 international comparative law congress in Paris, lawyers and judges organized and ran this one, with a smaller representation from academia. The Congress president was Associate Justice David Brewer of the U.S. Supreme Court, who was also an international law professor at George Washington University. Brewer was born in 1837 in Smyrna, Asia Minor (now Turkey), where his father worked as a missionary. His mother was Emilia Field, sister of Supreme Court justice Stephen Field and the New York codifier David Dudley Field. His experience in Asia came through in strong dissents in cases limiting the rights of Chinese and Japanese immigrants. His dissent in *Fong Yue Ting v. United States* (1893) illustrates the view that made him a natural favorite, later to preside at a congress of comparative lawyers. In *Fong*, the Court determined that Congress’s power to deport aliens was plenary and inherent in federal sovereignty. Brewer responded: “In view of this enactment of the highest legislative body of the foremost Christian nation, may not the thoughtful Chinese disciple of Confucius ask, why do they send missionaries here?” Brewer was an anti-imperialist who believed that the United States should give the Philippines its independence and then guarantee its neutrality.

Of the fourteen Congress vice presidents, one from each of the Congress nations, most were judges or lawyers, but four were professors. These persons formed a Committee of Nations and voted on Congress propositions. The majority of the voting members were European: from Austria, Belgium, the British Empire, France, Germany, Italy, the Netherlands, Sweden, and Switzerland. The remaining Congress countries were Argentina, Brazil, China, Mexico, and the United States.

Delegates could present reports and discuss in any language, but Congress staff would make translations into English. Comparative law panels included: (1) the preferable method of regulating the trial of civil actions with respect to pleading and evidence; (2) a review of the four Hague Conferences on private international law; and (3) the extent to which local courts should recognize the judicial action of foreign country courts.

There were 481 registered delegates at the Congress, which was a huge number for such an event even though the large majority was from the United States. Forty American law professors attended from almost thirty law schools, including Nathan Abbott from Stanford, James Barr Ames and Samuel Williston from Harvard, Joseph Beale from Chicago, James Brewster from Michigan, William Draper Lewis from Pennsylvania, Charles Huberich from Texas, Eugene Gilmore from Wisconsin, James Brown Scott and Munroe Smith from Columbia, James Henry Webb from Yale, and John Wigmore from Northwestern. William Curtis and William Keysor represented Washington University at St. Louis. The most famous foreign law professors in attendance were Georges Blondel from Paris, Josephus Jitta from Amsterdam, and Friedrich Meili from Zurich.

*From left, Leigh Greenhaw, Margaret Lu, Karin Haley*
Comparative Approaches to Regulating Religion and Belief: State Authority and the Rule of Law

The Harris Institute also cosponsored a conference on law and religion held in Beijing, China, on October 18-20, 2004, organized in cooperation with the Institute for World Religions of the Chinese Academy of Social Sciences, Emory University School of Law, and the Institute of European Constitutional Law at the University of Trier. Leigh Greenhaw, Michael Koby and Lauren Homer, a Harris Institute Fellow, presented papers.
Workshop on Latin American Law

On April 15-16, 2005, the Harris Institute held its second workshop on Latin American Law. The program commenced with A Conversation on Judicial Reform in Argentina by Jorge Alemany, a research judge for the Chief Justice of the Argentine Supreme Court.

The participants included:

- **Silvia Faerman** – Southwestern University School of Law
- **Frances Foster** – Washington University
- **Dale Furnish** – Arizona State University College of Law
- **Alejandro Garro** – Columbia Law School
- **Antonio Gidi** – University of Houston Law Center
- **Giovanna Gismondi** – University of Oklahoma Law Center
- **John O. Haley** – Washington University
- **Maximo Langer** – University of California at Los Angeles
- **Jonathan Miller** – Southwestern University School of Law
- **Matthew Mirow** – Florida International University
- **Luz Nagle-Ortiz** – Stetson University College of Law
- **Angel Oquendo** – University of California – Berkeley
- **Joseph Page** – Georgetown
- **Francisco Reyes** – Louisiana State University
- **Lindsay Robertson** – University of Oklahoma
- **Keith Rosenn** – University of Miami
- **Joseph Thome** – University of Wisconsin Law School
- **Stephen Zamora** – University of Houston Law

Top left: Dale Furnish, Jonathan Miller, Joseph Page, Matthew Mirow
Top right: Maximo Langer, Stephen Zamora, and Antonio Gidi
Bottom left: Joseph Thome, Francisco Reyes, Giovanna Gismondi
Bottom right: Alejandro Garro and Jorge Alemany
On October 7-9, 2004, the Harris Institute cosponsored, with the Center for Interdisciplinary Studies and Center for New Institutional Social Sciences, a by-invitation-only workshop on the future of social sciences. Nobel Prize Laureate Douglass North was the keynote speaker. The participants from the School of Law included John Drobak, Lee Epstein, and John Haley. Among the other speakers were Elinor Ostrom (University of Indiana), Jack Knight (Washington University in St. Louis), Vernon Smith (George Mason), Kevin McCabe (George Mason), Colin Camerer (CalTech), Walter Powell (Stanford), Norman Schofield (Washington University St. Louis), Barry Weingast (Stanford), Jean Ensminger (CalTech), David Stark (Columbia), Avner Grief (Stanford), Kenneth Shepsle (Harvard), and Itai Sened (Washington University St. Louis).