

French Doctorate on the Use of the Lex Fori

Ms Peggy Carlier has recently completed her doctorate at the University of Lille on “How to use the Lex Fori in the Conflict of Laws Process” (“*L’utilisation de la lex fori dans la résolution des conflits de lois*”).

The English abstract reads:

By overemphasising the benefits of foreign law as the mean of the resolution of conflicts of laws, the literature on private international law presents a manichean vision of the discipline in which the lex fori (the law of the court to which the international dispute is referred) is demonised. However, such a presentation fails to recognise that the lex fori is more commonly used in international litigation, either directly or through a large number of derogations.

Given this observation, which can be explained by sociological (ethnocentrism) and pragmatic (the reasonable administration of justice) reasons, the present author seeks to restore the lex fori to favour. At the same time, the present author rejects the extreme of legeforismo, which in practice would mean a systematic application of the lex fori, preferring instead a more realistic and balanced approach based on bringing together the factors indicating the applicable law and the criteria founding the jurisdiction. The resulting vademecum offers the key to the complementarity which ought to exist between the lex fori and the foreign law.

The doctorate is not (yet?) published, but, remarkably, the manuscript is entirely available online for no fee. The abstracts (in French and English) are available here, and the manuscript (637 p., in French) here.