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**Workshop 3**

***Law in Action and Context***  
***Historical and Contemporary Practices in the Mediterranean Area***

**directed by**

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***Workshop abstract***

This workshop will examine legal practice in various historical and geographical contexts of the Mediterranean area. Participants will therefore undertake their analyses on the basis of contextualized legal practice. Practice, here, is taken to mean not “law in the books”, but rather law in action, as revealed by the ethnographic and documentary observation of its implementation. By focusing on context, we seek to show that legal practice cannot be abstracted from the cultural environment of its implementation, i.e. the resources allowing utilizers and practitioners of the law to infuse their actions with meaning. Against tendencies to generalizations and formalism, microstoria, in the field of historical research, as well as ethnomethodology, in the field of sociology, have positioned themselves as endeavors seeking to re-specify the law, by taking particular interest in the modalities of its practical deployment and its contextual rootedness. Microstoria has yielded important research on legal practice in the context of different Mediterranean societies (Cerutti; Grangaud; Ghazaleh), while ethnomethodology has yielded a considerable body of scholarship in the domain of law, some of this work concerning Mediterranean societies (Dupret; Zappulli). This workshop thus aims to bring together an international group of participants from widely diverse backgrounds, all working on legal practice in different historical and cultural Mediterranean contexts, while fulfilling certain conditions in epistemology (e.g. the perspectives specific to microstoria and ethnomethodology) and methodology (e.g. the use of concrete, empirical textual sources: transcribed, translated legal documents).

### *Workshop description*

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Scholars have largely neglected the study of law from the perspective of legal practice and its inscription in a cultural context, both in general and in the specific case of Mediterranean societies. Instead, they have tended to prefer more formalistic approaches or sought to draw very general conclusions. Against such tendencies, microstoria, in the field of historical research, as well as ethnomethodology, in the field of sociology, have positioned themselves as endeavors seeking to re-specify the law, by taking particular interest in the modalities of its practical deployment and its contextual rootedness.

Microstoria is an internationally recognized trend of historical research, formed around such scholars as Edoardo Grendi, Carlo Ginzburg, Giovanni Levi, and Simona Cerutti. Today, it is divided into two general trends: one culturalist (historical objects are inscribed in cultural contexts, of which they are simultaneously expressive and constitutive) and the other sociological (historical objects are inscribed in social contexts, which it is necessary to identify in concrete detail). Within this second trend, microstoria has yielded important research on legal practice in the context of different Mediterranean societies (Cerutti; Grangaud; Ghazaleh).

Ethnomethodology is a sociological research attitude pioneered by Harold Garfinkel and Harvey Sacks, which examines local methods used to produce meaning and make action intelligible. Various fields of research identify with it, among them conversation analysis, category analysis, and labor ethnography. What unites them is the common belief that discourse produced by sociological objects, and not about them, constitutes the phenomenon that sociology must investigate. In the domain of law, ethnomethodology has yielded a considerable body of scholarship (Garfinkel, Maynard, Matoesian, Travers & Manzo). Some of this work concerns Mediterranean societies (Dupret, Zappulli).

This workshop thus aims to bring together an international group of participants from a wide variety of academic and research backgrounds, all of whom are interested in legal practice in different historical and cultural Mediterranean contexts, while fulfilling certain conditions in epistemology (e.g. the perspectives specific to microstoria and ethnomethodology) and methodology (e.g. the use of concrete, empirical textual sources: transcribed, translated legal documents). Because it draws together researchers who relate their work to microstoria and ethnomethodology, this workshop will be radically innovative. It will also foster the participation of different institutions in an encounter that could constitute the launching point for a more ambitious program, and, in any event, will give rise to a collective work in English and possibly other European languages.

*The Crafting of the Law: Personal-status provisions at the shopfloor level*

**Baudouin Dupret**

In this paper I am interested in scrutinizing in a detailed manner the parliamentary debates in their piecemeal turn-by-turn enfoldings. By so doing, I seek to enter into the practical mechanisms of law production, at its many communicative, bodily, and argumentative levels. I am in particular interested in the close examination of the many relevances to which the participants oriented within the houses of both the Syrian and the Egyptian parliaments: legal, democratic, Islamic, procedural, substantive, moral, etc. It will be argued that legislative practices cannot be understood outside the institutional contextual framework of their performance. I focus on Syrian and Egyptian bills passed in the field of personal status law. Syrian and Egyptian laws went recently through important transformations in this field. In 2000 the Egyptian legislature passed a law (law No. 1 of the year 2000) that completed and in some respects thoroughly changed the domain of personal status in Egypt. In 2003 the Syrian legislature passed two bills, one concerning the age of guardianship of children and the other concerning the creation of a new organisation responsible for family affairs. I shall proceed in five steps: First, I give an overall background of Syrian and Egyptian personal status laws; Second, I examine the procedural and institutional process that was followed for the passing of these bills; Third, I concentrate on parliamentary debates taken as objects of institutional ethnography, for themselves and in themselves; Fourth, I analyse in a detailed manner parts of the debates that occurred in the Syrian and Egyptian parliamentary settings; Five, I make some comments on the inquiry into legislative practices in the field of matters closely related to religion and morality.

**[French version]**

*L'élaboration du droit : La fabrique législative du statut personnel*

Dans cet article, je m'intéresse à l'examen détaillé des débats parlementaires, dans leur déploiement progressif, tour de parole après tour de parole. Ce faisant, je cherche à pénétrer les mécanismes pratiques de la production du droit, à ses multiples niveaux communicationnel, corporel et argumentatif. Je suis particulièrement intéressé par l'examen attentif des nombreuses pertinences vers lesquelles les participants à ces débats se sont orientés, au sein des deux parlements : pertinence juridique, démocratique, islamique, procédurale, substantive, morale, etc. Mon argument est que ces pratiques législatives ne peuvent pas être comprises en dehors du cadre contextuel institutionnel de leur déploiement. Je m'intéresse en particulier à des lois syrienne et égyptienne adoptées dans le domaine du statut personnel. Le droit a connu, en Syrie et en Egypte, d'importantes transformations. En 2000, le législateur égyptien a adopté une loi (Loi No 1 de l'année 2000) qui a complété et en partie profondément changé le domaine du statut personnel en Egypte. En 2003, le législateur syrien a adopté deux lois, l'une concernant l'âge de la garde des enfants et l'autre portant création d'un nouvel organisme chargé des affaires de la famille. Je procéderai en cinq étapes. D'abord, je fournirai l'arrière-plan juridique du statut personnel en Syrie et en Egypte. Ensuite, j'examinerai le processus procédural et institutionnel suivi pour adopter ces textes. Troisièmement, je me concentrerai sur la question des débats parlementaires considérés en tant qu'objets d'ethnographie institutionnelle, en eux-mêmes et pour eux-mêmes. Quatrièmement, j'analyserai de manière détaillée des extraits des débats ayant eu lieu dans les contextes parlementaires syrien et égyptien. Enfin, je formulerai

quelques commentaires sur les pratiques législatives dans le champ de questions étroitement associées à la religion et à la moralité.

### ***Merchants and the Law: Debt and Social Networks in 19th-century Egypt***

**Pascale Ghazaleh**

Historians interested in the Ottoman period tend to agree that the 19<sup>th</sup> century constitutes a period of empire-wide decentralization and institutional innovation at the provincial level. Egypt, while an exceptional case, has often been seen as emblematic of this process. Administrative reform, however, like its counterparts in the military or economic spheres, has generally been presented as a top-down process, imposed by state actors on a largely reluctant or oblivious population. In this paper, I propose to reexamine such an assumption in light of the creation of a merchants' tribunal in the second half of the 1820s. While accepting the hypothesis that this tribunal, like other new institutions of its ilk, was created to respond to new economic and legal conditions, I will adopt a "bottom-up" perspective and compare the types of cases presented to the merchants' tribunal with those presented by merchants before the existing Ottoman courts (*mahkama shar'iyya*). My aim is to understand whether these two institutions interacted, and, if so, how. By examining individual cases of contention, I will seek to situate the new merchants' tribunals within a multi-dimensional social context. In so doing, I hope to nuance the prevailing view of new legal institutions as created by the political and military authorities for their own purposes. I will attempt to show that one group of merchants did not merely react to the appearance of such institutions, but, on the contrary, appear to have prompted their introduction and subsequently used them in the context of rivalries with other economic actors.