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Conference

The method of the transfer of normative autonomous power in New Caledonia, or the relationship between two subsets of heterogeneous legal culture.

Tuesday October 30th 2012

At 6:00 pm

Amphitheater SIMONE WEIL
5 allée Jacques Berque, Nantes

By

Marie-Anne Frison-Roche

Professor of philosophy and law at
Sciences Po Paris

Biography

Marie-Anne Frison-Roche is Professor Agrégé of the Faculties of Law and has a degree in philosophy. She worked for many years at the Laboratory of Sociology of Law at the University of Paris II.

In parallel to her work that focused on the relationship between law and economics, she develops different analyses with sociological and philosophical perspectives. She was previously editor of the Archives for Philosophy of Law and Secretary General of the French Association for Philosophy of Law and member of the editorial board of the Sociological Year. Currently, she is directing a collection at Fayard, whose purpose is to give curious readers keys of intelligibility about the functioning of social groups.

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Theme

« New Caledonia is an overseas territory of the French Republic. Its first inhabitants are the Kanaks, whose society is endowed with its own legal culture of customary, clan nature and doesn't know private property. On this is stacked in a dominant way the legal system of the New Caledonians, of European origin that arrived in the XIXth century, bringing the metropolitan legal system. The Noumea Agreements of 1998 established the principle of "preservation of the Kanak identity" and set down that from 2013, the Congress of New Caledonia will adopt autonomously civil and commercial laws specific to the Territory. This technical transfer of normative power is a major issue of politics: through civil law, such as the status of women or land, two cultures brought by two stories have confronted each other, and are now face to face. In a very tense social climate, there are only a few months left to reflect on this transfer and what would be a "Civil Code". Obtaining this normative autonomy must be distinguished from the political independence of the Territory and the State Council as the Constitutional Council shall ensure compliance with the hierarchy of norms (eg sole proprietorship, Kanak identity). But this transfer is a historic opportunity, which could lead to the development of a "real" Civil Code, exceeding the administrative codification and building a few common rule for the whole civil society of the territory, thus materializing the "common fate", object of the Noumea Agreements that resulted in this transfer.»

Marie-Anne Frison-Roche