

COLOQUIO IBEROAMERICANO 2004-2024

LATINOAMERICANIZACIÓN: INTERNACIONAL, TRANSNACIONAL, COMPARADO

Commemoration of the 20th anniversary of the Coloquio Iberoamericano, in the context of the 100th anniversary of the Max Planck Institute for Comparative Public Law and International Law Heidelberg, Germany.

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1. TWO DECADES OF THE *COLOQUIO IBEROAMERICANO*, AT THE MAX PLANCK INSTITUTE FOR COMPARATIVE PUBLIC LAW AND INTERNATIONAL LAW

On 26 and 27 February 2024, the Max Planck Institute for Comparative Public Law and International Law (MPIL) held a special event in Heidelberg to commemorate the 20th anniversary of the *Coloquio Iberoamericano*, founded in February 2004. I had the immense honour of participating in such event, following the kind invitation of Professors Armin von Bogdandy and Mariela Morales Antoniazzi. As a token of my appreciation for having this privilege, I decided to write a few lines commenting on the event, but also giving some of my impressions on the trajectory and contributions of the *Coloquio* over these two decades.

The *Coloquio* is an interdisciplinary group, coordinated by Mariela Morales Antoniazzi — Professor and Senior Researcher at the MPIL—, formed by invited guests and researchers of the Institute, who are —at least passively— fluent in Spanish and interested in analysing different topics regarding Latin America. Its main purpose over the last two decades has been to provide a framework for the exchange of ideas between the Institute's staff and guests on these topics. The *Coloquio* also aims to promote the research projects carried out by the participants, as well as to support new Ibero-American researchers through the exchange of experiences gained in research,

especially those related to the scientific criteria required in Germany. The group also gives local scientists the opportunity to get to know Latin American and/or Spanish scientific argumentation. Finally, the *Coloquio* aims to promote the integration of Spanish-speaking guests within the MPIL, taking place during the term of each semester, on Thursdays, usually every two weeks. Although the working language of the *Coloquio* is mainly Spanish, it is also possible to participate in German or English¹.

2. CHRONICLE OF THE COMMEMORATION OF THE 20TH ANNIVERSARY OF THE *COLOQUIO IBEROAMERICANO* – HEIDELBERG, FEBRUARY 2024

The seminar commemorating the 20th anniversary of the *Coloquio Iberoamericano* took place on Monday 26 and Tuesday 27 February 2024, and brought together more than 40 academics from Europe and Latin America. On Monday morning, the meeting began with welcoming remarks by Professor Armin von Bogdandy, Director of the Max Planck Institute in Heidelberg, who also leads the *Ius Constitutionale Commune en América Latina* (ICCAL) project. Professor von Bogdandy referred to the important trajectory of the *Coloquio* at the MPIL, which represents 20 out of the 100 years of the institute's existence, as well as the importance of the ICCAL project and the long-established academic links between Latin American and European researchers.



Secondly, Professor Diego Valadés, researcher emeritus at the *Universidad Nacional Autónoma de México* (UNAM) and president of the Ibero-American Institute of Constitutional Law, offered the keynote speech, entitled “Asymmetrical Relationship between the Organs of Power: Checks and Balances in the Light of the *Ius Constitutionale Commune en América Latina*”. The lecture pointed out the significant challenges that many Latin American countries still face *vis-à-vis* democracy, focusing on the Mexican case and the important role of both constitutional law and international human rights law in this path. In addition, Professor Valadés highlighted the significance of the MPIL and the *Coloquio Iberoamericano* —where he has participated since the very beginning— in academic discussions about the transformation of the Latin American reality.

¹ Information provided on the Max Planck Institute's website, at <https://www.mpil.de/en/pub/research-interaction/discussion-and-working-formats/discussion-groups/coloquio-iberoamericano.cfm> [accessed: 4 March 2024].



The inaugural lecture was followed by the first two panels, which offered a comparative view at the current challenges of constitutional justice in Latin America and Europe. The first panel focused on the importance of constitutional jurisdiction in Latin America, with presentations by Richard Ortíz Ortíz —professor, judge of the Constitutional Court of Ecuador and founding member of the *Coloquio*, Laura Clérico —professor at the University of Buenos Aires and the University of Erlangen-Nürnberg— and Luis Andrés Fajardo, professor and Deputy Ombudsman of Colombia. The second panel, on constitutional justice in Europe, was led by Luca Mezzetti —professor at the University of Bologna and president of the Italian Section of the Ibero-American Institute of Constitutional Law—, Argelia Queralt —professor at the University of Barcelona and Law Clerk at the Constitutional Court of Spain, and Krystian Complak —professor of Constitutional Law at the University of Wrocław, in Poland.



In the afternoon, the traditional *Referentenbesprechung* —a weekly two-hour meeting attended by all MPIL academic staff and many guest researchers— was held, this time exceptionally in Spanish. The session, moderated by Professor and Director of the MPIL Anne Peters, focused on the question of democratic resilience in Europe and Latin America, from a comparative and transnational perspective. The first intervention was given by José Martín y Pérez de Nanclares, professor of international law and European Union law at the University of Salamanca and judge at the General Court of the EU. Professor Martín y Pérez de Nanclares spoke on recent case law regarding the rule of law in Europe, both by the Court of Justice and the General Court of the EU. This was followed by Professor Eduardo Ferrer Mac-Gregor, professor at UNAM and judge of the Inter-American Court of Human Rights (IACtHR), who addressed the recent case law of the Court regarding democracy. The panel provided an excellent opportunity for discussion among the participants, particularly on the challenges of democracy and the rule of law at both systems, as well as a comparative reflection on the fundamental contributions of each court on these issues.



During the *Referentenbesprechung*, Professors Armin von Bogdandy and Mariela Morales Antoniazzi were announced the recent publication of the book *The Impact of the Inter-American Human Rights System: Transformations on the Ground* (Oxford University Press, 2024), edited alongside with Flávia Piovesan and Eduardo Ferrer Mac-Gregor. The book constitutes a

prominent academic initiative, and another of the many publications of the ICCAL project, that brings together the contributions of more than 40 authors from the ICCAL's network, both from Europe and Latin America.



On Tuesday, the third panel of the seminar focused on transformative constitutionalism in Latin America and Europe, and was moderated by Mariola Urrea Corres, professor of international law and European Union at the University of La Rioja. Firstly, Professor von Bogdandy offered a lecture on transformative constitutionalism, its historical background, and the understanding of this approach both as a social project and as an innovation of the Global South. He examined the praxis and “elements of success” of transformative constitutionalism in Latin America and Europe and concluded that this approach allows for the forging of both the legitimacy of new constitutionalism —on both sides of the Atlantic— as well as a new role for European constitutionalists, taking the Latin American experience as a reference.



Secondly, Professor René Urueña —Professor at the Universidad de Los Andes (Bogotá, Colombia) and Max Planck Law Fellow— gave a lecture on “Transformative Constitutionalism and the Algorithmic State in Latin America”. In his lecture, Professor Urueña explained the many challenges that algorithms present for the Latin-American region and introduced the notion of the “algorithmic welfare state in Latin America”, suggesting linking transformative constitutionalism and the Inter-American system with this pressing issue. According to the lecture, the approach allows to understand and analyse the impact that automated decision-making mechanisms regarding the distribution of social services have in the region, which Professor Urueña illustrated with concrete examples from Argentina, Chile and Colombia.



Afterwards, the fourth panel addressed the transformative impacts on people in vulnerable situations. Firstly, Professor Clara Burbano —Researcher on Human Rights Law at the Faculty of Law and Criminology, and Director of the Programme for Studies on Human Rights in Context at Ghent University— spoke about the impact of the precautionary measures of the Inter-American Commission on Human Rights on the situation of persons deprived of their liberty, an issue that takes part of a research project she is leading at the University of Ghent.



Secondly, Professor Elisa Simó Soler, from the University of Valencia, presented on the use of gender perspectives by the judiciary, emphasising on the progress made in this area in come Latin American countries. She focused particularly on the case of Mexico, where the Supreme Court of Justice issued in 2020 a protocol with specific instructions for judges and national courts to rule considering a gender perspective. Later, the attendees debated largely on the two topics and the developments presented by the speakers.

The panel continued with interventions by Flavia Piovesán —professor at the Catholic University of Sao Paulo—, who attended online, and Rosario García Mahamut, director of the Centre for Political and Constitutional Studies (CEPC) in Madrid. Professor Piovesán referred to the fundamental role that international human rights law plays in Latin America, as well as the advances and challenges that transformative constitutionalism faces in the region. On the other hand, Professor García Mahamut emphasised the importance of the Ibero-American academic networks forged thanks to the ICCAL project, and which in Spain have a fundamental point of collaboration in the CEPC. The director reaffirmed the commitment of this institution to strengthen these academic ties and to reinforce the human rights research agenda in Europe and Latin America.



In the afternoon session, a special panel was held to present and discuss the new theoretical frameworks developed by young Latin American in their doctoral dissertations. Firstly, Gretel Mejía Bonifazi presented her research on transitional justice in Guatemala, carried out at the University of Ghent, which included extensive fieldwork and interviews in Guatemalan communities. Secondly, Ignacio Giuffré presented his doctoral thesis on deliberative constitutionalism, more specifically, on the implications of objections to constitutional jurisdiction and the deliberative turn of democracy, which he defended in December 2023 at Pompeu Fabra University in Barcelona, where he is currently a postdoctoral researcher.



Thirdly, Sofia Reza Milanta the main aspects of her doctoral thesis, defended at Pompeu Fabra University in March 2023, where she coins a new right called “*tutela ejecutiva*”, and carries out an empirical and theoretical study on one of the main challenges faced by the Inter-American jurisdiction: compliance with and enforcement of the decisions of the Inter-American Court. Finally, Catarina Woyames Dreher presented her doctoral thesis, “A Legal Assessment of the Efficacy of Consultation with Indigenous Peoples: The Case of Brazil”, defended at the Martin-Luther-Universität Halle-Wittenberg in 2023. The research, recently published in a book edited by Springer, provides a multidimensional perspective on the prior consultation right to ensure adequate policies for indigenous peoples, with a focus on the case of Brazil, while offering relevant recommendations for legal practitioners, governments and international organisations.



Lastly, the closing panel brought together three founding members of the *Coloquio Iberoamericano*, Henry Jiménez, Daniel Klein and Pía Carazo, who currently serve as professors, researchers and experts in different public or private entities. The three experts left their impressions on the relevance of the *Coloquio* in their academic and professional training, while recalling the founding moments of this initiative. All of them highlighted the importance of the Spanish language in the construction of a network of researchers and academics linked not only by a common language, but also by issues of common interest regarding international law and human rights in Latin America.



3. IMPRESSIONS OF A NEWCOMER: THE IMPORTANCE OF THE *COLOQUIO IBEROAMERICANO* AND THE MAX PLANCK INSTITUTE FOR HUMAN RIGHTS IN LATIN AMERICA

In a world where human rights remain a constant struggle and a tireless pursuit for justice and equity, especially in a region like Latin America, the commemoration of the first 20 years of an academic initiative such as the *Coloquio Iberoamericano* constitutes a significant milestone. The *Coloquio* brings together researchers from all over the world in discussing, mostly in Spanish, the pressing issues of the most unequal region in the world—as Professor Morales Antoniazzi usually emphasises—, such as poverty, exclusion, social injustice, democracy and the rule of law, among many others. But, in my view, the *Coloquio* is much more than a seminar or an academic gathering. It has been a vital space for the exchange of ideas, networking and collaboration between academics, activists and practitioners committed to transforming reality. For two decades, the *Coloquio* has provided an invaluable platform to analyse the human rights challenges and opportunities facing the Latin American region, as well as to propose innovative solutions and effective strategies to address them.

My first time participating in the *Coloquio* was in 2022, and I instantly came across the reasons why this initiative, after two decades and almost 300 meetings, remains its relevance. I realised its ability to adapt and evolve in response to the political, social and legal changes that have occurred in Latin America and the world at large. Over the years, it has addressed a wide range of issues, from gender-based violence and climate emergency to impunity and transitional justice. This ability to keep up with emerging and current issues ensures that the *Coloquio* persists as a source of up-to-date and relevant knowledge for researchers and practitioners in the field of human rights.

Moreover, the international and multidisciplinary nature of the *Coloquio* makes it a unique space for sharing different perspectives and experiences between researchers from a wide range of regions and disciplines. This diversity contributes significantly to a broader and deeper understanding of the human rights challenges faced in Latin America, as well as to the identification of more effective strategies to tackle them. Another key aspect of this initiative is its role in creating networks and alliances among participants. Over the last two years, I understood how the *Coloquio* was essential in forming these true communities of practice, which are essential to strengthening the capacity of its members, to develop new legal frameworks to examine reality, as well as to support the impacts of their actions in the promotion and protection of human rights, especially in Latin America.

Lastly, those who has ever been to the MPIL in Heidelberg and participated in the *Coloquio Iberoamericano* cannot overlook the fundamental role of Mariela Morales Antoniazzi, both in this initiative as in the ICCAL project. Mariela is not only an outstanding researcher and coordinator, but a true leader. Her dedication has been crucial to the success and continuity of the *Coloquio* over the years. Her vision, commitment and affection for the project were, still are, essential to ensure that this space continues to be an invaluable meeting point for Spanish-speaking scholars. Her deep knowledge of the region and passion for human rights has inspired many of us to become even more committed to the cause.

It is thanks to Mariela's restless work —literally— and her inspiring vision that this true Latin American space has flourished. As a newcomer —nowadays, a committed member of the MPIL community— I express to Mariela my sincere gratitude and admiration for her exceptional work, her never-ending affection, and her overflowing energy. As well as for dreaming that a better future is not only possible but also imperative. And for inspiring us to do the same.

Congratulations, *Coloquio Iberoamericano*, and many congratulations MPIL and Professors Armin von Bogdandy and Mariela Morales Antoniazzi. Here's to 20, 30... 100 more years.



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