Introduction

Transatlantic Circulation of Political and Legal Actors, Ideas, and Bodies of Knowledge between Europe and America during the Twentieth Century

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This special issue features articles based on contributions to the international workshop “The Circulation of State Models and Institutional Designs between Europe and Latin America—Transatlantic Perspectives on Political and Legal History in the Twentieth Century,” which was held virtually on 26 May 2022. The event was co-organized by the research group Modernity and Society 1800–2000 at the History Department, KU Leuven, and the School of Law and the School of Modern Languages and Cultures, University of Warwick. The initiative was also sponsored by the Instituto de Investigaciones de Historia del Derecho (INHIDE), a prestigious legal history research center based in Buenos Aires. We acknowledge the important assistance of Martin Kohlrausch and Magaly Rodriguez García (KU Leuven), Ingrid de Smet (University of Warwick), and Ezequiel Abásolo and Viviana Kluger (INHIDE) in the final settlement of that event. The event was attended by prestigious legal scholars: Carlos Herrera (CY Cergy Paris Université), Peter Heyrman (KU Leuven), Elisa Speckman (Universidad Nacional Autónoma de México), Eduardo Zimmermann (Universidad San Andrés), and Werner Thomas (KU Leuven). Several exponents from diverse institutions in Europe and Latin America also participated as contributors in a rich interdisciplinary dialogue between legal history and political history: Zakia Mestari (University of Toulouse), Luciano Aronne de Abreu (Pontifícia Universidade Católica do Rio Grande do Sul), María Angélica Corva (Universidad Católica Argentina), Ana Brisa Oropeza Chávez (Universidad de Anahuac-Veracruz), Janne Schreurs (KU Leuven), Agustín Parise (Maastricht University), María Rosario Polotto (Universidad Católica Argentina), Pamela Cacciavillani (Universidad de Monterrey), and Horacio García Bossio (Universidad Católica Argentina) attended the meeting.

In recent years, transnational legal history has proven to be a burgeoning field of research. Especially thanks to the works of Thomas Duve, new
perspectives have been opened, inviting scholars to analyze the history of legal exchanges not only in terms of the “entanglements” between different national juridical cultures, but also in terms of the progressive “globalization” of law and the role that law played in promoting globalization at large.¹ In this context, the importance of networks has emerged forcefully in recent scholarship. Indeed, we observe increasing interest in the study of “communities of knowledge” reflecting on law across borders and how they contributed to the shaping of the institutional arrangements of various polities.² At the same time, there have also been efforts to move away from Eurocentric paradigms and explore the contributions of the “periphery” to the development of a global body of legal knowledge.³ This has also led to the rereading of the reception of products of Western juridical culture according to “adaptive” and “resistance” patterns, rather than simply as a history of dependency and unoriginal reproduction.⁴

This special issue, building on these studies, aims to articulate new views and perspectives on these interconnected fields of analysis by shedding light on the circulation of political and legal actors, ideas, and bodies of knowledge between Europe and the Americas during the twentieth century, and the resulting influence on institutional, constitutional, and educational arrangements. In this sense, it falls in line with transnational histories of law and the social sciences that aim especially to explore exchanges across the transatlantic space.⁵ Consequently, we endorse the conceptualization of “transatlantic history” as provided by Kristen Burton and Isabelle Rispler. According to this understanding, “transatlantic history” can be conceived of as a subfield of transnational history that, going beyond the traditional framework of the nation-state or empire, privileges informal cultural and social interactions across and between the four continents washed by the Atlantic Ocean. It differs from “Atlantic history,” as its focus is not only on the early modern and colonial periods, but on the nineteenth and twentieth centuries as well. Moreover, it also rejects one-way narratives of cultural imposition, presenting a more complex picture of reciprocal influence and appropriation.⁶

In view of the foregoing, all articles, fully endorsing the post-Westphalian turn in the study of the circulation of legal ideas,⁷ tend to avoid an exclusive focus on nation-states and official legal texts, but they rather concentrate on individuals, educational centers, international and nongovernmental organizations. Rejecting a state-centered and diffusionist approach, they contribute to strengthening the validity of a transnational and socio-historical perspective on legal exchanges, which is heuristically useful especially in a transatlantic context. As illustrated by Gisèle Sapiro and colleagues, this translates into a close analysis of the actors and material sources (books, journals, theses, among other instruments) and forms of sociability (international congresses, conferences, etc.) promoting, mediating, and allowing intellectual exchanges. Indeed, not only are they instrumental in making the exchanges themselves possible, but they are also key mediums that de-
termine the use that is made of “traveling ideas” when they successfully take hold in a different country than the one where they originated.8

What we can observe in all contributions is indeed the emergence of a new legal “sphere of written culture” uniting European and Latin American legal scholars during the twentieth century.9 Being largely Francophone and Hispanophone during the nineteenth century, this shared “written culture” seems to have been gradually integrated with references coming especially from North America, Germany, and Italy, something to which migratory fluxes certainly contributed. This oriented the legal approaches of Latin American jurists, shaping their institutional and political designs. Such exchange, however, is not to be interpreted in simple terms of dependency or “out-of-place ideas.”10 By contrast, all articles insist on the existence of transatlantic “epistemic communities,” which collectively and collaboratively reflected on political and legal matters, including the interwar global crisis of democracy, social and political rights, and the new neoliberal paradigm of the 1980s. In this way, products of the European juridical and political cultures were reframed and reshaped by Latin American scholars in order to conform to their specific regional and national contexts. Indeed, as evidenced by Jean-Louis Halpérin, “a juridical idea coming from a foreign country . . . can give place to another idea, translated and modified.”11 And this because, as Pierre Bourdieu reminded us, “ideas travel without context” and are therefore likely to be reinterpreted and employed in a different manner when they find their way into another national group of scholars.12

According to these premises, Luciano Aronne de Abreu and Nathalia Heinrich examine how the social doctrine of the Catholic Church was employed to back up juridical and political reflections about corporatism by Brazilian jurist Oliveira Viana and by American theologian John A. Ryan between the 1930s and the 1940s. In so doing, these authors shed light on how Viana and Ryan found in the encyclicals of Pope Leo XIII an inspiration to offer solutions to economic and social problems at the time of the Vargas (1937–1945) and Roosevelt (1933–1945) administrations, pointing to the existence of a transatlantic Catholic corporativist network.

Ignacio Alejandro López, in his article, explores the foreign sources to which students linked to the law schools at the University of Buenos Aires and the National Autonomous University of Mexico referred in their constitutional law BA and PhD theses during the interwar period. By analyzing the bibliographies appearing at the end of these writings, López argues that young Mexican and Argentinian jurists, citing from European authors, tended to agree with them about a generalized crisis of representative regimes, sharing the same “climate of ideas.” However, he also points out how their diagnosis and possible solutions were equally informed by their readings of key Latin American scholars.

Emanuele Podda deals with the construction of the authority of Franco-Ukrainian jurist Boris Mirkine-Guetzévitch in the Brazilian political and legal fields between 1932 and 1934, and his influence on the debates of the
1933–1934 Brazilian Constitutional Assembly. He argues that this must be interpreted as part of a larger global effort promoted by Mirkine-Guetzévitch in connection with scholars from various countries and geared toward the transnational promotion of liberalism and democracy against communist and fascist authoritarian solutions. The resulting exchanges heavily influenced Brazilian scholars and politicians with liberal leanings, who adapted Mirkine-Guetzévitch’s doctrine to their specific national context.

María Rosario Polotto and Pamela Alejandra Cacciavillani, in their article, explore the process of circulation of normative models and legal theories between Europe and Latin America, analyzing the case of the German possessory model in Argentina. The article argues that the Argentinean Civil Code’s Draft of 1932, while inspired by German and Swiss codifications, was not a carbon copy of the latter but rather a modification more in tune with local needs and traditions.

Finally, Ana Brisa Oropeza Chávez shows how intergovernmental economic organizations such as the International Monetary Fund, the World Bank, and the Organisation for Economic Co-operation and Development, through the lending of money and the connected imposition of a neoliberal agenda, shaped law studies in Mexico between the 1980s and the 1990s. In particular, the article argues that these intergovernmental organizations compounded the progressive “technocratization” of law curricula, leading to the progressive disappearance of subjects such as legal history and the philosophy of law in Mexican faculties.

We hope that the articles collected in this issue can help scholars to appreciate the existence of an interconnected web of legal and political influences in the transatlantic space during the twentieth century. Individuals, educational institutions, and nongovernmental organizations played a preponderant role in these exchanges, and they offer a privileged mirror to understand the development of institutional and political designs in the transatlantic space as a constant dialogue between and within Europe and the Americas. We suggest that this dialog must be conceptualized as a collective reflection that, even though it presupposed the existence of a center and of a periphery, did not translate into a passive reception. Rather, South American and Central American intellectuals, freely choosing their canon within structural limitations—including those represented by the legacy of colonialism—selected and adapted the intellectual products of the Western legal and political traditions in dialogue not only with Europeans but also, and most importantly, with each other.

Notes


