

European Legal History



Newsletter of the Max Planck Institute,
June 2019 #24

We are delighted to welcome you to our newsletter. It is designed for everyone with an interest in legal history, global history, or legal studies. The Max Planck Institute for European Legal History investigates the history and development of law in Europe and beyond. In our monthly newsletter, we keep you updated about events at the Institute, new publications by our fellows, and other news about the field. For comments, suggestions, and general feedback, please [email](#) us. We hope you enjoy this month's issue.



Events

04 June, 14:30-16:00, Seminar: *Law as text - a 'Barbarian perspective'*, Christoph Meyer (MPIeR) .

6 - 7 June, Conference: *Recht und Diversität – Europäische und lateinamerikanische Erfahrungen in rechtshistorischer Perspektive.*

12 June, 14:15-15:45, Seminar: *The past and present in judicial independence and disciplining in the common law world*, John McClaren (University of Victoria).

17 June, 12:00, Jour Fixe: *Punishment and labour relations. Cuba between abolition*

[more details](#)

Publications

Normatividades e instituciones eclesiásticas en el virreinato del Perú, siglos XVI–XIX

Ed. by Otto Danwerth, Benedetta Albani, Thomas Duve, Global Perspectives on Legal History 12
Frankfurt am Main: Max Planck Institute for European Legal History
2019. VI, 252 p., ISBN 978-3-944773-22-3

Ecclesiastical institutions and actors were essential for the formation of normative orders in early modern Ibero-America. Their importance has already been illustrated in a first volume about New Spain (GPLH 5, published in 2018), and can now be corroborated in the most recent book of the series *Global Perspectives on Legal History*, [published in open access](#), and edited by Otto Danwerth, Benedetta Albani and Thomas Duve.

Its eight case studies, written in Spanish, look at different spaces of the viceroyalties of Peru and of Río de la Plata, today located in the nation states of Peru, Bolivia, Argentina and Chile. They examine the ecclesiastic legislation of Toribio de Mogrovejo, explore the role of legal experts in canon law litigation, compare Jesuit missionaries in Austria and Peru, explain the life of nuns in the *Monasterio de la Concepción* in Lima, discuss problems of diocesan administration in outlying zones of the archdiocese of La Plata, and interpret the royal patronage in Chile during the Independence movement.

The editors' purpose has been to present approaches that explore the relationship between different types of normativities, their local adaptations, the forms of solving conflicts, as well as the role of jurists and

GLOBAL PERSPECTIVES
ON LEGAL HISTORY 12

OTTO DANWERTH
BENEDETTA ALBANI
THOMAS DUVE (EDS.)

Normatividades e
instituciones eclesiásticas
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other actors. The chapters of this volume propose new research fields for legal history and the history of the Church, but are relevant for social and cultural historians, too. They contribute to a better understanding of the normative religious universe in Ibero-America between the 16th and 19th centuries. An upcoming third volume will cover the viceroyalty of New Granada, and the tetralogy will be completed with a final volume on Brazil

Featured Events



Conference: Law and Diversity - European and Latin American experiences from a legal historical perspective

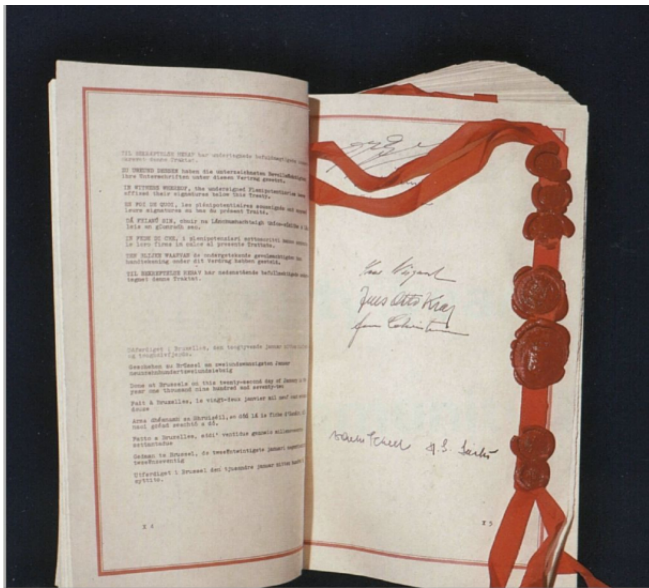
6 - 7 June, Lecture Hall

Organisation: Peter Collin (Dep. II)

The tensions between equality and inequality as principles of justice and distribution as well as between general and individual case justice are among the basic experiences of any normative order. These tensions have heightened at various points in the history of law – as have the ever-new attempts to resolve them through institutional arrangements and special protection regimes. Our continental European legal system is based on the principle of equality. However, there is today a growing concern about how this equality-based system can respond to the increasing demands to take particular individual or collective circumstances into account to a greater extent. These concerns are raised in the debate on cultural diversity, but also in the struggle to compensate for disadvantages resulting from economic or social differences. In some cases, there are demands for specific, concrete changes in substantive or procedural law. However, there are often doubts as to whether and for how long our equality-based legal system will be able to meet these challenges without fundamentally changing its structure.

Yet, this only describes a general constellation. The social dimensions in which the tension between equality and inequality emerged and the legal solutions or attempts at solutions it produced vary from country to country. In both the workshop and publication project "Law and Diversity – European and Latin American Experiences from a Legal Historical Perspective", contributions from various European and Latin American countries are intended to illustrate this diversity and at the same time facilitate a

comparison.



Annual Conference: The Contribution of the Legal Services of the European Institutions to European Union Law

18 - 19 June, Lecture Hall

Organisation: Stefan Vogenauer, Sigfrido Ramirez Perez (Dep. I)

While the most recent research on the legal

history of the European Union has established that the European Court of Justice (ECJ) has played a critical role in the functioning of European institutions, other legal actors have also played important roles, exerting a decisive influence on the ECJ and on legislators. This was the case, for instance, with the legal services of institutions such as the Commission, the Council of Ministers and the European Parliament. They exerted a great deal of influence regarding the negotiation of various European treaties and the resolution of legal controversies, especially concerning institutional competencies, which was ultimately resolved through bilateral meetings between these legal services and by the ECJ.

Hosted at the Max Planck Institute for European Legal History (Frankfurt am Main), this conference brings together scholars and former members of these institutions' legal services. They will present the historical trajectories of the legal services via key figures, the doctrinal developments achieved by each institution, and their cooperation with academics and legal practitioners. Contributions will reflect on how each of these legal services has influenced the general development of EU law as a constitutional practice, their implications for the process of European integration and its institutional evolution.

We introduce ...

Rechtsgeschichte – Legal History: our journal has a new webpage!

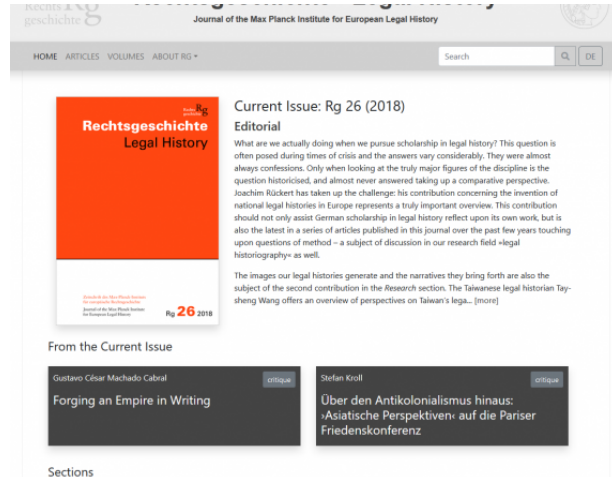
Clear design, intuitive navigation, additional functions, mobile access: featuring a new responsive design, the website of our Institute's journal

Rechtsgeschichte – Legal History is now available on mobile devices, such as smartphones and tablets.

Bright colours and clear lines

create a calm background, enabling the viewer to concentrate on what matters: the scientific content. Navigation has moved to the upper menu bar. It now offers a quick overview of issues, categories and articles as well as easy access to all available additional data (PDFs, metadata, abstracts, etc.). In addition to the streamlined structure, functional innovations have also been implemented to increase the site's user-friendliness. A table of content-field, for example, now makes it possible to navigate through longer articles more easily. Footnotes, information about the author or pagination can be shown or hidden with just one click, and articles can be forwarded via the most important social media channels. And finally, the search function has also undergone a technical overhaul and now makes qualified suggestions for hits using *elastic search*.

The journal's next issue will appear in September and contains, among other articles, thematic foci on *Weimar* and *Tridentine Marriage*, as well as a forum section discussing the *Oxford Handbooks on Legal History* and *European Legal History* published last year. As always, Rg 27 will be available simultaneously in print and in open access online. Until then, we hope all our readers enjoy the new website and find stimulating articles to read!



Guests and Visiting Scholars

- **Alford, Ryan** (Lakehead University, Canada): *The transmission of the concept of parliamentary sovereignty from the United Kingdom to Canada in the early nineteenth century*, visiting January – June 2019
- **Casagrande, Agustín** (Universidad Nacional de La Plata, Argentina): *Law*

and Diversity – Perspectives from Legal History, visiting June 2019

- **Clausen, Thomas** (Trinity College, Cambridge, UK): *Roland Freisler (1893-1945): an intellectual biography*, visiting December 2018 – September 2019
- **Langella, Simona** (Università degli Studi di Genova, Italy): *Studio, edizione critica e traduzione spagnola del commentario inedito di Francisco de Vitoria alla I-IIae de la Summa theologiae di san Tommaso d'Aquino*, visiting April – June 2019
- **Lima, Bruno** (Universidade de Brasília, Brazil): *Between the ancien régime and modernity: natural law and constitution in the legal thinking of Fr. Joaquim do Amor Divino Caneca (1779-1825)*, visiting September 2018 – August 2019
- **Loth, Mala** (Universitetet i Oslo, Norway): *The European Court of Justice and the Shaping of European Social Policy, 1964-1992*, visiting May – June 2019
- **Mamolea, Andrei** (Institut de Hautes Études Internationales et du Développement, Genève, Switzerland): *Reexamining International Arbitration, 1890-1914*, visiting April – August 2019
- **Okada, Masanori** (Waseda University, Tokyo, Japan): *"Legal Transformation" in relation to East Asia and investigate some historical processes of "reception" of German law in the 19th century Japan*, visiting June – August 2019
- **Ramis Barceló, Rafael** (Universitat de les Illes Balears, Palma de Mallorca, Spain): *Encyclopaedism, textuality and Jurisprudence in 16th and 17th Centuries*, visiting April – June 2019
- **Schirò, Pietro** (Università degli Studi di Verona, Italy): *The Social School of Criminal Law*, visiting May – September 2019
- **Tarozzi, Simona** (Università degli Studi di Bologna, Italy): *Rezeption der Grundlage des römischen Verfahrensrechts in römisch-germanischen Quellen und in common Law*, visiting April – September 2019

The Institute out and about

Keeping you up-to-date on the activities and public engagements of the Institute's researchers abroad. If you are in the area and are interested in attending, feel free to stop by.

Benedetta Albani, *El gobierno de la Iglesia americana bajo el régimen de Patronato. Nuevas perspectivas entre historiografía y fuentes de archivo*, Conference 'Entre derecho, praxis y doctrina. La historia jurídica e institucional en la época colonial'



Sala de Ceremonias de la Escuela de Derecho', Pontificia Universidad Católica de Valparaíso, 4 June, 10:30.

Collins, Justine, Analysis of English laws as the origins of British Caribbean slave legislation, 2nd Postgraduate Conference on Comparative Legal History, Universität Augsburg, 27 – 29 June.

Dias Paes, Mariana (with Juelma Matos and Mariana Candido), *The Benguela Provincial Court Documents Inventory*, Southern Africa Historical Society Biennial Conference, Rhodes University Makhanda, 25 June, 10:15.

Dias Paes, Mariana: *Workshop - Trabalhando com Processos Judiciais: Potenciais para a História de Benguela*, Universidade Katyavala Bwila, Benguela, 7 June, 10:00.

Thomas Duve, *Twenty-five years of AYLH: Some observations on legal historical scholarship since the nineties*, Keynote [XXVth Annual Forum of Young Legal Historians Association: Identity, Citizenship and Legal History](#), Brussels, 5 – 8 June.

Stefan Vogenauer, *Brexit als erklärbare Entscheidung: eine britische Perspektive*, Wirtschaftspolitische Gesellschaft von 1947 e.V., IHK Frankfurt, 24 June, 18:30.

Hansaallee 41



Podcast: Michael Stolleis on 70 years Grundgesetz

Seventy years of the German *Grundgesetz* – this anniversary is currently being celebrated all over Germany. The most notorious place, Karlsruhe, even held a week-long festivity and was joined by the constitutional court, the city's



Music and Science: Stefan Vogenauer on Crisis and Law in European History

In 2016 the Max Planck Society and the Philharmonic Orchestra of Hamburg launched a concert series that attempts to bring music and science into dialogue. This year's motto was 'Europe – Idea and

theatres and its university. That the *Grundgesetz* is a key text for any of the jurists working in one of the law-related Max Planck Institutes is evident. Yet it must not be forgotten that it also forms the normative basis on which research and critical scholarship may exist and enjoys its formidable freedom in the first place. This is stressed by Michael Stolleis in a recent **podcast**, produced for the Max Planck Society on the occasion of the *Grundgesetz* anniversary. Whoever knows Michael Stolleis from previous lectures will enjoy the combination of academic rigor and humanistic empathy that underpin his great rhetorical skills. In this podcast he puts particular emphasis on the fact that article five of the German *Grundgesetz* assigns the German state an explicit task to guard scientific freedom and shield research from state-intervention. Time and again this has led to almost paradox situations. Striking that balance between state power and freedom of science is a continuous process that needs to respond to changing times and circumstances. That research and science enjoy constitutional rights should not merely be interpreted as a privilege but rather as a call to action. Michael Stolleis does not tire of reminding us that research and science in other European states experience increasing pressure and infringements from political intervention. Freedom of science

Reality'. Stefan Vogenauer had been invited to come speak in May. The room in the Hamburg State Opera was packed with percussion instruments; the programme featured only contemporary composers of the sort that could scare a typical audience. Brian Barker, the Hamburg Philharmonic Orchestra's solo-percussionist, gives the impression of having just returning from a heavy metal concert. And Stefan Vogenauer focused on crises in the history of the European Union. 'Luxembourg – Laeken – London: Crisis and Law in the European Union' was the title of his talk. He emphasized that the current EU-crisis, which occasionally feels perpetual, is neither the first nor the only one. Ever since the beginnings of European integration, have individual member states bargained for special treatment and privileges. The EU's history may be portrayed as an attempt to strike a balance between forming a community of law, a 'Rechtsgemeinschaft', on the one hand and allowing for a number of necessary political compromises on the other hand. Stefan Vogenauer's talk was framed by a number of virtuosic percussion pieces. Brian Barker introduced each of the contemporary pieces with a short explanation. The audience was soon immersed in a complex web of thoughts, historical and melodic lines, percussion rhythms; an igniting soundscape that provided

and research may thus far have experienced seventy years of constitutional guardianship, but this freedom will have to be defended over and over again.

Jasper Kunstreich

an example for harmony and ambivalence, the European leitmotif: in varietate concordia.

*Jasper Kunstreich with Claudia
Zerrer*

Max Planck Newsletter for Ibero-American Legal History

If you find this newsletter interesting, you might also be interested in the special newsletter for Ibero-American Legal History, which is published monthly by our research group 'Legal History of Ibero-America'. You can subscribe under the following [link](#).

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https://listserv.gwdg.de/mailman/listinfo/mpierg_news. Just scroll down to the bottom of the page and to the row 'To unsubscribe from MPleRg_news (...)'. Needless to say, seeing you leave would make us very sad.



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