



Annual Report (2012-2014)

Translation of chapter I. Introduction (Kapitel I. Einführung), page 7-14

This report specifically covers activities undertaken in the most recent three-year period, 2012-2014. It was a momentous time to say the least. The significance of two events that mark a crossroads in the history of our Institute will be felt beyond the period under report: In 2013, the Institute relocated to a new building specifically constructed for it on Westend Campus; and at a ceremony held on the new premises on 1 December 2014, Stefan Vogenauer of Oxford University was named both scientific member of the Max-Planck Society and the Institute Director. In the 50 years since its founding, the MPIER has transitioned to a comparative approach to analyse European legal histories and explore their complex links to the legal histories of non-European regions – in particular, to the Anglo-American and Ibero-American world. Thus the object of inquiry is no longer simply the European legal history in the post-war era, rather, Europe's legal history in global historical perspective.

This shift reflects the broadened scope of our interests and research areas. Widening our perspective has also required us to intensify our focus: Today, not even a Max-Planck Institute can assert its claim to an exploration of all interrelated legal historical fields. If in the past few years, legal historical research had significantly expanded its horizon beyond the scope of the conventional areas, the approach adopted in many areas of the world for such research is still different from ours in Europe. Asia and America have seen the emergence of legal history communities that inscribe their own questions, methods, and issues into larger debates and discourses pertaining to the history of law and other modalities of normativity. In Europe, many outside disciplines are increasingly invested in extending the historical perspective to law. It is these discourses into which a Max-Planck Institute must insert itself in light of its specific function in the German scientific system, so that even a discipline as small as legal history must respond to the general call for functional differentiation.

The international and interdisciplinary character of the dialogue requires not just that we undertake solid, source-based work in legal history. We also seek to do that within the framework of our research projects in the different research areas. To a great degree, it requires a reflection on the elemental questions of legal historical research: for instance, which legal concepts underlie our research, what methodology we use to reflect upon the processes of appropriation and exchange, how we construct the space of legal history, and whether it is not incumbent upon us, now more than ever, to rewrite legal history from the perspective of conflict resolution. Precisely because scholarly debates and discussions occur on a transnational plane and scale and interdisciplinary cooperation is on the rise, we are now forced to rethink these conventional issues and renegotiate them in light of our new epistemological interests. Our research profile reflects the degree to which we intend to respond to the call for multinormativity, translation, jurisdiction, and conflict resolution. It must generate the opportunity to further develop the theoretical insights drawn from the historical humanities as well as from the legal and social sciences, and to apply them to legal history. The research projects of the Institute summarized under each research field offer numerous possibilities, ranging from law in the first millennium right up to the legal history on the threshold of the 21st century. They, undoubtedly, also represent our research focus in our day-to-day work.



A summary of the activities must outline the more practical dimensions of research. Much time was spent in the past three years developing the new focus areas and reconfiguring the research activities of the MPIeR to reflect these changes. It was imperative to either conclude research projects that had already begun before the new director of department II (Duve) took over, and those that were being supervised by staff who were about to bid farewell, or to reconfigure and integrate such projects into those conceived in 2010 and 2011. It was equally important to continue improving the conditions at the Institute to carry out research on a transnational plane.

Concluded Projects

Research projects that came to a close during this period include the legal history of Southern Europe, the history of international law, and regulated self-regulation, which had been carried out in the initial funding phase of the Cluster of Excellence “The Formation of Normative Orders” (cf. p. 87) in which the Institute had participated. The project of the Max-Planck research group, “Age and Law”, which ultimately generated as many as seven dissertations and one postdoctoral *habilitation* thesis, of the research group leader (cf. p. 96), also concluded. Barbara Dölemeyer successfully catalogued the entire legal archaeological portrait collection of Karl Fröhlich and the correspondence of K.J.A Mittermeier. The project, “Experiencias: Experiences with the Private and Criminal Law in the First Half of the 20th Century between Latin America and Europe”, has also drawn to a close with the publication of a special issue of the Institute’s own journal *Rechtsgeschichte – Legal History* 22 (2012) and a 2015 anthology dedicated to this topic; Torsten Keiser, who oversaw the project with an Argentinian collaborator, Rosario Polotto, is no longer at the Institute, having successfully defended his postdoctoral *habilitation* thesis. Even the project on the history of private law in South America at the beginning of the 20th century, which was funded by Argentinian funding agencies from a line of funding committed to cooperation with the Max-Planck Institutes concluded with a 2014 publication (cf. p. 99). Projects in the domain of international law and the origins of criminology and criminalistics that had been supervised by Miloš Vec could no longer be continued at the Institute after he accepted the professorship at the University of Vienna. The same is true for the scholarly preoccupation with confessionism and the history of ecclesiastical law in the 19th and the 20th century, led by Stefan Ruppert. Once he completes his *habilitation* thesis and the funding period for the Max-Planck research group expires, Stefan Ruppert will limit his involvement at the Institute.

Initiated in 2012, the work of the LOEWE focus group on extrajudicial and judicial conflict resolution concluded in 2014– at least the involvement of the MPIeR in the project. While the larger research projects are based at the Goethe University, as the lead institution, diverse sub-projects as well as the activities of the so-called LOEWE junior scientists group for canonistics, moral theology and conflict resolution were carried out at the Max-Planck Institute (cf. p. 93). In a significant response to the demand to create the conditions for a long-term research cooperation, a larger research project of the consortium for legal studies on conflict resolution was outlined in a proposal that was submitted to DFG, the German Research Foundation, for its appraisal; even the project, titled “Diversity and Law – Legal Historical Perspectives” (cf. p. 102), the details of which are described under the section on Project Workshop, was conceived for the LOEWE focus group. And after a period of twelve years during which over 90 young scholars received funding, the IMPRS for Comparative Legal History (cf. p. 79) also concluded in 2014. The end of this line of funding, however, does not mean that the cooperation with Goethe University will no longer be as close. Rather, the



core focus of the cooperation has moved from shared funding of graduate students to close cooperation in specific research projects that will include the participation of young scholars.

New Collaborations and Projects

Many research projects that had begun at the Institute during the period under report had, in fact, been developed in close cooperation with scholars from the Goethe University. That is exactly how the MPIeR will be involved in the second funding phase of the Cluster of Excellence cluster on the development of normative orders in research projects on multinormativity, forming of transnational regime of criminal law as well as the legitimation structures of private, intermediary and hybrid regime of regulation (cf. p. 111). In a similar vein, in 2013, a new research project was begun on “The School of Salamanca” – a digital collection of sources and a dictionary of its juridical, political language – as a part of the long-term research program of the Union of the German Academy of the Sciences and the Academy of the Sciences and Literature based in Mainz. This is being collaboratively led by Matthias Lutz-Bachmann, Institute of Philosophy at Goethe University, and Thomas Duve. Two Institute members (Benedetta Albani, Thomas Duve) are a part of Goethe University’s Collaborative Research Centre (*Sonderforschungsbereich*, SFB) “Regime of Resources and Weakness Discourse” (SFB 1095; cf. p. 107), which has been approved for funding. Even outside of this institutionalised collaborative effort, the close proximity generates numerous opportunities for alternative settings for discussions with colleagues from within the discipline, such as the newly instituted ‘Frankfurt Evening Conversations in Legal History’, which hosted its first event in October 2014, or the weekly *Jour Fixe* held at MPIeR (cf. p. 292), or conferences, such as History of legal history in the Berlin Republic (cf. p. 314ff).

This short overview already signals our preparedness to invest in efforts that advance scholarly collaborations with other affiliated institutions in which projects are as closely aligned to the new lines of research at MPIeR as possible. In fact, the legal history of the School of Salamanca was already being studied at the Institute, but now its continuity can be ensured in the long-term; even research projects on the history of the Roman Curia that had already begun could later be transferred to a Max-Planck Research Group, and thereby significantly strengthened. Perspectives drawn from participating in SFB 1095 greatly enrich scholarly work undertaken at the Institute with new analytical insights. But the intention is not to generate entirely new topics, for not expansion, rather, greater focus and immersion has been our guiding principle.

Funding of Graduate Studies

The same has also been true for graduate studies. In place of the thematically comprehensive IMPRS for Comparative Legal History, a series of specific measures has been instituted to fund graduate studies - whereby internationalisation has remained a priority.

The series of conferences announced in the 2011 Activities Report, which provided young scientists from Argentina, Brazil and Germany the ideal forum to present and discuss their work in legal history, was continued in 2012 and 2014 in Curitiba and Frankfurt (cf. p. 203). The traditional Summer School was also hosted in Frankfurt, however, this was supplemented by the new Summer Academy for European Legal History (August 2013) – an attempt we consider a success owing to the combination of a two week course that offers an introduction, in English, to central themes of the



European legal history, following which, in the week ahead, young scientists from different parts of the world have the opportunity to present their research on legal history in global historical perspective (cf. p. 200). Even the seminar series, “The Pope, the Roman Curia and the World: Research Tools for History and History of Law”, first instituted in 2011, was revived in 2014 (cf. p. 197). Our involvement in the IMPRS for Retaliation, Mediation and Punishment, which came under assessment during this reporting period and was extended for another funding phase, ultimately bolsters our work in the area of the historical criminality research and criminal law history.

Also important were the open-theme conferences intended for young scholars, such as *Nuevos Campos de investigación en la historia de las instituciones eclesiásticas y sus normatividades en Ibero-América (s. XVI-XVIII)*, which first convened in 2011 in Mexico, and, subsequently moved to in Lima/Peru in 2012, and to Bogotá /Columbia in 2013 (cf. p. 209). Especially in regards to labour-intensive research projects, such as the dictionary of the history of ecclesiastical law in Hispano-America and the Philippines (cf. p. 73) and the dictionary of the School of Salamanca (cf. p. 57), it became important to acquaint ourselves better with the often fragmented academic communities located at centres of early modern colonial administration by soliciting their participation through advertisements and a subsequent selection process. Finally, several young scholars also participated in the events held in cooperation with the Chinese University for Politics and Law (CUPL) in Beijing (cf. p. 306). In many cases, these meetings had generated possibilities of hosting guest scholars or resulted in successful application for scholarships and stipends (cf. the list of guests cf. p. 218).

Publications

Our cooperation with the non-European colleagues, which has significantly strengthened, already shows the efforts undertaken by the Institute to gain international visibility and, on its part, to provide international access to its publications. We were able to make significant strides in the reporting period. The legal history journal is - since the 20/2012 issue - being published annually in open access mode under the title *Rechtsgeschichte – Legal History* and is freely accessible under rg.rg.mpg.de. Even the content of *Rg* is now configured differently: Some contributions continue to be selected independent of their thematic focus, but every issue also has a *Focus* segment, with contributions directly addressing the Institute’s research agenda, supplemented by a *Forum* or a debate segment. The 20 (2012) issue contains contributions on the history of social private law in Europe and Latin America at the beginning of the 20th century (cf. for that p. 99); the *Forum* carried a discussion on global historical perspectives in the research on the governance of the Universal Church in Rome. The 21 (2013) issue of the journal carried articles drawn from a panel developed by the Institute for the *Historikertag* (Historians’ Convention) in Mainz on “Baptism and Law” (cf. for that p. 117) and used the 30th anniversary of the publication of Harold J. Berman’s *Law and Revolution* as the perfect opportunity to invite contributors to take a position on this worldwide influential work, and in the process review the research undertaken in the past three decades. The 22 (2014) issue contained only contributions from a colloquium, titled ‘European Normativities - Global Historical Perspectives’, which we organized to mark the inauguration of our new building (cf. p. 263). The work for the journal requires significant resources, but we are convinced that this effort is worth it.



Apart from the journal publication, a *Research Paper Series* was instituted in 2012, also available in open access mode, which can be found on MPIeR's own homepage, where it is also possible to find, in particular, the SSRN (Social Science Research Network) platform, much sought after in the Anglo-American region. Working papers, but also the so-called preprints can be made accessible here for a predominantly non-German readership. The Institute has also assumed the responsibility for the technical and design oversight of *forum historiae iuris*, the online platform for the European Legal History Research that has already existed for about 20 years, and modernised the design and technology. In addition to our standard publication series, we were finally able to present the first volume of a new series of the Institute in 2014, titled *Global Perspectives on Legal History* (GPLH). This series allows books to be published in electronic open access mode, while also making them available in book format for purchase (in the so-called print-on-demand- process). The first volume of the series, *Entanglements in Legal History: Conceptual Approaches* will showcase some panel presentations held in Lucerne at the 39th German Legal Historians' Convention in September 2012, and also include other questions generated from the work done within the Institute that are particularly central to our research program: the question, which methods of analysis can be applied in the legal history to analyse the linkages prevalent worldwide. The 22 (2014) issue of *Rechtsgeschichte – Legal History* and Volume I of *Global Perspectives on Legal History*, together, offer rich insights into the intellectual challenges, but also into some intriguing questions that legal history must pose today. The journal, the publications brought out during the period under report, but not least also this Activities Report show that we have made a conscious decision to consistently pursue the – European – way of multilingualism: Our perseverance to translate our analytical traditions and scholarly works into other languages and to offer other languages the necessary space, in order to not completely surrender to the trend to anglicise.

New Building, Relocation – and Many Improvements

We had originally intended to relocate at the start of 2013, also the year that falls right in the middle of the period under report, but ultimately the move transpired only toward the end of the year. Delays in the building construction impacted our scientific plans and work. But the effort was greater particularly for the IT department, the administration and the library. They all took the relocation as an opportunity to institute fundamental changes – modernisation measures that had been postponed for an entire year could, and had to, be undertaken. The expense was high, but the result has been more than rewarding: our new IT infrastructure has drastically improved (cf. on that p. 256), the use of the library has become significantly easier (cf. p. 250). The new reading room is large and impressive with 38 reading stations, which are extensively used. The same can also be said of our eight guest apartments in the building. But, not least, with the move to this architecturally unique building, designed to our specification, at the new location in Westend, the MPIeR now finds itself in close proximity to where it first started work in the first years of its founding in 1964.

Frankfurt am Main, March 2015