

# Private International Law and Venezuelan Academia in 2019: A Review

by José Antonio Briceño Laborí, Professor of Private International Law, Universidad Central de Venezuela y Universidad Católica Andrés Bello

In 2019 the Venezuelan Private International Law (hereinafter “PIL”) academic community made clear that, despite all the difficulties, it remains active and has the energy to expand its activities and undertake new challenges.

As an example of this we have, firstly, the different events in which our professors have participated and the diversity of topics developed by them, among which the following stand out:

- XI Latin American Arbitration Conference, Asunción, Paraguay, May 2019 (Luis Ernesto Rodríguez - How is technology impacting on arbitration?)
- Conferences for the 130<sup>th</sup> Anniversary of the Treaties of Montevideo of 1889, Montevideo, Uruguay, June 2019 (Eugenio Hernández-Bretón and Claudia Madrid Martínez - The recent experience of some South American countries not part of Montevideo Treaties in comparative perspective to them. The case of Venezuela).
- OAS XLVI Course on International Law. Rio de Janeiro, Brazil, August 2019 (Javier Ochoa Muñoz - Effectiveness of foreign judgements and transnational access to justice. Reflections from global governance).
- The Role of Academia in Latin

American Private International Law, Hamburg, Germany, September 2019 (Javier Ochoa Muñoz - The Legacy of Tatiana Maekelt in Venezuela and in the Region).

- XIII ASADIP Annual Conference

2019: Transnational Effectiveness of Law: Recognition and enforcement of foreign judgments, arbitral awards and other acts (Claudia Madrid Martínez -

Transnational Efficacy of Foreign Judgments - Flexibilization of Requirements; Eugenio

Hernández-Bretón - Transnational Effectiveness of Provisional Measures; and

Luis Ernesto Rodríguez - New Singapore Convention and the execution of international agreements resulting from cross-border mediation).

However, this year's three most important milestones for our academic community occurred on Venezuelan soil. Below we review each one in detail:

## 1. **Celebration of the 20<sup>th</sup>**

### **Anniversary of the Venezuelan PIL Act**

The

Venezuelan

PIL Act, the first autonomous legislative instrument on this subject in the continent, entered into force on February 6, 1999 after a six months *vacatio legis* (since it was enacted in the Official Gazette of the Republic of Venezuela on August 6, 1998).

This instrument has a

long history, as its origins date back to the Draft Law on PIL Norms written by professors Gonzalo Parra-Aranguren, Joaquín Sánchez-Covisa and Roberto Goldschmidt in 1963 and revised in 1965. The Draft Law was rescued in 1995 on the occasion of the First National Meeting of PIL Professors. Its content was updated and finally a new version of the Draft Law was sent by the professors to the Ministry of Justice, which in turn sent it to the Congress, leading to its enactment (for an extensive overview of the history of the Venezuelan PIL Act and its content, see: Hernández-Bretón, Eugenio, *Neues venezolanisches*

Gesetz über das Internationale Privatrecht, *IPRax* 1999, 194 (Heft 03); Parra-Aranguren, Gonzalo, The Venezuelan Act on Private International Law of 1998, *Yearbook of Private International Law*, Vol. 1 1999, pp. 103-117; and B. de Maekelt, Tatiana, Das neue venezolanische Gesetz über Internationales Privatrecht, *RabelsZ*, Bd. 64, H. 2 (Mai 2000), pp. 299-344).

To celebrate the 20<sup>th</sup> anniversary of the Act, the Private International and Comparative Law Professorship of the Central University of Venezuela and the “Tatiana Maekelt” Institute of Law with the participation of 7 professors and 9 students of the Central University of Venezuela Private International and Comparative Law Master Program.

All the expositions revolved around the Venezuelan PIL Act, covering the topics of the system of sources, vested rights, ordre public, in rem rights, consumption contracts, punitive damages, jurisdiction matters, international labour relations, recognition and enforcement of foreign judgements, transnational provisional measures and the relations between the Venezuelan PIL Act and international arbitration matters. The conference was both opened and closed by the professor Eugenio Hernández-Bretón with two contributions: “The Private International Law Act and the Venezuelan university” and “The ‘secret history’ of the Private International Law Act”.

### **▪ Private International and Comparative Law Master Program’s Yearbook**

On the occasion of the XVIII National Meeting of Private International Law Professors, the Private International and Comparative Law Master’s Degree Program of the Central University of Venezuela launched its website and the first issue of its yearbook. This specialized publication was long overdue, particularly in the Master’s Program context which is focused on educating and training researchers and professors

in the areas of Private International Law and Comparative Law with a strong theoretical foundation but with a practical sense of their fields. The Yearbook will allow professors, graduates, current students and visiting professors to share their views on the classic and current topics of Private International Law and Comparative Law.

This first issue included the first thesis submitted for a Master's Degree on the institution of *renvoi*, four papers spanning International Procedural Law, electronic means of payment, cross-border know-how contracts and International Family Law, sixteen of the papers presented during the Commemoration of the Twentieth Anniversary of the Venezuelan Private International Law Act's entry into force, and two collaborations by Guillermo Palao Moreno and Carlos Esplugues Mota, professors of Private International Law at the University of Valencia (Spain), that shows the relation of the Program with visiting professors that have truly nurtured the students' vision of their area of knowledge.

The Call of Papers for the 2020 Edition of the Yearbook is now open. The deadline for the reception of contributions will be April 1<sup>st</sup>, 2020 and the expected date of publication is May 15<sup>th</sup>, 2020. All the information is available here.

The author guidelines are available here. Scholars from all over the world are invited to contribute to the yearbook.

### ▪ **Libro Homenaje al Profesor Eugenio Hernández-Bretón**

On December 3rd, 2019 was launched a book to pay homage to Professor Eugenio Hernández-Bretón. Its magnitude (4 volumes, 110 articles and 3298) is a mirror of the person honored as we are talking about a highly productive and prolific lawyer, professor and researcher and, at the same time, one of the humblest human beings that can be known. He is truly one of the main reasons why the Venezuelan Private International Law professorship is held up to such a high standard.

The

legacy of Professor Hernández-Bretón is recognized all over the work. Professor of Private International Law at the Central University of Venezuela, Catholic University Andrés Bello and Monteávila University (he is also the Dean of the Legal and Political Sciences of the latter), Member of the Venezuelan Political and Social Sciences Academy and its President through the celebration of the Academy's

centenary, the fifth Venezuelan to teach a course at The Hague Academy of International Law and a partner in a major law firm in Venezuela (where he has worked since his law school days) are just some of the highlights of his career.

The

contributions collected for this book span the areas of Private International Law, Public International Law, Comparative Law, Arbitration, Foreign Investment, Constitutional Law, Administrative Law, Tax Law, Civil Law, Commercial Law, Labor Law, Procedural Law, Penal Law, General Theory of Law, Law & Economics and Law & Politics. The book closes with six studies on the honored.

The

contributions of Private International Law take the entire first volume. It includes the following articles:

- Adriana Dreyzin de Klor - El Derecho internacional privado argentino aplicado a partir del nuevo Código Civil y Comercial (The Argentine Private International Law applied from the new Civil and Commercial Code).
- Alfredo Enrique Hernández Osorio - Objeto, contenido y características del Derecho internacional privado (Purpose, content and characteristics of Private International Law).
- Andrés Carrasquero Stolk - Trabajadores con elevado poder de negociación y Derecho

applicable a sus contratos: no se justifica restricción a la autonomía de las partes (Workers with high bargaining power and applicable law to their contracts: no restriction to party autonomy is justified).

- Carlos

E. Weffe H. - La norma de conflicto. Notas sobre el método en el Derecho internacional privado y en el Derecho internacional tributario (The conflict norm. Notes on the method in Private International Law and in International Tax Law).

- Cecilia

Fresnedo de Aguirre - Acceso al derecho extranjero en materia civil y comercial: cooperación judicial y no judicial (*Access to foreign law in civil and commercial matters: judicial and non-judicial cooperation*).

- Claudia

Madrid Martínez - El rol de las normas imperativas en la contratación internacional contemporánea (The role of peremptory norms in contemporary international contracting).

- Didier

Opertti Badán - Reflexiones sobre gobernabilidad y Derecho internacional privado (Reflections on governance and Private International Law).

- Fred

Aarons P. - Regulación del internet y el derecho a la protección de datos personales en el ámbito internacional (Internet regulation and the right to personal data protection at international level).

- Gerardo

Javier Ulloa Bellorin - Interpretación del contrato: estudio comparativo entre los principios para los contratos comerciales internacionales del UNIDROIT y el derecho venezolano (Contract interpretation: comparative study between the UNIDROIT Principles on International Commercial Contracts and Venezuelan law).

- Gilberto

Boutin I. - El recurso de casación en las diversas fuentes del Derecho internacional privado panameño (Cassational complaint in the various

sources of

Panamanian Private International Law).

- Guillermo

Palao Moreno - La competencia judicial internacional en la nueva regulación

europea en materia de régimen económico matrimonial y de efectos patrimoniales de

las uniones registradas (International jurisdiction in the new European regulation on the economic matrimonial regime and the property effects of

registered partnerships).

- Héctor

Armando Jaime Martínez - Derecho internacional del trabajo (International Labor

Law).

- Javier

L. Ochoa Muñoz - El diálogo de las fuentes ¿un aporte del Derecho internacional

privado a la teoría general del Derecho? (The dialogue

of sources: a contribution from private international law to the general theory

of law?

- Jorge

Alberto Silva - Contenido de un curso de Derecho internacional regulatorio del

proceso (Content of a course on international law regulating the process).

- José

Antonio Briceño Laborí - La jurisdicción indirecta en la ley de derecho internacional privado.

- José

Antonio Moreno Rodríguez - Los Principios Unidroit en el derecho paraguayo (The

UNIDROT Principles in Paraguayan law).

- José

Luis Marín Fuentes - ¿Puede existir una amenaza del Derecho uniforme frente al

Derecho interno?: ¿podríamos hablar de una guerra anunciada? (Can

there be a threat to national law from uniform law? Could we talk about an announced war?).

- Jürgen  
Samtleben - Cláusulas de jurisdicción y sumisión al foro en América Latina (Jurisdiction and submission clauses in Latin America).
- Lissette  
Romay Inciarte - Derecho procesal internacional. Proceso con elementos de extranjería (International Procedural Law. Trial with foreign elements).
- María  
Alejandra Ruíz - El reenvío en el ordenamiento jurídico venezolano (*Renvoi* in the Venezuelan legal system).
- María  
Mercedes Albornoz - La Conferencia de La Haya de Derecho Internacional Privado y el Derecho aplicable a los negocios internacionales (The Hague Conference on Private International Law and the applicable Law to International Business).
- María  
Victoria Márquez Olmos - Reflexiones sobre el tráfico internacional de niños y niñas ante la emigración forzada de venezolanos (Reflections on international child trafficking in the face of forced migration of Venezuelans).
- Mirian  
Rodríguez Reyes de Mezoa y Claudia Lugo Holmquist - Criterios atributivos de jurisdicción en el sistema venezolano de Derecho internacional privado en materia de títulos valores (Attributive criteria of jurisdiction in the Venezuelan system of Private International Law on securities trading matters).
- Nuria  
González Martín - Globalización familiar: nuevas estructuras para su estudio (Globalization



- of the family: new structures for its study).
- Peter Mankowski - A very special type of renvoi in contemporary Private International Law. Article 4 Ley de Derecho Internacional Privado of Venezuela in the light of recent developments.
  - Ramón Escovar Alvarado - Régimen aplicable al pago de obligaciones en moneda extranjera (Regime applicable to the payment of obligations in foreign currency).
  - Roberto Ruíz Díaz Labrano - El principio de autonomía de la voluntad y las relaciones contractuales (The party autonomy principle and contractual relations).
  - Stefan Leible - De la regulación de la parte general del Derecho internacional privado en la Unión Europea (Regulation of the general part of Private International Law in the European Union).
  - Symeon c. Symeonides - The Brussels I Regulation and third countries.
  - Víctor Gregorio Garrido R. - Las relaciones funcionales entre el forum y el ius en el sistema venezolano de derecho internacional privado (The functional relations between forum and ius in the Venezuelan system of private international law).

As we see, the contributions are not just from Venezuelan scholars, but from important professors and researchers from Latin America, USA and Europe. All of them (as well as those included in the other three volumes) pay due homage to an admirable person by offering new ideas and insights in several areas of law and related sciences.

The book will be available for sale soon. Is a must have publication for anyone interested in Private International Law and Comparative Law.