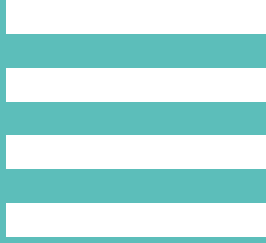




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On the Access to Justice in the Americas Project



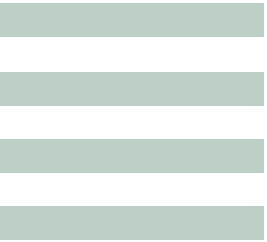
The Access to Justice in the Americas Project creates room for discussing the internationalization of access to justice in a very diverse set of countries, languages, and legal cultures. It is a multicultural effort that stems from a network of activists, professors, researchers, lawyers, and public defenders across the Americas who have relevant insights about increasing socio-legal responses to the needs of groups in situations of vulnerability with their participation, based on actions in this field.

As a project, our values include attention to geographic and culture diversity, the presence of articles in each of the four languages, support for critical and scientific analyses that make use of a consistent theoretical framework and accurate data, respect for the blind peer review model, and the protection and promotion of the well-being of populations in vulnerable situations.

Our vision is to make this project a reference for high-quality intercultural and inter-institutional dialogue in the field of access to justice and judicial politics in the Americas.

Our mission is to promote publications and meeting points for actors from different regions and languages horizontally and constructively. It also involves the promotion of legal approaches based on research on concrete experiences, data, or public policies in order to overcome the dominance of traditional legal dogmatism.

The idea for the project was developed within the Justice Forum Project, a Brazilian platform that promotes dialogue between social movements,



the justice system and academia around the policies for inclusive justice. This book has become the main project of Justice Forum's Ibero-Latin American Working Group (GT ILA-FJ), a branch that aims to promote democratic values in justice systems of countries in the region.

GT ILA-FJ's first initiative was carried out in 2015, with two international seminars held in Rio de Janeiro to discuss "Latin-american judicial politics from the perspective of the Public Defender's Office" and "Legal reform in Brazil from a Latin-american point of view". Participants came from all Mercosur countries, in addition to Peru and Costa Rica. Those seminars also involved participants from Spain and Portugal, thus characterizing an Ibero-American network. These events represent the historical background of the Access to Justice in the Americas project.

The Access to Justice in the Americas proposal was first presented during a third international seminar on "Democracy and the Public Defender's Office in Latin America", held in Rio de Janeiro from November 10 to 12, 2019 and organized by the GT ILA-FJ. That moment was an opportunity to speak to an audience composed of jurists from Argentina, Brazil, Uruguay, Paraguay, and Mexico and extend the deeper dialogue with scholars and practitioners in Canada since we had partners in that country.

We adopted a wide scope, calling for abstracts on current debates on institutional legal responses to issues ranging from chronic social problems to humanitarian crises in the region. We were – and still are – interested in analyzing the advantages and limits of current institutional designs, reporting on best practices, enlarging the network of human rights defenders, and proposing original solutions for a more accessible justice system. We want people, for instance in Canada, to get a glance of legal problems and strategies carried out to face them in Argentina or Colombia, and vice-versa. However, it is not just about the circulation of knowledge; we intend to foster some political ties that can identify an emerging field of internationalization. The internationalization of the access-to-justice field must not mirror the internationalization of other areas of law such as corporate law or even international human rights law.

In the case of corporate law, we learned that it has internationalized following the free-market globalization as a response to a notorious demand from resourceful clients and contributed to their dominance in later inter-

national economy and politics. International human rights law was born from the international diplomatic arena, which calls into question the very idea of internationalization as a process. Even if we think about the spread of international NGOs across the Cold War as a key moment in the consolidation of international law, the expected responses to raised problems stem from this same international arena.

In turn, the internationalization of access to justice is not led by resourceful clients. Instead, in many cases, it intends to provide aid to those affected by the success of corporations. Although access to justice tends to deal with human rights cases, cases are brought before local courts and community or traditional means of dispute resolution. They mobilize local resources to attend to vulnerable populations, who tend to be negatively affected by global dynamics. This means that few forces are driving a weak internationalization, and the most relevant impulses can only be applied by lawyers and activists in a counter-systemic effort. Since this effort does not seem to be of natural professional interest, it must be of a political and economic one.

Internationalization has always been a strategy to drive attention to an issue. In many countries, including wealthy and poorer nations on the continent, the government's budget for access-to-justice programs is permanently under threat, limiting the capacity to expand services. The solidarity of respected international entities and the ability to expose governments' and corporations' detrimental behaviour is increasingly relevant in an interconnected world in order to exert pressure locally. Internationalization can be a strategy to improve the accountability of the justice system against corporatist tendencies. Moreover, the exchange of governance innovations, assessment tools, and methodologies may help make programs more effective and cost-efficient. Notwithstanding these benefits, the central point is to leverage community agents rooted in local contexts by providing them with the resources that a more internationalized field can offer: the recognition of their struggles, a more qualified and diverse audience for their claims, networking and, thus, power to pursue their local goals.

In the Introduction, we will further explain our ideas around the decentralization of traditional dogmatic legal knowledge by incorporating interdisciplinary expertise and pluralistic approaches to access to justice.

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We will also deepen our claim to radically integrate the vulnerable into the conception, governance, and assessment of legal aid programs as a matter of political participation and democracy.

We will now focus on the path we took to compile this book. The call for papers was launched in Rio in November 2019 and replicated by fellow partners in Canada, Mexico, and South America, who were crucial for its success. By the end of that year, we had received 82 proposals for papers. At the end of February 2020, we approved 40 proposals for the second stage of full article evaluation. Among this total of approved abstracts, there were papers from Argentina, Brazil, Canada, Colombia, Costa Rica, Ecuador, United States, Mexico, Uruguay, and Venezuela, comprising the four languages of the project. We ended up approving 18 articles from Argentina, Brazil, Canada, Colombia, Mexico, United States, and Venezuela. These articles were subject to a peer-review process, taking into account the multicultural background of the reviewees, and revised by the editorial team.

By that time, we were already feeling the impact of the pandemic, and we anticipated that many authors would not be able to submit the final article in time or ever. We had to be flexible with evaluators as well. Time was also essential to accomplish our endeavour to translate the abstracts into all languages. For this, we relied on lawyers with expertise in foreign languages as well as native speakers to revise the translations. An issue we need to solve in future editions is to collaborate with native lawyers in order to revise the legal terminology. The reader may find inaccurate translations due to this missing component, and for that, we apologize in advance. The translation of the abstracts is our strategy to communicate the results of the articles and help readers navigate among the four languages.

We are aware that the translation of the abstracts is not enough to engage the participants in a multicultural legal dialogue. That is why we intend to launch an online platform to complement the book with virtual meetings, videos, mini-courses, and a virtual library with a variety of information in many languages. There is still a lot to do!

Our team is mainly composed of young professionals and researchers who did their best in a difficult pandemic period. We thank each of them for

buying the idea of the project and keeping enthusiasm during the whole process of editing. The project could not have been done without Juanita Cuéllar, Caroline Boletta, Vinícius Alves, Tatiana Sperhacke, and Alanna Mathies. We also counted on the work of Noémie Allard, Mariana Imbelloni, and Fabricio Teló.

It is remarkable how the project was welcomed in Canada by Prof. David Wiseman, Prof. João Velloso, and Prof. John Packer at the University of Ottawa, and by Prof. Pierre Noreau at the University of Montreal. They provided valuable advice and, except for Prof. Packer, helped to evaluate submitted papers. The integration of Latin America in the worldview of access to justice in North America is an innovative endeavour that breaks the pattern of prioritizing the dialogue with English- and French-speaking countries. We believe that the Latin American model of Public Defender's Offices has a lot to say, and these professors seem to be confidently open to that.

In Brazil and other countries of Latin America, we were able to mobilize the existing network of the Justice Forum Project. We are particularly thankful for the kindness of Rosy Laura Castellanos from CulturaDH in Mexico, and Rivana Ricarte, the president of the National Association of Public Defenders in Brazil. Rivana offered full support and conveyed the message of the Access to Justice in the Americas to the Inter-American Association of Public Defender's Offices and the Mercosur Association. Such a network is crucial to get closer to associations of public defenders in all Latin American countries and foster a deeper dialogue with associations of practitioners in North America.

Latin American scholars must be mentioned due to their commitment to high-level scholarship on the justice system along with the transformation of oppressive social relations. The immersion into the social context, conflict, and activism make them relevant voices when assessing hidden obstacles to communities' social and economic development. Their research projects also tend to involve students from vulnerable communities, thus giving a better idea of the complexity of social struggles and how those struggles are translated into the legal language of the justice system. José Ricardo Cunha, Rodolfo Noronha, Ana Míria Carinhanha, Juanita Cuéllar, Ximena Cuadra, Manuel Gándara, Élide Lauris, Ana Paula Sciammarella, Monica de Melo, Emiliano Litardo, Fabiana Severi, Lucero

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Ibarra, and Raul Llasag not only evaluated papers but also contributed actively to the concept of the project.

The actors and entities who support this project are crucial for its success and expansion towards an internationalization model that can boost local struggles by bringing together community-based activists and social movements, scholars, legal practitioners, legal aid programs and institutions.

The project could only be developed because we had the full support of the Justice Forum Project, which covered all the costs and embraced this book as an integral part of its goals. For sure, the book conveys many ideas born from the initiatives carried out by the Justice Forum during the last ten years towards the democratization of justice.

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