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Droit Pénal et Politique Criminelle
Derecho Penal y Política Criminal

Interview with Professor Emeritus, Doctor honoris causa mult., José Hurtado Pozo, founder of the *Anuario de Derecho Penal* and coeditor of the Criminal law and policy Journal



Discover our interview with Prof. Emeritus Dr. h.c. mult. José Hurtado Pozo, a prominent figure in the academic world.

In this conversation, the former professor of criminal law at the University of Fribourg shares his perspectives on the evolution of the *Anuario de Derecho Penal* from its foundation in 1988 to its final edition in 2016, and its impact on the legal community. He also discusses the reasons behind its cessation. Furthermore, he introduces us to his new editorial project launched in 2024, the *Revue de Droit Pénal et Politique Criminelle*, designed to continue the legacy of the *Anuario* while addressing the current challenges in criminal law and criminal policy.

The professor also talks about the impact of globalization on criminal law, notable encounters in his career, and how he spends his time since retirement, sharing reflections on topics as varied as the evolution of legislation, critiques of criminal justice, and his ongoing commitment to legal scholarship. This rich and engaging dialogue offers a

valuable insight into the thoughts of a jurist dedicated to education and innovation in the field of law.

(This is the English translation of the interview conducted in Spanish)

1. You were the founder and editor of the Anuario de Derecho Penal journal, published between 1988 and 2016. Could you tell us about your experience with this journal? What were your motivations for launching the Anuario?

The Anuario de Derecho Penal originated from the efforts of a group of young jurists from the Peruvian section of the International Association of Penal Law (Asociación Internacional de Derecho Penal), driven by the desire to create a regular platform to promote the study of the penal control system.

The early days of the journal were challenging, marked by the financial difficulties typical of developing countries. Without official or private support, we had to rely solely on the financial contributions of the association's members, an approach that quickly became unsustainable due to their limited financial resources. Nevertheless, the first modest issue was published in 1988 thanks to the support of the National Council of Science, Technology and Technological Innovation (Consejo Nacional de Ciencia, Tecnología e Innovación Tecnológica) of Peru.

2. How did you overcome the difficulties to ensure the survival of the Anuario?

Thanks to a combination of luck and indirect support, we were able to advance this project. The University of Fribourg offered us the opportunity to use 50% of one of its assistant positions in the Criminal Law Seminar, allowing us to hire a young Spanish-speaking jurist to write a doctoral thesis while contributing to the editing of the Anuario. Additionally, we benefited from the invaluable and voluntary assistance of several Peruvian students who diligently and efficiently managed various editorial tasks from Peru.

A key moment for stabilizing the publication was the signing of an agreement between the Pontifical Catholic University of Peru (PUCP, Pontificia Universidad Católica del Perú) and the University of Fribourg, aimed at promoting comparative law studies and facilitating student exchanges. According to this agreement, the Editorial Fund of PUCP took charge of printing and distributing the Anuario, while the University of Fribourg continued to provide the indirect financial support mentioned earlier. This collaboration allowed us to significantly improve the content and presentation of the journal, surpassing the editions of previous years.

3. Did the publication continue until 2016? What were the reasons for its discontinuation?

The answer is nuanced. Although the *Anuario de Derecho Penal* achieved unexpected success in Peru, given that such publications tend to be short-lived, its longevity was not guaranteed. One of the major challenges was the difficulty in attracting a sufficient number of subscribers, including members of the national section of the International Association of Penal Law.

To address this problem, we opted for the publication of monographic issues, some of which were even reprinted. However, in 2016, a decisive turning point occurred when the funding body imposed the cessation of the "journal" designation for each volume, which now had to be published as an anthology on a specific topic of criminal law.

This decision, although commercially logical, was culturally detrimental as it meant the loss of a unique journal dedicated to criminal law at the Catholic University and in the country. This situation was exacerbated by the lack of favorable response from the university authorities.

Despite several attempts to save the publication, including a collaboration with El Pacifico Publishers to create a specialized collection as a continuation of the *Anuario*, in 2020, a book in honor of Professor Fernando Velásquez titled "Corruption, Organized Crime, Money Laundering, Terrorist Financing, and Compliance" (*Corrupción, Crimen Organizado, Lavado de Activos, Financiamiento de Terrorismo y Compliance*) was published. However, the project did not survive the crisis caused by the Covid-19 pandemic. Efforts to maintain the *Anuario* online also failed, marking the definitive end of this publication.

4. What were the goals that motivated and justified the publication of the Anuario?

The editorial line of the journal was ambitious, aiming to address a wide range of themes related to the penal system from a broad perspective, while emphasizing the national reality and the Hispanic-American context. The goal was also to prevent the journal from becoming a mere channel for re-diffusing articles already published elsewhere, except in exceptional cases concerning legislations influenced by German dogmatics and published in less accessible languages.

However, achieving these objectives proved to be a real challenge. Despite the positive reception of invitations to colleagues and friends to submit original works, many promises were not fulfilled within the expected timeframes. This led to a more rigorous selection of

potential collaborators, prioritizing those with whom solid personal and academic ties were already established.

Over time and with the increase in the journal's notoriety, spontaneous contributions began to flow in, easing the workload but also creating tensions due to the refusal of certain contributions to maintain the quality of the journal.

5. Why did you continue the Anuario with the publication of a new specialized journal?

The main reason is to preserve, for the benefit of the academic and judicial communities, the immense amount of theoretical, jurisprudential, and legislative material accumulated with great effort over the decades. This preservation is not sufficiently guaranteed by existing printed or digital media.

It is also essential to mention the convergence of interests and needs with Thierry Godel, who has worked at several levels in the Criminal Law Seminar at the Faculty of Law of the University of Fribourg under my direction. This convergence of goals is facilitated by his mastery of Spanish and his interest in Spanish and Latin American legal systems.

As a professor at the distance university, he has promoted the transnational orientation of the Faculty of Law towards the Hispanic-Latin American space. One of the initiatives is precisely the "resurrection of the Anuario", renamed the *Revue de Droit Pénal et Politique Criminelle*, with the objective of addressing issues related to violence, extremism, terrorism and money laundering, considered serious threats to the rule of law and human rights.

6. What are the guiding criteria of the new journal?

The fundamental objectives, similar to those mentioned previously, are the study and understanding, from a legal and criminological perspective, of phenomena such as violence, extremism, terrorism, and money laundering. Additionally, the aim is to create an interdisciplinary space for discussion and exchange of ideas among academics, legal professionals, security experts, and other stakeholders interested in these topics.

Moreover, the goal is to establish itself as a national and international reference, both in the theoretical domain and in criminal policy, by adapting to the realities of our contemporary societies. This involves collaborating with academic institutions and international organizations, as well as participating in relevant conferences and events in the field of criminal law and criminal policy.

7. Although you have probably explained this several times before, could you describe how you transitioned from being a Peruvian, Latin American professor to a Swiss, European teacher and researcher?

The highlight of my career, marked by my retirement in 2012, was aptly highlighted by the title of the tribute book published by the faculty: "Jurist of Two Worlds." This title seemed particularly significant to me, as it reflects my professional journey in both Switzerland and Latin America.

My career is the result of a series of fortuitous circumstances and opportunities that arose over the years. It can be said that it all started with the bold adoption of the Swiss Penal Code drafts of 1916-18 by the Peruvian legislator during the drafting of the 1924 Penal Code.

Later, a scholarship from the Swiss Confederation allowed me to pursue postdoctoral studies at the University of Neuchâtel, where I obtained my doctorate with a thesis on the influence of Swiss criminal law on Peruvian law, under the direction of Professor François Clerc.

But the turning point came in the 1980s, when the University of Fribourg invited me to succeed my mentor as a professor of criminal law. Thus, in 1982, I began my career as a professor in Switzerland, which lasted until 2012.

Throughout these years, I never lost sight of my roots in Peru and Latin America. I continued to maintain a strong connection with the region, teaching and conducting research. I was fortunate to have the assistance of many assistants who were like my accomplices, helping me prepare courses, lectures, and publications in French, Spanish, and German.

The first volume on the general part of criminal law, which I published in 1987, was the beginning of a series of works that concluded with two volumes on the general and special parts of criminal law. However, for practical reasons, I decided to present my dogmatic explanations in an "abridged" version of criminal law, in collaboration with Thierry Godel, first as an assistant, then as a principal collaborator, and now as a co-author.

Together, we decided to take an additional step and launch the "Droit Pénal et Politique Criminelle" journal, as well as create a web platform to reach a wider audience. These projects reflect our commitment to the study and dissemination of criminal law in a constantly evolving world.

8. If you had to choose a particularly memorable moment from your years of teaching, what would it be and why?

I have accumulated many memories, both positive and negative, over my decades-long academic career. It would be difficult to list them all, and in trying to choose just one, I might risk omitting or inaccurately describing them. That is why I prefer to reflect on the general impression I retain from this period.

I feel a great sense of pride in having sparked an interest in the study and research of the theoretical and practical issues of the penal control system, both in my lectures and during tutoring sessions with students. It is gratifying to see that, despite the passing years, some of my former students fondly remember my dynamic lectures, my unique approach to oral exams, and my ironic comments on the cultural differences that affect the interpretation and application of laws or doctrinal principles.

9. Regarding your training and development as a dogmatician and researcher, could you mention an encounter that had a significant impact on your career?

During my training, several encounters had a significant impact. Throughout my university studies in Peru, my doctoral years in Switzerland, and my time as a visiting professor at the Max Planck Institute in Freiburg im Breisgau, I had the chance to interact with eminent penalists such as François Clerc in Neuchâtel, Klaus Tiedemann in Freiburg, José Cerezo Mir and Antonio Beristain in Madrid and San Sebastián, Jean Pradel in France, among others. Additionally, in Latin America, I had the opportunity to meet distinguished specialists who introduced me to their national penal systems, such as Fernando Velásquez and Nodier Agudelo in Colombia, Moisés Moreno and Francisco Galván in Mexico, Carlos Santiago Nino and Edgardo Rotman otman in Buenos Aires, Francisco Castillo in Costa Rica, and Wolfgang Schöne in Paraguay. In my home country, I was also fortunate to meet Manuel G. Abastos and Domingo García Rada.

10. What are the most significant changes you have observed in the field of criminal law throughout your career, and how have these changes influenced your own work and perspectives?

The phenomenon of globalization has been a key factor in the changes that have influenced penal control systems. One of these major changes is the recognition of multiculturalism, which has required the consideration and respect of cultural characteristics, particularly those of minority groups, in both the formulation of legal provisions and doctrinal categories as well as their concrete application. Additionally, significant advances have been made in addressing gender issues, spurred by the

powerful feminist movement. There has also been an increased awareness regarding human dignity and rights, particularly concerning fundamental aspects such as the right to life and the freedom to decide about one's own death. Regarding the category of persons, a notable development is the expansion of criminal liability to include legal entities, such as corporations.

Social, political, and economic changes have forced the modification and expansion of criteria for punishability, both at the national and international levels, to address new forms of crime and better protect general interests. Examples include terrorism, organized crime, economic delinquency, corruption (in both the private and public sectors), environmental pollution, and human trafficking. The international nature of crime has strengthened international penal cooperation and the signing of international conventions to unify and intensify the fight against such crime.

Unfortunately, the demands of this renewed criminal policy have led to a worrying trend, where increasing the severity of penalties and the excessive criminalization of illegal behaviors are seen as the solution. This presents serious risks to fundamental rights.

11. To conclude, one last question related to your retirement since 2012 after such a fruitful career. How have you occupied your time since the end of your academic career, both professionally and personally?

It is interesting to recall that I only became aware of my impending retirement when I was informed that, having started my teaching career in Switzerland in 1982, I would not have a sufficient pension to ensure a comfortable retirement. With a Latin mentality, although I had become a "petit Suisse" as my colleagues joked, I had not planned what I would do after leaving university teaching. I thought life would continue in a similar manner, except for the daily contact with students, colleagues, assistants, and places like Beauregard, Miséricorde, and Pérolles.

However, disillusionment quickly set in, particularly because my constant presence at home was as disruptive to my family as having a grand piano in the middle of the living room. Without close family, friends in the neighborhood, or a Spanish-speaking network, I found myself facing a social void that posed a real risk of depression, a void that virtual contacts could not fill.

Salvation came from colleagues and international friends who encouraged me to travel and, above all, to prepare lectures, legal reports, and, fortunately, to maintain and update the online platform "derechopenal.ch", as well as to continue editing the Anuario de Derecho Penal.

This void was also filled by efforts to update some of my publications. One of the results was the reissue of the "Abridged Criminal Law." This was a positive task in terms of

preserving my legacy but risky as it kept me in the same routines I had followed for decades. An unexpected benefit of these updates was to revive and enhance my critical perspective, which I had always sought to maintain. This led me to question how I had shaped jurists according to the demands of the dominant social system, especially those of the job market.

This process of questioning is complex and involves a significant change in perspective, particularly questioning the idea that punitive power and social control come exclusively from the top of the sovereign state system. It highlights the conflicting power relations that operate at all levels of the social system and seeks to demonstrate how dominant sectors impose their conception of the social and penal system, which primarily serves their interests, under the guise of a supposedly equitable social contract based on individual freedom, which must be respected for the good of all.

It might be best to stop this interview here to avoid an uncontrolled descent, as I find myself in the "autumn of the patriarch," nostalgic for university years and reminiscing about "love in the time of cholera" (Fribourg is not Macondo!).

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