

Lectures / conferences

Jan Simon has given numerous presentations in German, English, Spanish and Portuguese. A selection of those given between 2009 and 2019 follows:

- “Organisierte Kriminalität und Korruption als Auslöser von Migration im sogenannten nördlichen Dreieck Zentralamerikas,” on the occasion of the “Regionaltreffen DAAD-geförderter Dozentinnen und Dozenten an Hochschulen in den ‘Amerikas’“, Mexico City/Mexico, 3 December 2019.
- “La legitimidad de la protesta ciudadana por medio de la desobediencia civil y sus límites,” on the occasion of the “I Congreso Iberoamericano de Política Criminal y Violencias,” at the Universidad de Costa Rica, San José/Costa Rica, 18 November 2019.
- “El Derecho Penal de la Pacha Mama,” on the occasion of the “III Congreso Internacional de Justicia Ambiental: Sembrando Justicia Ambiental,” Tarapoto/Peru, 5 September 2019.
- “Mecanismos internacionales de cooperación con la justicia,” panel participant at the conference “El Llegado de la Justicia”, Ciudad de Guatemala/Guatemala, 20 August 2019.
- “Corrupción judicial,” on the occasion of the “41 Jornadas Internacionales de Derecho Penal. Criminalidad contemporánea y corrupción: ¿efectividad de la pena privativa de la libertad?” at the Universidad Externado de Colombia, Bogota/Colombia, 15 August 2019.
- “Mecanismos de cooperación internacional contra la corrupción,” panel participant at the Universidad Externado de Colombia, Bogota/Colombia, 14 August 2019.
- “La Gran Corrupción, sus daños y sus víctimas,” on the occasion of the “41 Jornadas Internacionales de Derecho Penal. Criminalidad contemporánea y corrupción: ¿efectividad de la pena privativa de la libertad?” at the Universidad Externado de Colombia, Bogota/Colombia, 14 August 2019.
- “Combating impunity for gross human rights violations and corruption: opportunities, linkages and challenges,” briefing panel participant at the Permanent Mission of Switzerland, Geneva/Switzerland, 18 June 2019.
- “Mecanismos internacionales contra impunidad,” on the occasion of the 190th Iberoamerican Colloquium “Corruption as a violation of international human rights” at the Max Planck Institute for Comparative Public and International Law, Heidelberg/Germany, 8 May 2019
- “Introduction,” on the occasion of the workshop “International Backing and Support of National Law Enforcement and Justice Institutions: Against Power Crime in Latin America” at the Max Planck Institute for Foreign and International Criminal Law, Freiburg i.Br./Germany, 5 May 2019.
- “Remarks on Crimilegal Orders and the Colombian Peace Process,” on the occasion of Markus Schultze-Kraft’s lecture on “Crimilegal Orders, Governance and Armed Conflict in Latin America and West Africa” at the Max Planck Institute for Foreign and International Criminal Law, Freiburg i.Br./Germany, 11 December 2018.
- “Las Cortes Constitucionales en la Defensa de la Democracia, los Derechos, y las Libertades,” panel participant at the Open Society Foundations, Washington D.C./USA, 5 December 2018.
- “Human Rights and Grand Corruption: What Role for International Law?,” panel participant at the Inter-American Dialogue, Washington D.C./USA, 3 December 2018.
- “Política Criminal contra la Corrupción,” Universidad Mayor de San Andrés, La Paz/Bolivia, 2 November 2018.

- “Gran Corrupción y la Lucha contra la Impunidad de la Delincuencia del Poder,” on the occasion of the “Encuentro sobre Proceso de Paz, Justicia y el Combate a la Corrupción”, Facultad Latinoamericana de Ciencias Sociales (FLACSO), Guatemala City/Guatemala, 24 October 2018.
- “Persecución Penal Eficiente de la Gran Corrupción,” on the occasion of the international conference on “Nuevo Modelo de Fiscalía. Hacia la Gestión Eficiente de la Justicia Penal,” Instituto Nacional de Ciencias Penales (INACIPE), Mexico City/Mexico, 29 August 2018.
- “La Gran Corrupción y sus Consecuencias para Nuestros Derechos,” Universidad Nacional Autónoma de Honduras, Tegucigalpa/Honduras, 9 August 2018.
- “Alcances e Limitaciones de Misiones Internacionales Contra la Impunidad,” on the occasion of the international forum on “Lucha Anticorrupción: La Experiencia Internacional,” Cámara de Diputados del Congreso de la Unión, Mexico City/Mexico, 31 July 2018.
- “La Gran Corrupción y sus Consecuencias para Nuestros Derechos,” Universidad Particular de Chiclayo, Chiclayo/Peru, 14 June 2018.
- “La Gran Corrupción y sus Consecuencias para Nuestros Derechos,” Centro de Derechos Humanos, Universidad Diego Portales, Santiago de Chile/Chile, 5 June 2018.
- “Proceso de Paz, Justicia y Delincuencia del Poder: El Caso de Guatemala,” on the occasion of the VIIIth International Seminar on Contemporary Legal Philosophy about “Justicia Transicional. El Modelo Colombiano. Restablecimiento de la Paz y la Seguridad,” Centro de Investigación en Filosofía y Derecho, Universidad Externado de Colombia, Universidad EAFIT, 30-31 May 2018, Bogota & Medellin/Colombia.
- “CICIG, MACCIH and the GIEI: Are there Useful Borrowings?,” on the occasion of the XXXVIth International Congress of the Latin American Studies Association’s (LASA) panel on “What can Mexico Learn from Prior Efforts to Combat Impunity and Corruption, and What if Any Role is there for International Bodies in Assisting Mexico?,” Barcelona/Spain, 25 May 2018.
- “La Experiencia de Guatemala,” on the occasion of the international conference on “Crímenes atroces y Corrupción: porque se necesita participación internacional en el sistema de justicia penal,” Open Society Foundations, Mexico City/Mexico, 3-4 May 2018.
- “Misiones Internacionales Contra la Impunidad: Los casos de Guatemala y Honduras,” Instituto de Investigaciones Jurídicas de la UNAM, Mexico City/Mexico, 12 April 2018.
- “Remarks on the Draft Esperanza Protocol,” discussant at the second expert meeting on drafting an international soft-law instrument on guidelines based in international and regional legal norms, on investigation of threats against human rights defenders, University of California, Berkeley, School of Law, Berkeley-CA/USA, 22-23 March 2018.
- “La Gran Corrupción, sus Daños y sus Víctimas,” Corte Suprema de Justicia, Lima/Peru, 15 March 2018.
- “El Concepto de Corrupción en el Derecho,” Corte Suprema de Justicia, Lima/Peru, 15 March 2018.
- “El Concepto Jurídico de la Corrupción y sus Límites,” on the occasion of the Lectures on “Pensamiento Jurídico Contemporáneo: Estudio y práctica de la corrupción en el derecho contemporáneo,” Colegio de Mexico, Mexico City/Mexico, 29 February 2018.
- “Comments on the Autonomy of Prosecutors and fight against impunity in the Americas: Reflections, Challenges and the Role of the IASHR,” Inter-American Commission on Human Rights, Washington D.C./USA., 4-5 December 2017.
- “The Mission to Support the Fight Against Corruption and Impunity in Honduras and the International Commission Against Impunity in Guatemala,” on the occasion of the international workshop “Beyond

- National Sovereignty: New Approaches to International and Transnational Law Enforcement,” Max Planck Institute for Foreign and International Criminal Law, Freiburg i.Br./Germany, 1-2 December 2017.
- “La autonomía del Ministerio Público,” on the occasion of the international seminar “Los Ministerios Públicos y el combate a la impunidad en América Latina: reflexiones desde la experiencia de Peru, Brazil, Chile, Guatemala, Argentina y Mexico,” Senado de la República, Mexico City/Mexico, 6 November 2017.
- “La ‘Gran’ corrupción y sus daños,” on the occasion of the “Segundo Conversatorio en Jurisprudencia Interamericana ‘Estado democrático de derecho, Sistema Interamericano de Derechos Humanos y lucha contra la corrupción’,” Pontificia Universidad Católica del Perú, Lima/Peru, 13 October 2017.
- “Comentarios sobre la operación, gestión y cambio en las instituciones de procuración de justicia,” on the occasion of the “Consulta Nacional sobre el Modelo de Procuración de Justicia,” Instituto Nacional de Ciencias Penales (INACIPE), Mexico City/Mexico, 22 August 2017.
- “Delitos contra la administración pública y corrupción,” Universidad Tecnológica Centroamericana, Campus CEUTEC Centroamérica, Tegucigalpa/Honduras, 25 July 2017.
- “La impunidad y la corrupción: Un reto para la sociedad”, on the occasion of the Xth National Conference of the Judiciary, Poder Judicial de la República del Perú, Tacna/Peru, 15 July 2017.
- “Misiones Internacionales Contra la Impunidad: La MACCIH en Honduras y la CICIG en Guatemala,” on the occasion of the Vth Conference against Corruption, Poder Judicial de la República del Perú, Lima/Peru, 14 July 2017.
- “Internationale Missionen gegen die Straflosigkeit: MACCIH in Honduras und CICIG in Guatemala,” on the occasion of the “Regionale Botschafterkonferenz Lateinamerika/Karibik des Auswärtigen Amts,” Bogota/Colombia, 22 May 2017.
- “New Models for Combatting Impunity in Latin America: The Experience of CICIG, MACCIH, and GIEI,” panel participant at the Inter-American Dialogue, Washington D.C./USA, 23 March 2017.
- “Remarks on the Draft Esperanza Protocol,” discussant at the first expert meeting on drafting an international soft-law instrument on guidelines based in international and regional legal norms, on investigation of threats against human rights defenders, Universidad de los Andes, Bogota/Colombia, 14-16 December 2016.
- “Retos en la investigación de la criminalidad compleja,” on the occasion of the international seminar “La Fiscalía que Mexico necesita: reflexiones desde la experiencia latinoamericana para el diseño de la nueva Fiscalía General de la Nación,” #FiscalíaQueSirva, Mexico City/Mexico, 28-29 November 2016.
- “Modelo de Persecución Penal Integrada - MP & MACCIH-OEA,” United States Embassy in Honduras, Tegucigalpa/Honduras, 3 November 2016.
- “Reformas para combatir la corrupción,” United States Embassy in Honduras, Tegucigalpa/Honduras, 24 August 2016.
- “Criminalización de protestas sociales y desobediencia civil,” on the occasion of the international seminar on “La protesta social, ¿un derecho?,” Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (OACNUDH), Guatemala City/Guatemala, 18 August 2016.
- “El Mandato de la Misión de Apoyo contra la Corrupción y la Impunidad en Honduras (MACCIH) y el Rol de la Sociedad Civil,” on the occasion of the international seminar on “El papel de la sociedad civil en la implementación de mecanismos internacionales de lucha contra la impunidad y la corrupción,” Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (OACNUDH), Guatemala City/Guatemala, 29 June 2016.

- “Judicialización de la Corrupción 2010-2015: Comentarios al Informe de ASJ,” Asociación para una Sociedad más Justa, Tegucigalpa/Honduras, 28 June 2016.
- “Corrupción política y autoridad política. Las dos caras de la corrupción política,” on the occasion of the international conference on “Corrupción y Estado Democrático: Una Aproximación Multidisciplinar,” Departamento Derecho Penal de la Universitat de València, Valencia/Spain, 10 March 2016.
- “La Misión de Apoyo contra la Corrupción y la Impunidad en Honduras (MACCIH),” on the occasion of the international workshop “¿Hacia dónde vamos? Nuevas perspectivas en la colaboración entre la comunidad internacional y los Estados para el cumplimiento de los DDHH y el combate a la impunidad,” Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (OACNUDH), Antigua Guatemala/Guatemala, 2-4 February 2016.
- “The Mission to Support the Fight Against Corruption and Impunity in Honduras (MACCIH),” on the occasion of the international workshop “Accountability for Grand Corruption,” Transparency International, Panama City/Panama, 29-30 January 2016.
- “Perspectivas de pesquisa multidisciplinar sobre a corrupção e a democracia no Brasil,” on the occasion of the international symposium “O caso de Corrupção Política como recurso normativo de poder estratégico frente a autoridade política,” Faculdade Nacional de Direito, Universidade Federal do Rio de Janeiro, Rio de Janeiro/Brazil, 24-25 November 2015.
- “Regional Challenges in the Development and Implementation of Plans of Action Against Transnational Organized Crime in the Americas,” on the occasion of the Fifth meeting of Ministers responsible for public security in the Americas (MISPA V), Organization of American States (OAS), Lima/Peru, 19-20 November 2015.
- “Regional Challenges in the Development and Implementation of Plans of Action Against Transnational Organized Crime in the Americas,” on the occasion of a hearing before the Permanent Council of the Organization of American States (OAS) – Committee of Hemispheric Security, Organization of American States (OAS), Washington D.C./USA, 22 October 2015.
- “Criminalización de protestas y desobediencia civil”, Universidad San Pedro, Chimbote/Peru, 3 October 2015.
- “Derecho penal ecológico: Fundamentos para la protección penal de la pacha mama,” Universidad Andina Néstor Cáceres Velásquez, Juliaca/Peru, 1 October 2015.
- “Criminalização de protestos sociais e desobediência civil,” on the occasion of the 21st International Seminar on Penal Sciences, Instituto Brasileiro de Ciencias Criminais, São Paulo/Brazil, 28 August 2015.
- “El control de la corrupción como reto de la política criminal,” Academia de la Magistratura del Perú, Lima/Peru, 14 August 2015.
- “El Derecho Penal en el Estado de Derecho,” Academia de la Magistratura del Perú, Lima/Peru, 13 August 2015.
- “O caso de Corrupção Política,” Faculdade Nacional de Direito, Universidade Federal do Rio de Janeiro, Rio de Janeiro/Brazil, 20 June 2015.
- “Corrupción política en la democracia como recurso normativo de poder,” Academia de la Magistratura del Perú, Lima/Peru, 4 June 2015.
- “O controle da corrupção como desafio da política criminal,” on the occasion of the international seminar on “Corrupção e sistema jurídico: Perspectivas multidisciplinares de intervenção,” Faculdade Nacional de Direito, Universidade Federal do Rio de Janeiro, Rio de Janeiro/Brazil, 14 November 2014.

- “Criminalización del terrorismo y corrupción política: Tendencias y preocupaciones políticas y jurídicas,” Facultad de Derecho y Ciencias Políticas de la Universidad Nacional José Faustino Sánchez Carrión, Huaura/Peru, 24 October 2014.
- “Criminalização de protestos e desobediência civil,” on the occasion of the international seminar on “Legislação que tipifica o crime de terrorismo,” Faculdade Nacional de Direito, Universidade Federal do Rio de Janeiro, Rio de Janeiro/Brazil, 4 September 2014.
- “O Brasil precisa da tipificação do crime de terrorismo?,” on the occasion of the XIXth AIDP World Congress, Rio de Janeiro/Brazil, 2 September 2014.
- “Penalización de terrorismo y derechos humanos,” on the occasion of the “II Curso de formación en el sistema interamericano de derechos humanos Dr. Héctor Fix-Zamudio,” Mexico City/Mexico, 14 August 2014.
- “Comentario a la ponencia de profesor Wolfgang Frisch”, on the occasion of the lecture of profesor Wolfgang Frisch on German Criminal Law Theory, Corte Suprema de Justicia, Lima/Peru, 12 June del 2014.
- “Verdade processual e justiça da transição,” on the occasion of the presentation of the Max Planck Society’s Science Tunnel, São Paulo/Brazil, 19 February 2014.
- “Reforma procesal en el Peru: Logros y Desafíos,” Universidad del Pacífico, Lima/Peru, 15 January del 2014.
- “El dominio del hecho macrocriminal. Fundamentos,” Colegio de Abogados y Notarios de Guatemala, Guatemala City/Guatemala, 2 December 2013.
- “Política criminal contra la corrupción,” on the occasion of the 1st International Conference on Criminal Policy, Instituto Nacional de Ciencias Penales-INACIPE, Universidad Nacional Autónoma de México, Universidad Autónoma de Nuevo León, Mexico DF/Mexico, Monterrey/Mexico, 25-29 November 2013.
- “Justiça de transição. Fundamentos,” on the occasion of the international colloquium on “Justiça de transição: das anistias às comissões de verdade,” Universidade Federal do Rio de Janeiro, Rio de Janeiro/Brazil, 21-24 October 2013.
- “Los aparatos organizados de poder,” Facultad de Derecho y Ciencia Política de la Universidad Nacional San Luis Gonzaga de Ica, Ica/Peru, 7 October 2013.
- “Os recentes desenvolvimentos no controle internacional do crime,” on the occasion of the international seminar on “Direito penal no mundo globalizado,” Sección brasileña de la Asociación Internacional de Derecho Penal-AIDP, Universidade Estadual do Rio de Janeiro, Rio de Janeiro/Brazil, 3-4 October 2013.
- “La toma de rehenes como participación directa en hostilidades en un conflicto armado: A propósito de la Guía del Comité Internacional de la Cruz Roja,” on the occasion of the XXXVth International Conference on Criminal Law on “Procesos de paz: Derecho penal y justicia transicional,” Universidad Externado de Colombia, Bogota/Colombia, 26-27 September 2013.
- “El dominio del hecho de la violación colectiva de los derechos humanos, organizada y en grupo: Fundamentos,” on the occasion of the XXXVth International Conference on Criminal Law on “Procesos de paz: Derecho penal y justicia transicional,” Universidad Externado de Colombia, Bogota/Colombia, 26-27 September 2013 and Universidad EAFIT, Medellín/Colombia, 30 September 2013.
- “Política criminal contra la corrupción,” on the occasion of the IVth International Anticorruption Conference, Contraloría General de la República del Peru, Lima/Peru, 24-25 September 2013.

“Política criminal contra la delincuencia organizada,” Comisión de Justicia y Derechos Humanos del Congreso de la República del Perú, Lima/Peru, 21 June 2013.

“El delito de lavado de activos en el Derecho penal comparado y formas de control: El caso alemán,” Colegio de Notarios de Lambayeque, Lambayeque/Peru, 8 December 2012.

“Comentario: Apoyando al control de la criminalidad. Programas internacionales y mecanismos,” on the occasion of the international conference on “Política criminal internacional en la era de las Declaración del Milenio de las Naciones Unidas,” Instituto Nacional de Ciencias Penales-INACIPE, Mexico City/Mexico, 21 November 2012.

“Impunidad – una cuestión de poder,” Instituto Tecnológico y de Estudios Superiores de Monterrey, Monterrey/Mexico, 23 November 2012.

“Proceso Penal y Comisiones de la Verdad: Límites al esclarecimiento de la verdad en casos de violaciones masivas a los derechos humanos,” Universidad del Externado, Bogota/Colombia, 24 August 2012 and Universidad EAFIT, Medellin/Colombia, 27 August 2012.

“El Derecho Penal en el Estado de Derecho,” Universidad Católica San Pablo, Arequipa/Peru, 17 August 2012 and Universidad Tecnológica de los Andes, Cusco/Peru, 21 August 2012.

“Comentario sobre la Sentencia de la Sala Penal Permanente de la Corte Suprema de Justicia, Caso R. N. Nº 4104-2010, del 13 June del 2012,” Universidad Nacional Mayor de San Marcos, Lima/Peru, 14 August 2012.

“Culpa, responsabilidade e dever de lembrar - um comentário,” on the occasion of the international conference on “Justiça Transicional,” Goethe University Frankfurt, Frankfurt a.M./Germany, 18 July 2012.

“La corrupción como problema social y de políticas del estado,” on the occasion of the international seminar on “La Lucha contra la Corrupción: El Modelo Peruano,” Ministerio de Justicia del Perú, Lima/Peru, 7-8 June 2012.

“The limits in clarifying the truth about gross violations of human Rights,” on the occasion of the international colloquium “Developments in Criminal Law in Africa. Between the Local and the Global,” Max Planck Institute for Foreign and International Criminal Law, Freiburg i.Br./Germany, 19 April 2012.

“Propuesta de un nuevo Derecho Penal de protección de la Naturaleza del Ecuador,” Ministerio Coordinador de Patrimonio, Quito/Ecuador, 9 March 2012.

“El Derecho Penal en el Estado de Derecho,” on the occasion of the international seminar on “Hacia un nuevo Derecho Penal en Ecuador,” Ministerio de Justicia, Quito/Ecuador, 8 March 2012.

“¿En qué consiste hoy la tutela penal de los Derechos Humanos?,” on the occasion of the international forum on “Las nuevas tendencias de la administración de justicia: Retos de la Corte Nacional de Justicia del Ecuador,” Consejo de la Judicatura, Quito/Ecuador, 26 January 2012.

“Proteção penal dos direitos humanos,” on the occasion of the 4th international symposium on “Direito Penal e Cidadania,” Universidad Presbiteriana Mackenzie, São Paulo/Brazil, 7 December 2011.

“La relación del Derecho Penal y el Derecho Procesal Penal en el sistema procesal acusatorio oral,” on the occasion of the international seminar on “Temas actuales de Derecho Penal y Derecho Procesal Penal,” Centro de Estudios de Política Criminal y Ciencias Penales, Mexico City/Mexico, 11 November 2011.

“Modelos de autoría y participación comparados a nivel latinoamericano,” on the occasion of the international conference on “Delincuencia organizada y nuevos modelos de imputación penal,” Instituto Nacional de Ciencias Penales-INACIPE, Mexico City/Mexico, 9 November 2011.

- “Sobre la necesidad de crear una agenda interinstitucional contra la delincuencia organizada,” Consejo de Defensa Jurídica del Estado, Lima/Peru, 27 October 2011.
- “Clarifying the truth about gross violations of human Rights,” on the occasion of the “International Film Festival on Crime and Punishment,” University of Istanbul, Istanbul/Turkey, 29 September 2011.
- “As reformas processuais penais na América Latina,” Faculdade de Ciências sociais aplicadas, Instituto Brasileiro de Mercado de Capitais, Rio de Janeiro/Brazil, 9 September 2011.
- “Impunidad,” Palacio de la Presidencia de la República, Tegucigalpa/Honduras, 29 August 2011.
- “O esclarecimento da verdade sobre graves violações dos direitos humanos,” on the occasion of the 17th international seminar on criminal sciences, Instituto Brasileiro de Ciências Criminais, São Paulo/Brazil, 25 August 2011.
- “Políticas de control de la delincuencia organizada y de la corrupción,” Escuela del Ministerio Público, Fiscalía de la Nación, Lima/Peru, 7 July 2011.
- “La función del Derecho Penal comparado en la política criminal,” Universidad Católica de Santa María, Arequipa/Peru, 4 July 2011.
- “Comentários ao projeto de Lei do Senado no. 156/2009 que institui o novo Código de Processo Penal,” Faculdade de Direito da Universidade Federal do Rio de Janeiro, Rio de Janeiro/Brazil, 14 June 2011.
- “Justiça de transição e verdade,” on the occasion of the international seminar “Comissão da Verdade e Justiça de Transição: Perspectivas Brasileiras,” Instituto de Filosofia e Ciências Sociais da Universidade Federal do Rio de Janeiro, Rio de Janeiro/Brazil, 9 June 2011.
- “El esclarecimiento procesal penal de la verdad sobre violaciones de los Derechos Humanos,” on the occasion of the Colloquium on “Eichmann em Jerusalém – 50 Anos Depois,” Universidade de Lisboa, Lisbon/Portugal, 27-28 April 2011.
- “The international law of security internment,” on the occasion of the international seminar on “Detention of Terrorist Suspects and the Use of Classified Intelligence in Legal Proceedings,” Woodrow Wilson International Center for Scholars, Washington D.C./USA, 12 November 2010.
- “El esclarecimiento de la verdad sobre violaciones de los Derechos Humanos,” on the occasion of en la conferencia internacional “Justiça de transição e Criminalidade de Estado,” Universidade Federal do Rio de Janeiro, Rio de Janeiro/Brazil, 13-15 October 2010.
- “Conclusiones finales,” on the occasion of the international conference on “Los estrategas del crimen y sus instrumentos: El autor detrás del autor en el Derecho Penal latinoamericano,” Universidad Sergio Arboleda, Bogota/Colombia, 5-7 October 2010.
- “Final conclusions,” on the occasion of the international colloquium on “The impact of contemporary security agendas against terrorism on criminal law and law enforcement,” Max Planck Institute for Foreign and International Criminal Law, Freiburg i.Br./Germany, 4-6 December 2009.
- “La política de la Unión Europea contra la pena de muerte: Una propuesta de investigación e integración de investigación en red”, on the occasion of the international colloquium “Por la abolición universal de la pena capital,” Universidad de Castilla La Mancha, Centro de Estudios Políticos y Constitucionales-Instituto de Derecho Penal Europeo e Internacional, Madrid/Spain, 9-11 December 2009.
- “El esclarecimiento de la verdad en las violaciones masivas de los Derechos Humanos”, on the occasion of the international seminar “Verdad, Memoria e Historia,” Santa Marta/Colombia, 23-24 November 2009.

- “Proteção penal de direitos humanos?,” on the occasion of the international seminar “Responsabilidade e pena no Estado democrático de Direito,” Fundação Getúlio Vargas & Associação dos Advogados de São Paulo, São Paulo/Brazil, 5-7 October 2009.
- “¿Necesita Colombia una Comisión de la Verdad? La experiencia de Guatemala,” on the occasion of the interational symposium “Justicia de transición en Colombia,” Fiscalía General de la Nación, Bogota/Colombia, 23-24 July 2009.
- “Legislación para el combate de la Impunidad,” on the occasion of the international workshop on “Formación para periodistas sobre Seguridad y Justicia,” Centro de Estudios de Guatemala, Guatemala City/Guatemala, 29 July 2009.
- “Impunidad – una cuestión de poder,” on the occasion of the “Curso de Especialización: Reforma del Sistema de Seguridad en Guatemala,” Universidad Rafael Landívar, IEPADES, Guatemala City/Guatemala, 15 May 2009.
- “Public Security and the Rule of Law in Guatemala: Legislative Agenda 2009-2010,” United States Embassy in Guatemala, Guatemala City/Guatemala, 30 April 2009.
- “Tackling impunity in Guatemala,” on the occasion of the regional conference on “Fighting impunity and promoting international justice,” Instituto Interamericano de Derechos Humanos, San José/Costa Rica, 20-21 February 2009.

Annex 3: Current project related to the research area on criminality of the powerful in Latin America.

**International backing and support mechanisms of national law enforcement:
Against the impunity of power crime in Latin America
-Modalities, contributions and way forward-
February 2019**

Chair: Jan-Michael Simon

I. Introduction

Part II of the Workshop is dedicated to Latin America. In the past years, the number and diversity of means the international community has contributed in the region to support national criminal justice systems has increased (in the following: “International Backing and Support Mechanisms,” IBSM). The main reason for this recent development is apparently the impunity of powerful criminal structures that go beyond ordinary organized crime.

Without seeking to be an exhaustive repertoire, the following seven IBSM are some of the most relevant in the region:

- i. the *International Commission Against Impunity in Guatemala* (CICIG by its Spanish acronym), created by an agreement signed in 2006 between the Government of Guatemala and the United Nations (UN) General Secretariat;
- ii. the *Interdisciplinary Groups of Independent Experts* (GIEI by its Spanish acronym), created by two different agreements signed in 2014 and 2018 between the Government of Mexico and the Government of Nicaragua with the Inter-American Commission for Human Rights and the Organization of American States (OAS) General Secretariat respectively;
- iii. the *Mission of Support Against Corruption and Impunity in Honduras* (MACCIH by its Spanish acronym), created by an agreement signed in 2016 between the Government of Honduras and the OAS General Secretariat;
- iv. the operations of the country offices of the UN *Office of the High Commissioner for Human Rights* (OHCHR) in Latin America (Colombia, Guatemala, Honduras, Mexico, inter alia);
- v. the aid provided by the US *Bureau of International Narcotics and Law Enforcement Affairs* (INL) and the US *Office of Overseas Prosecutorial Development Assistance and Training* (OPDAT) to the El Salvador Office of the Attorney General in order to strengthen its Special Group Against Impunity (GECI by its Spanish acronym) created in 2016;
- vi. the *International Advisory Group of Expert Persons* (GAIPE by its Spanish acronym), established in 2016 with the support of international non-governmental human rights organizations upon the request of the family of murdered indigenous leader Berta Caceres in Honduras and the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH by its Spanish acronym);
- vii. the international *amicus curiae* consultative body within the *Special Jurisdiction for Peace* (JEP by its Spanish acronym) in Colombia, established after the signing of the final peace agreement between the Government of Colombia and the FARC-EP guerrillas in 2016.

II. Objectives

The workshop aims to:

- i. Categorize the different IBSM that have been established to support national criminal justice systems in Latin America in tackling and overcoming the impunity of power crime;
- ii. identify common elements in these mechanisms;
- iii. assess their impact to weigh in their contributions and possible usage for other similar scenarios.

III. Guiding questions

To achieve the objectives, the following – indicative, *but not exhaustive* – sets of questions will guide the discussions.

First set of questions

- i. Are the seven IBSM mentioned above the most relevant ones or others should be added to the list?
- ii. What are the main elements of the IBSM and what is the context in which they operate?
- iii. What are the main criteria to evaluate whether an IBSM has been successful/effective in achieving its goals?
- iv. What are the main features an IBSM should have to be successful/effective at a domestic level?

Second set of questions

- i. What do you consider the level of relevance, efficacy, impact and efficiency of the seven IBSM achieved so far?
- ii. What has been the main success of the IBSM so far?
- iii. What is your opinion about the sustainability of the results achieved so far?

Third set of questions

- i. Does success in one country inspire demand for a similar IBSM in other countries?
- ii. What are the incentives for the receiving State, the State and/or the international intergovernmental organizations that supply support, donor States, domestic decision-makers, key political and economic stakeholders and non-governmental organizations to accept and/or promote the creation of an IBSM?
- iii. What were the main political challenges faced by the establishment of the ISBMs and how have these been overcome?
- iv. What were the main technical and administrative challenges faced by the establishment of the ISBMs and how have these been overcome?

Fourth set of questions

- i. How does an IBSM build legitimacy at the national level?
- ii. What are the main challenges faced by IBSM currently? How have these been addressed?
- iii. When does an exit strategy need to be elaborated/activated for an IBSM?
- iv. What are the prospects for the future of these mechanisms? Are these mechanisms sustainable in time for the international community?

IV. Format

The discussion will last one day. If decided by participants, the discussions will be held under the Chatham House Rule. Following a brief introduction and context setting provided by the Chair, the discussions will take place in four sections, each addressing one set of the guiding questions. In section one, three and four all participants will be together, section two will take place in group work. The participants will elect for each section a rapporteur.

V. Conceptual background

The following conceptual framework of three key elements of the discussions between the participants provides a guidance to facilitate the analysis: “power crime,” “impunity of power crime” and “International Backing and Support Mechanisms against the impunity of power crime.” This framework, provided by the Chair of the discussions, in no way seeks to impose a conceptual straitjacket; participants may see the concepts differently.

Power crime

Power crime is a type of criminal phenomena. Power crime is not only about deviant conduct linked to the public sector. Rather, power crime embraces the public sector, the business sector and what is conventionally understood as “organized crime.” Power crime is a type of inclusive crime, which operates both inside and outside the State, where the distinction between public and private opportunities to commit crime is no longer tenable.

Power crime is structurally embedded within the political economy (rather than being merely situational and circumstantial crime). Power crime seeks its own interest at the expense of the interests of others, in particular, the public interest. The overall objective of power crime is to consolidate and/or gain the global control over the competition for the distribution of money, power and legitimacy between different groups within the State and society.

Power crime builds on inequality. Power crime relies on the exceptional opportunity vis-à-vis the rest of the society to commit crime due to superior access to public authority and macro-economically relevant capital, including ill-gotten or otherwise illicit economic resources. This kind of asymmetric access to means to commit crime is essential for achieving the overall objective of power crime, notwithstanding that it will rely, to establish its position of power, essentially on the exercise of violence and coercion, which may amount even to crimes under international law. Only from the moment that the position of power is in a stable equilibrium, violence and coercion –though not absent– recede into the background.

Power crime differs from organized crime. Both concepts of criminal phenomena share that they comprise structured groups of multiple persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences. The concept of organized crime (when applied to transnational activities) requires, in addition, the criminal group to seek to obtain, directly or indirectly, a financial or other material benefit. This element is not a necessary part of the concept of power crime. What qualifies concerted criminal activities as power crime is that it seeks at extending the asymmetric access to the means for committing crime to the point that it gains the control over the opportunities to commit crime and over the effects of the criminal activity – usually, not allowing these activities to appear and be designated

as “criminal.” Instead, organized crime usually does not extend beyond the (simple) exploitation of opportunities to commit crime – no matter how sophisticated the organization, and notwithstanding that a dynamic of organized crime can result in a dynamic of power crime (and from this moment on it should be called for what it is).

Power crime is anti-democratic. Power crime seeks to operate a system that distorts structurally public interest to its own interest. Under the rule of power crime, the exploration of social resources at the cost of public interest it is not the exception, but the rule. However, this rule is not of an official nature but unofficial, since, to be successful in the long term, power crime must seek to convince the public that its particularistic objectives correspond to those of the community – in other words, power crime is a kind of “philanthropic crime.” Wherever power crime rules, the distortion of public interest is not an external factor to society’s institutions, but the fact that explains their operations. To achieve this objective, power crime aims at transforming the two basic mechanisms that force rulers in a democracy to prioritize public interest: the rule of law and the limitation of the ruler’s tenure by the people’s vote.

Power crime is political crime; it is political crime, not because it is anti-democratic, but because it seeks to govern by illicit means – that is, seeks to govern through crime. Power crime seeks to transform the rule of law and of suffrage into a perpetuate rule of thieves. This kleptocratic transformation is essentially a criminal political program in that it seeks nationwide governance over the distribution of social resources for its own benefit.

From the foregoing, it follows that the definition of a criminal policy problem as “power crime” does not mean to criminalize politics. Power crime may opt to seek directly formal power and legitimacy by suffrage, that is, without interposed dummies. This plan should not be confused with political dissent. It is a mere means to a criminal end. It is not about a frank competition for the distribution of power and legitimacy in the public interest, but instead, a matter of a tenured rule of thieves.

Power crime relies essentially on impunity. As a criminal program, kleptocratic politics can only be successful if power crime goes unpunished. In order to make punishment impossible, power crime aims at turning democracy’s fundamental tenet upside down, namely that nobody is above the law, in particular, the criminal law. That is why the impunity – as an essential element – of power crime is a reliable indicator not only for the state of the rule of law and of the criminal justice sector but for the situation of democracy in a country.

Impunity of power crime

Since the start of the wave of democratization throughout Latin America four decades ago, countries in the region engaged in numerous efforts to strengthen the rule of law and the criminal justice sector within their agenda of political transformation. However, the overall evaluation is that in some Latin-American countries relevant national institutions fare rather poorly in addressing the impunity of power crime. This applies to power crime committed both in the past and at present.

There are three inter-related essential factors triggering the impunity of power crime in Latin America:

- i. weakened and/or lack of domestic governance capabilities;
- ii. lack of genuine domestic political will to act to counter power crime;

- iii. criminal phenomena that exceed the ordinary ability of public institutions to detect, investigate, prosecute and punish.

The backdrop for these factors is the prevalence of powerful illicit interests operating in the public administration, embedded in some cases amongst the most high-ranking public officials of a country.

The situation in some countries in Latin America, in particular in Central America, indicates that the impunity of power crime erodes substantially the rule of law at all levels of the State and society. The disintegration of the rule of law in turn not only results in further nationwide insecurity, violence, poverty, *inter alia*, but its consequences often transcend national borders, triggering problems with an international dimension. This is evident in the case of trafficking in illegal markets, in particular, drug trafficking and migrant smuggling and related threats, as is the case of *maras* violence and clandestine terrorist travel.

International Backing and Support Mechanisms against the impunity of power crime

At the domestic level, the consequences of the impunity of power crime represent a serious obstacle for democratic checks and balances of the exercise of power. At the international level, the transnational interconnectedness of the consequences in the region are an international relations challenge, including law enforcement.

To tackle and overcome the root causes fueling power crime, International Backing and Support Mechanisms (IBSM) have been established. These Mechanisms are aimed at providing on-site backing and support of domestic efforts against the impunity of power crime and for the strengthening of the rule of law. In the past years, the number and diversity of these mechanisms has increased.

A common feature of IBSM is that they have originated from local initiatives coming from social and/or governmental actors. These mechanisms operate on a temporary basis in the State's territory, in a framework in line with domestic law and international standards and have counted on the consent of the receiving State. The IBSM have taken mainly four forms:

- i. full-blown international missions set up by multilateral intergovernmental organizations, based on an agreement with the receiving State;
- ii. international missions spearheaded by multilateral organizations, yet the former remain independent from the latter; this is also done on the basis of an agreement with the receiving State;
- iii. international missions established by bilateral arrangements between States;
- iv. experts groups and other forms of international backing and support sponsored by civil society organizations.

The field of action of these forms of international backing and support encompasses six possible elements:

- i. *Capacity building*: Capacity building can take two shapes. Direct development of domestic technical and management capacities (including knowledge transfer programs and mentoring schemes) and indirect capacity development that builds on horizontal, collaborative working relations between domestic and foreign criminal justice professionals and law enforcement officers, including on the job peer-to-peer knowledge transfer.
- ii. *Amicus curiae*: International *amicus curiae* assistance to domestic courts can provide objective and independent information, expertise or insight that can be relevant for the domestic judicial decision of specific cases related to power crime.

- iii. *Technical advice on cases*: On-site technical advice provided by international experts to domestic justice professionals and law enforcement officers in specific cases may contribute to domestic decisions on how to investigate, prosecute and punish power crime, as well as to the protection of victims and sources.
- iv. *Technical advice on policies*: On-site technical advice provided by international experts to domestic policy makers may contribute to domestic decision-making when adopting public policies against power crime. These include the legal and institutional reforms required to ensure the proper functioning of the criminal justice system.
- v. *International backstopping*: International backstopping consists of embedding an active international component within the domestic criminal justice system. A backstopping component may collect all-source information, contribute to the protection of sources, carry out autonomous (preliminary) investigations and participate in joint national-international investigation teams. It may file criminal and/or administrative complaints as well as act as an expert witness, a co-prosecutor in trials or a third party in administrative proceedings. The component may be entitled to select, certify, advise, oversee and evaluate personnel of the domestic criminal justice institutions tasked to handle specific cases of power crime selected by international components.
- vi. *Expert advice to victims*: International experts provide on-site advice to victims to ensure that their right to an effective legal remedy (and access to justice) is guaranteed by domestic criminal proceedings. International experts may assess to what extent criminal proceedings fulfil the obligation of the State to investigate, prosecute and punish, by confronting the findings and decisions of the domestic criminal justice institutions with the result of the own analysis.

IBSM share a common intention/aim to provide on-site assistance to making criminal justice effective at a national level. If these efforts prove to be insufficient, international efforts may mobilize complementary mechanisms. This logic, while not exactly “positive complementarity” in terms of the relation between States and the International Criminal Court (ICC), embraces a similar reasoning.

This can be done through national extraterritorial jurisdictions, like in the case of the 2016 US “Global Magnitsky Human Rights Accountability Act.” In case a State is unable or unwilling genuinely to carry out the investigation or prosecution of power crime, there is a possibility to refer to the ICC, like in the case of the referral on September 27, 2018 from a group of States regarding the situation in Venezuela. In addition, there exists the possibility to seek a judicial examination of the State responsibility for the impunity of power crime within the Inter-American Human Rights jurisdiction, as in the landmark case *Velásquez Rodríguez v. Honduras* (Inter-Am. Ct. H.R., ser. C, No. 4), 30 years ago. Furthermore, international fact-finding may add on these options.