

Law and Religion

LAW AND CHRISTIANITY IN LATIN AMERICA

THE WORK OF GREAT JURISTS

Edited by
M.C. Mirow and Rafael Domingo



Law and Christianity in Latin America

This volume examines the lives of more than thirty-five key personalities in Latin American law with a focus on how their Christian faith was a factor in molding the evolution of law in their countries and the region.

The book is a significant contribution to our ability to understand the work and perspectives of jurists and their effect on legal development in Latin America. The individuals selected for study exhibit wide-ranging areas of expertise from private law and codification, through national public law and constitutional law, to international developments that left their mark on the region and the world. The chapters discuss the jurists within their historical, intellectual, and political context. The editors selected jurists after extensive consultation with legal historians in various countries of the region looking at the jurist's particular merits, contributions to law in general, religious perspective, and importance within the specific country and period under consideration. Giving the work a diversity of international and methodological perspectives, the chapters have been written by distinguished legal scholars and historians from Latin America and around the world.

The collection will appeal to scholars, lawyers, and students interested in the interplay between law and religion. Political, social, legal, and religious historians among other readers will find, for the first time in English, authoritative treatments of the region's essential legal thinkers and authors. Students and others who may not read Spanish will appreciate these clear, accessible, and engaging English studies of the region's great jurists.

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Law and Religion

The practice of religion by individuals and groups, the rise of religious diversity, and the fear of religious extremism raise profound questions for the interactions between law and religion in society. The regulatory systems involved, the religious laws of secular government (national and international), and the religious laws of faith communities, are valuable tools for our understanding of the dynamics of mutual accommodation and the analysis and resolution of issues in such areas as: religious freedom; discrimination; the autonomy of religious organizations; doctrine, worship, and religious symbols; the property and finances of religion; religion, education and public institutions; and religion, marriage, and children. In this series, scholars at the forefront of law and religion contribute to the debates in this area. The books in the series are analytical with a key target audience of scholars and practitioners, including lawyers, religious leaders, and others with an interest in this rapidly developing discipline.

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24 Antonio Sánchez de Bustamante y Sirvén (Cuba, 1865–1951)

Juan Bosco Amores Carredano

Biographical introduction

Antonio Sánchez de Bustamante was born to Juan Manuel Sánchez de Bustamante y García del Barrio and María Dolores Sirvén Borrás in Havana on April 13, 1865, and was christened in the parish of Santo Cristo del Buen Viaje in Havana. He was the couple's seventh child. All of his older siblings died very young, but two girls, Virginia and Amelia, and his brother Alberto followed him.

His father was born in Elguera, near Santander (Spain), and came to Cuba in 1835, at the age of seventeen, earning a living by working in a grocery store owned by some relatives. Juan Manuel attended the medical course at the University of Havana, gaining top marks, then going on to hold the chair in anatomy there for thirty years while working as a surgeon; in 1882 he was appointed the university's vice-chancellor. In 1878, Juan Manuel joined the Partido Unión Constitucional and was elected senator of the kingdom for the province of Pinar del Río in 1879, moving with part of the family to Madrid. He returned to Cuba when he was made vice chancellor, but he died of tuberculosis a few months later. He was decorated by the Spanish Government with the Order of Charles III and was a firm defender of Cuba's remaining under Spanish sovereignty. He left a substantial inheritance to his children. Their mother, María Dolores Sirvén Borrás, from Havana, came from a family of sugar cane growers of middling wealth.¹

Antonio and his siblings grew up in a well-off, cultivated family environment, guided by humanistic and Christian values.² Antonio's education took place in Cuba and Madrid. In Havana, he attended the prestigious Belén College, run by the Society of Jesus, and achieved excellent results there. He began his secondary school education in Havana, but in late 1878, when his father was elected senator, Antonio and his younger brother accompanied him to Madrid, where Antonio finished his secondary studies with top marks at the Cardenal Cisneros School in Madrid, the most prestigious school in the country.³

In 1880–81, Antonio joined the law school at the Central University of Madrid but returned to Havana with his father the following year, continuing his law studies at the University of Havana. He graduated with top marks in 1884, when he was only nineteen. Two years later, he obtained a doctorate in civil and canon law, and in 1887 he was appointed assistant professor of philosophy of law, ecclesiastical discipline, and canon law at the University of Havana.⁴

That same year, despite being still legally a minor, Antonio was granted a license to work as a lawyer and joined the Havana Lawyers' Circle (a professional association of jurists), where he presented publicly for the first time on February 3, 1885, gaining the admiration of the audience.⁵ During this period, he opened a legal practice that largely focused on mercantile law; this was to become one of Havana's leading practices, with over one hundred employees. Also in 1885, Antonio married Isabel Pulido Pagés. The middle-class Havana-born daughter of a Cantabrian immigrant, she and Antonio had three sons.⁶

From an early age, Antonio became involved with Havana's public charities. In 1890 he was appointed to the committee of the local mount of piety—a kind of institutional pawnbroker operating as a charity, with roots in the Renaissance. Soon Antonio gained an appointment to the Provincial Charity Committee and the General Hospital of Our Lady of Mercy, a Cuban medical institution founded in 1886 that was furnished with the most advanced equipment of the time. He combined all these activities with the defense of the Real Casa de Beneficencia y Maternidad de La Habana, a traditional charity that assisted poor women in the city and its environs.⁷

He also became involved with specialized journals, such as *Revista General de Derecho* and *El Foro*. The latter published his first article for the general public: "Comentarios a la nueva ley de enjuiciamiento criminal" ("Comments on the criminal prosecution law" 1883). He would return to this topic in cooperation with José Antonio González Lanuza and José Antonio Frías in the *Revista General de Derecho*. Other articles published by this journal included "*Estudios prácticos de derecho mercantil*" and "*El contrato de comisión en nuestro Código de comercio*" ("Practical studies of commercial law" and "The commission contract in our code of commerce," February and May 1885), in which he explained technical aspects of the new commercial law by means of practical examples. All this activity earned him an excellent professional reputation as a lawyer, lecturer, and writer. Bustamante's wish was to become a university professor, like his father. He wanted to specialize in international law; some of his education had taken place in Europe, and he was aware of the increasing importance that this branch of legal studies had acquired there in the preceding decade.⁸

In 1891, when he was barely twenty-six years old, he was appointed professor in public and private international law at the University of Havana; this was the second such professorship created in Spanish territories, after one created at the Central University of Madrid. His first book as professor, *El orden público: estudio de Derecho internacional privado* (*The public order: study of private international law*), was published in 1893.⁹ He joined the International Law Institute in 1895, and by 1896 he had published *Tratado de Derecho internacional privado* (*Private international law treatise*).¹⁰ Soon afterward, he received permission to undertake an academic trip to Europe. He traveled through France, Germany, and Italy, getting in touch with European academies and institutions with interest in public and private international law. He attended the first conference organized by the International Law Institute, held in Geneva in 1899. Both there and in Brussels

he met the Spanish and American delegates that had just signed the Treaty of Paris (December 10, 1898), which brought the Spanish–American war to an end.

Soon afterward, Sánchez de Bustamante was summoned by his Habanero colleagues to return to Cuba, which was then under American administration (1899–1902). The assembly, which was in the process of writing the constitution of what would become the first Cuban Republic, was the center of heated debates; in this context, Sánchez de Bustamante firmly supported the Platt Amendment, which in his opinion was the only way for Cuba to become a prosperous, pacific, and, ultimately, sovereign nation.¹¹

After the foundation of the republic in 1902, Sánchez de Bustamante was elected senator for the province of Pinar del Río for an eight-year term. Re-elected in 1910, he abandoned the chamber in 1916. Owing to the violent swings in Cuban politics during these years, his work as a senator was intermittent rather than continuous.

The new republic joined the family of independent nations during a period marked by the belligerence of empires. In this context, and using Spanish colonial possessions as a launching pad, the United States had grown enormously to assume a position as a new imperial player. Developments in communications, navigation, and weaponry called for a new international code to guarantee the coexistence of nations within this emerging order; nineteenth-century law and diplomacy had to adapt to a changed international setting.

On his return to Cuba, Sánchez de Bustamante was able to lend his knowledge to the creation of a modern republic, always within the limits set by the first Cuban constitution. From the outset, he applied the principles of legal science in all matters in which his consultation was required, which were generally related to international law, a subject he taught at the university almost up to his death.

In 1903 Bustamante was appointed President of the Foreign Relations Committee in the Senate. The first task allocated to this committee was the confirmation of the commercial treaty between Cuba and the United States, the so-called Cuban–American Treaty of Relations. Against the arguments of critics, including the famous liberal politician Manuel Sanguily or the President of the Congress, Salvador Cisneros Betancourt, a hero of independence—who believed that the treaty made Cuba excessively dependent in economic and political terms—Sánchez de Bustamante presented rational and legal arguments for the reliability of the relationship with the United States and the convenience of keeping close business links with the Americans; this would allow the economy to improve and would facilitate the normal development of republican institutions, guaranteeing their independence and sovereignty. Eventually, these arguments gained the upper hand, and the treaty was signed; one of the most significant features of the treaty was the low price paid for Cuban sugar in the American market.¹²

In those years, the Foreign Relations Committee of the senate closed other deals, such as the Agreement Between the United States and Cuba for the Lease of Lands for Coaling and Naval Stations, by which Cuba ceded territories in Guantanamo Bay and Bahía Honda to the United States for the installation

of military and naval bases; the Treaty of Relations with the United Kingdom (1904); and the Extradition Treaty with Spain (1905).

The serious civil conflicts faced by the island led the Cuban president, the conservative Tomás Estrada Palma, to disband parliament in 1906 and request that the United States enforce the Platt Amendment, which granted the United States authority to intervene in Cuba. Cuba was subject to US intervention until 1908. Despite these threats to independence, Sánchez de Bustamante continued with his frantic activity; alongside the diplomat Gonzalo de Quesada and the politician Manuel Sanguily, he became part of the Cuban delegation to the Second Peace Conference celebrated in The Hague in 1907.¹³ The presence of Cuba in this conference could be nothing but symbolic, but it displayed the island's commitment to independence, despite the Platt Amendment and the interventionist activities of the United States in Central America and the Caribbean at that time.

The conference returned to the issues, such as disarmament and international arbitration, that had been debated at the first peace conference of 1899—also held in The Hague. This time, however, the conference was attended by forty-four nations, some from Latin America and Asia, as well as from Europe, and the United States. Pacifist ideals were behind the attempt to create new rules and conventions based on the law of nations (*ius gentium*) together with private and public international law. Although the conference made little progress concerning the disarmament of the Great Powers, an arbitration committee was created—a direct precedent to the Permanent Court of Arbitration constituted in The Hague in 1921—that included Sánchez de Bustamante as a member.¹⁴

In 1909, after the American withdrawal, political life in Cuba went back to normal; Sánchez de Bustamante resumed his work in the senate in the 1910 Parliament, now representing the Havana province. He participated in two committees—foreign relations and justice. In 1913, acting as spokesman of the Foreign Relations Committee, he presented a legal proposal for the construction of a monument to the victims of the explosion of the battleship *Maine*, to be erected in New York. During the 1914 Parliament, he argued in favor of creation of two separate courts for civil and administrative cases in Havana.¹⁵

In this same year, the Cuban Chamber of Representatives passed the Divorce Act. The publication of the associated regulations (and thus, effectively, the implementation of the act) was delayed for four years, owing to the social controversy caused by the legal text. The bitter parliamentary confrontations triggered by the act even forced the President of the Chamber, José Antonio González Lanuza, to resign. Sánchez de Bustamante, who had been absent from Cuba for a time, did not take part in the controversy. In 1912 he was a founding member of the American Institute of International Law, funded by the Carnegie Endowment for International Peace, supported by US Secretary of State Robert Bacon and the jurists James Brown Scott (United States) and Alejandro Álvarez (Chile). Later, Sánchez de Bustamante initiated the Cuban Society for International Law.

In addition to his international activity, Sánchez de Bustamante continued lecturing in international law at the University of Havana. His lectures were

attended by many of the most prominent Cuban politicians and lawyers of the following generation. He continued to be actively involved in his legal practice in Havana and was appointed as a board member of the Cuban Cane Corporation, the largest sugar company in the island, participated in by some of the main financial groups in the United States.¹⁶ From 1904 onwards, he was also Dean of the Lawyers' Professional Association of Havana.

Owing to these enterprises, his participation in senate activities became rarer. Most of his speeches were concerned with technical rather than political issues and were related to criminal, mercantile, and civil law. As a general rule, he requested that the bills under discussion be more precisely phrased. In this regard, his contribution to the development of the legal system of the young Cuban republic is undeniable.¹⁷ Although his knowledge and prestige made him a key player, he tried to stay aloof from internal political conflicts. As pointed out by one of his admirers, the diplomat and historian Manuel Márquez Sterling: "His policy aimed not to engage in politics and not to interfere with the work or passions of other people."¹⁸

Although he abandoned his senate seat in 1916, Sánchez de Bustamante continued collaborating with the conservative government of Mario García Menocal whenever his advice on international law was requested, as in the government's legal suit with Dragados, an Anglo-American company. In 1911 this company was granted an exclusive government contract for the maintenance of the Cuban ports, but a new government decided in 1916 to rescind the contract. Based on strictly legal arguments, Sánchez de Bustamante advised the government not to pay the compensation demanded by the firm.¹⁹

On April 7, 1917, Cuba declared war on Germany in solidarity with the United States, which had declared war against Germany the previous day. (Cuba would follow the United States in declaring war on Austria-Hungary that December.) The government's purpose was to clearly display Cuba's position and to prevent Germany from getting any support on the island, for instance in the use of its harbors or coasts. President García Menocal placed an embargo on the property of German citizens who worked against the interests of the United States, and Sánchez de Bustamante was appointed chair of the committee created for this purpose. The European War ended just over a year later, and the Cuban jurist was present at the historical peace conference in Paris.

During this visit to Europe, Sánchez de Bustamante was very active. After the signing of the Armistice that led to the creation of the League of Nations and the Permanent Court of Arbitration in The Hague, on September 14, 1921, the Cuban jurist was appointed as a judge of the Permanent Court of International Justice in The Hague—a role that he performed without interruption until 1945.

Other public and private initiatives had Sánchez de Bustamante's support. The National Academy of Arts and Humanities was founded in 1910, with Sánchez de Bustamante as its first president. The institution was attached to the secretary of education but acted autonomously, granting scholarships and organizing public exhibitions and talks, as well as awarding the yearly National Grand Price for Arts and Letters.²⁰

The peak of Sánchez de Bustamante's prestige coincided with the celebration of the Sixth International Conference of American States, or Sixth Pan-American Conference, convened in Havana in January 1928. Sánchez de Bustamante chaired the conference, and attendees included American President Calvin Coolidge and the President of Cuba, Gerardo Machado.²¹ The program included issues related to American international law—for instance, intellectual property, nationality, women's rights, and maritime security. The organizing committee invited all university lecturers to attend the debates, which came to an end on February 20. The conference passed the International Private Law Code, also known as the Bustamante Code, which was published as an appendix of the final declaration of the conference, the Treaty of Havana.

Cuban President Gerardo Machado used the success of the conference to promote his reelection. His nationalistic discourse during his presidency (1924–28), and the palpable success of his economic policies, earned him increasing popularity,²² leading his supporters in the senate to propose a constitutional reform to allow him to run for a second term. In order to legitimize this project, Machado invited Bustamante to chair the constitutional committee that was convened in April 1927 to endorse the proposal. In addition to his undeniable prestige in Cuba and abroad, other reasons lay behind this invitation. First, the reformist proposal had been signed by several political parties, and a legal reelection of Machado was the best chance for keeping political peace and dispelling the ghosts of previous conflicts that had led to American intervention on the island. Second, Bustamante's legal practice represented several of the main companies in the Cuban–American trade, which would clearly benefit from Machado's reelection. Third and ultimately, his commitment to the government was reinforced by the support provided by Cuban institutions to the success of the Sixth Pan-American Conference.

Against the instructions that he had been given, Bustamante's hand became obvious in the changes introduced to the government's proposal, especially concerning the technical precision of the legal terminology, a lifelong obsession of Bustamante's. Finally, however, the text was passed, and Machado, after the new constitution came into effect, was reelected in 1928 for a six-year term with the support of the three main parties.²³

Despite being criticized for aligning himself with Machado's government, Sánchez de Bustamante's prestige did not overly suffer. He continued lecturing and traveling abroad whenever his position in the International Court in The Hague demanded it. His students at the University of Havana were to continue to be guided by the humanist, pragmatic, and Americanist spirit of this pioneer of international law.

The International Private Law Code or the Bustamante Code

The International Private Law Code, also known as the Bustamante Code, proposed a common code for private international law across the whole of the

American continent. Although designed by Sánchez de Bustamante, the code incorporated many elements from earlier initiatives. The first step was taken with the signing of the Treaty of Montevideo by several South American countries in 1889. This code tried to address national differences in civil, mercantile, and penal matters. The long period of economic and commercial development that the continent had undergone, which was also associated with the arrival of large contingents of migrants, raised the need for the various national legal systems to reach common ground on many issues. The main difficulties, when it came to putting things into writing, were the differences between advocates of the principle of domicile and those who argued that the scope of individual and state initiatives should be framed by the principle of nationality.²⁴

In 1906, during the Third Pan-American Conference, held in Rio de Janeiro, Bustamante was part of the legal committee entrusted with drafting international private and public legal codes. In 1912, after the foundation of the American Institute of International Law, the committee presented an extradition treaty and organized several subcommittees, two of which convened in Montevideo and Lima and dealt with private international law. The Montevideo subcommittee focused on such issues as the legal rights of foreigners, and family and inheritance law. However, the doctrinal differences of the delegates (domicile versus national principle) prevented an agreement from being reached. The Lima subcommittee presented a project about civil and commercial law, court jurisdiction, and disagreements in the application of criminal law.

In 1923 the Fifth Pan-American Conference, in Santiago de Chile, took positive steps regarding the codification of international law after the aim of achieving a common public international legal code was abandoned. Efforts focused thenceforth on reaching a consensus concerning private law. While it was difficult for states to yield in matters of sovereignty and national interest, thus making any agreement concerning public law an arduous matter. When it came to private law agreement was easier; states were keen on safeguarding the activities, especially trade, of their subjects based in other countries. The conference decided to commission a code that could deal with all these questions.

Sánchez de Bustamante's active role in the meetings held by different international legal bodies in both America and Europe made him one of the foremost specialists in international law worldwide. As such, he served on a committee entrusted by the International Academy of Comparative Law, convened in Geneva in 1924, with the task of codifying private international law. This attempt was unsuccessful owing to the complicated political conditions in Europe during the interwar period. At the same time, however, the American Institute of International Law created a four-expert committee with the same purpose, and here Bustamante played a key role. Within the framework of this latter committee, he deployed his vast knowledge and experience to draft legal formulas that would be acceptable to all countries in the region, including the United States. In the following year, Bustamante published the Spanish and French versions of the result of these efforts, *Proyecto de Código de Derecho internacional privado*. In 1927 the permanent committee of American jurists met in Rio de Janeiro to

analyze this project,²⁵ and the text, with some modifications, was passed by the Sixth Pan-American Conference; by 1930, the project had been ratified by fifteen countries (although some of those still had reservations in specific matters).²⁶

The enactment of the Bustamante Code created some expectations that a general consensus concerning the codification of international law could be reached, but a number of countries—including Colombia, Paraguay, Argentina, and Uruguay—did not ratify the agreement owing to differences in their understanding of civil law (marriage and divorce), and stayed within the terms of the Treaty of Montevideo of 1889. Concerning the United States, the power of each state to legislate in matters of private law, within the constitution but in a context that gave great prominence to consuetudinary law, made the ratification of the code especially difficult.

Based on his broad knowledge, beginning with the classical authors of the Salamanca school (Vitoria, Suárez), and his Christian education, Sánchez de Bustamante was convinced that people and nations made up an international community with shared features and ends. This universal stance was reflected in his code, which was built on the premise that difference is not necessarily the same as antagonism.

The Bustamante Code is divided into four books or sections. The first deals with civil law issues such as nationality, domicile, family, marriage and divorce, adoption, and inheritance. The second focuses on mercantile law, contracts, exchange instruments, sea- and air-borne international commerce, and extra-territorial legal personas of mercantile societies, among other topics. These two opening sections were the most widely accepted among American jurists and legislators. The third book addresses criminal matters, and the fourth addresses procedural issues, the jurisdiction of courts of law, and extradition. Bustamante tried to use very general principles, to ensure that they could be accepted by as many countries as possible.

Concerning civil law and the scope of state and individual initiative, the code allowed for both nationality and domicile principles to be applied. The signatories of the Treaty of Montevideo recognized only the domicile principle in these issues. Concerning inheritance, the code contemplates the possibility of properties bequeathed being located in more than one country; geographical dispersion could lead to endless legal suits. In order to avoid this problem, and to simplify the management of inheritance, the code establishes the legal unity of all the property involved, and the application of a single law: the national law of the subject or that of the domicile of the assets. With regard to contracts, the code settles on the laws of the country where the case is judged. Concerning marriage, the code yields to national laws, except when religious marriage is concerned. In this regard, the code allows countries that give preference to religious marriage to choose not to recognize the validity of civil marital status bestowed on their nationals in a different country. Regarding divorce, the code applies the domicile principle and gives the state the possibility of recognizing divorce acts and the remarriage of divorced persons celebrated abroad, as far as the causes of the divorce are contemplated in the legislation of the state where it was granted. At

this stage, divorce was legal in Cuba and the United States; in other countries, it was allowed under certain conditions, but in most Latin American countries it was not possible at all.

Concerning commerce, the Bustamante Code establishes the legal unity of international transport. No distinction is made between passenger and freight transport; transport should be considered a single act, regardless of whether it moves freight or people through one or several states. Assets, whether real estate or movable property, are subject to the law of the territory where they are located.²⁷

With regard to the legal status of mercantile societies operating abroad, the code establishes that they must assume the limitations set forth by local legislation, for reasons of public order, especially in the following particular circumstances: first, the issuance of shares or bonds by mercantile societies, which must be governed primarily by public interest and the protection of the rights of third parties that may purchase and exchange them; second, societies that deal with activities of a special nature and are thus subject to a special legal framework; and, third, money-issuing banks, because the operation of these institutions is closely linked to the exercise of national sovereignty. The code has been variously labeled as “scientific” in its dispositions, “conservative” with regard to local legislation, and “liberal” insofar as it facilitated the development of international commerce.²⁸

The code was published in different languages and became a part of law faculty syllabi in all of Latin America and much of Europe. This was Sánchez de Bustamante’s main contribution to the peaceful coexistence of nations. His *Textbook of Private International Law* conveys the ideals that underlie his whole career.

A universal textbook that covers a uniform international legislation still looks like a difficult thing. However, the fact that we already have one of a nearly continental scope, and that efforts in the right direction are being made everywhere, may turn this scientific chimera into something more solid. Private international law aims, like pretty much every branch of jurisprudence, for the well-being and happiness of humanity; in order to avoid conflict and barriers to people’s personal and economic dealings, the general principles on which the limits of the legal jurisdiction of states rest must be universally defined and accepted. Pan-American codification is the first step, even if universal consensus is still a faraway ideal; working for this ideal, we shall render the world a real service.²⁹

The Sixth Pan-American Conference was the zenith of Bustamante’s prestige and career. Machado was ousted from the presidency by a revolution in 1933, bringing down the whole Cuban political system and culture. This was the beginning of a revolutionary decade that also reached the university lecture halls, where a wide range of ideological positions crystallized. However, Bustamante’s legacy remained, as he continued teaching new generations in the classroom and via

the sessions (regular courses and lectures) of the Cuban Society of International Law.³⁰

With the election of Franklin D. Roosevelt as President of the United States in 1932, a new stage in the relationship with Cuba began. The Monroe Doctrine, which was perceived as giving priority to US interests, was set aside.³¹ A new treaty signed by the United States and Cuba in 1934 canceled the Platt Amendment. The era of military intervention seemed to have been relegated to the past. Pan-American ideals were adapting to a new era, and in this regard the ratification of the Bustamante Code was an important guarantee for economic investment, the free movement of people, and the security of contracts signed by citizens of different countries.

Sánchez de Bustamante died in Havana on August 24, 1951, at the age of eighty-six. The University of Havana declared three days of official mourning, and the funeral was attended by the country's leading personalities.³² The death of the leading jurist and professor united the Cuban political class, many of whose members had been through the lecture halls of the law school. Amazingly, they were able to put their differences to one side for a few days in order to pay homage to the professor. On August 25, the *New York Times* published an obituary note from the American Institute of International Law, of which Bustamante had been a founding member in 1912; alongside other prominent colleagues, it was pointed out, Sánchez de Bustamante had played an instrumental role in lending prestige to the discipline of international law in the Americas. Several Latin American newspapers, such as *La Nación* and *Clarín* in Argentina, also published obituaries stressing his long and successful career.³³

The poet Gastón Baquero, a member of the National Academy of Arts, defined Sánchez de Bustamante's legacy in a few words:

He belonged to a class of university professors that did not need revolutions to get chairs, and he always had the honesty to match his deeds to his words. He knew about what he taught and he taught about what he knew, out of respect for himself and for what the students expected of him.³⁴

A colleague who knew him well said of him:

In his private life, Dr. Bustamante's urbane manners and kind and genial disposition rendered him a typical representative of the cultured Cuban gentleman. His conversation was graced by the same simplicity of diction and clearness of statement which characterized his writing, and his personal charm attracted his host of friends as much as his upright character and his vast store of knowledge.³⁵

Academic production

Bustamante's participation in international bodies and his long academic trajectory resulted in a substantial academic contribution. His first publication,

Comentarios a la ley de enjuiciamiento criminal vigente en Cuba (1883), was followed by many others throughout his career, not to mention the successive editions of the International Private Law Code, which was translated into multiple languages. From an early stage of his career, he published actively in both Cuban and international legal journals, such as the article “El Canal de Panamá y el derecho internacional,” published by the *Revista de Derecho Internacional y Legislación Comparada* (Brussels, 1895) soon after he joined the International Institute of International Law. In 1896 he published the *Manual de Derecho internacional privado* (*Textbook of private international law*) in Havana, shortly before leaving for his first European trip.

Most of his works were published during the twentieth century. *La segunda conferencia de paz reunida en La Haya en 1907*, a chronicle of the debates that took place during the Sixth Pan-American Conference, was published in Madrid in 1908. Other oft-cited academic works include *La autarquía personal. Estudio de Derecho internacional privado* (Havana, 1914), where he expresses what would be for him the principle on which private international law is based:

the idea of a zone or region of law in which one can freely be himself indicates also that this power does not result from a concession from another sovereign entity, but comes from the particular situation and the exigencies of the one who enjoys them.³⁶

In addition, further popular works include: *El tribunal permanente de Justicia* (Havana, 1925); *La nacionalidad y el domicilio, estudio de derecho internacional privado* (Havana, 1927); *El mar territorial* (Havana, 1930), a scientific study of territorial seas and riparian rights; the monumental works, *Tratado de Derecho Internacional Privado* (four volumes, Havana 1931) and *Derecho Internacional Público* (five volumes published in Havana between 1933 and 1938), also published as abbreviated editions for students, were fundamental texts for students in many law schools in Latin America. Sánchez de Bustamante was granted honorary doctorates by Columbia University, Universidad de San Marcos, in Lima, and the Sorbonne, in Paris.

Notes

- 1 Le Roy y Gálvez, “El Dr. Juan Manuel Sánchez de Bustamante,” 89–117. Also: Archivo Histórico Nacional de Madrid (AHN), Ultramar, 4669, Exp. 53.
- 2 Alberto Sánchez de Bustamante y Sirvén was an obstetrics professor at the faculty of medicine in Havana and director for many years of the *Revista Cubana de Medicina*. See AHN, Ultramar, 263, Exp. 33.
- 3 His subjects included the humanities (Latin, Greek, religion, universal and Spanish history, oratory and poetry, French, psychology, and logic) and positive and natural sciences (arithmetic, geometry, chemistry, and physics), as well as physiology, hygiene, and basic agriculture; see school records for the issuing of the title of “bachiller” to Antonio Sánchez de Bustamante y Sirvén, in AHN, Universidades, 7345, Exp. 8.
- 4 AHN, Ultramar, 49, Exp.10.

- 5 His dissertation was titled "Close codicils in our Legal System," *Revista General de Derecho* 33 (1885). AHN, Ultramar, 49, Exp.13.
- 6 All of his sons studied law at Havana. Two of them took over the legal practice, which in the 1950s fell to Antonio's grandson, Antonio Sánchez de Bustamante y Montoro, who was also philosophy professor at the University of Havana: see Jiménez, *Las empresas de Cuba* 149–50.
- 7 Hidalgo Valdés, *La Real Casa de Beneficencia de La Habana*.
- 8 The International Law Institute was founded in Ghent, Belgium, in 1873.
- 9 Sánchez de Bustamante, *El orden público: Estudio de derecho internacional privado* (Havana: Imprenta La Universal, 1893).
- 10 Sánchez de Bustamante y Sirvén, *Tratado de Derecho internacional privado* (Havana: Imprenta La Universal, 1896).
- 11 An example of the so-called Roosevelt Corollary, which directed US foreign policy towards Latin America and the Caribbean in the opening decades of the twentieth century, the Platt Amendment was introduced as an appendix in the constitution of the First Cuban Republic. According to this amendment, Cuba had its sovereignty to acquire debts with European nations curtailed, and the US Government reserved the right to intervene if the property of its citizens was considered to be in danger. See Torriente, *Cuba en la vida internacional*.
- 12 Zanetti, *Cautivos de la reciprocidad*, 87–92.
- 13 Gonzalo de Quesada y Aróstegui, a lawyer trained in the US, was one of the founders of the Cuban Revolutionary Party in New York, a member of the Constitutional Assembly, and later Cuban ambassador, first to the US and then in Berlin, where he died in 1915. Manuel Sanguily, another member of the Constitutional Assembly, was the first president of the Cuban Senate, Secretary of State in 1910–12, and Secretary of Government in 1915–17. Sánchez de Bustamante, *Informe relativo a la Segunda Conferencia Internacional de la Paz reunida en El Haya en 1907*.
- 14 Torriente, *Cuba, Bustamante y el Tribunal Permanente de Justicia Internacional*.
- 15 Senado de la República de Cuba, *Memoria*, 86–92.
- 16 Pérez Jr., *Cuba and the United States*, 140.
- 17 Primelles, *Crónica cubana*, 113.
- 18 Manuel Márquez Sterling, "Prologue" to Torriente, *Cuba en la vida internacional* (1922).
- 19 Primelles, 167.
- 20 Chacón y Calvo, "Don Antonio Sánchez de Bustamante y Sirvén."
- 21 The First Pan-American conference was held in Washington, DC, in 1888. Cuba first attended this meeting at the Third Conference, held in 1906 in Rio de Janeiro. The following conferences were organized in Buenos Aires (1910), Santiago de Chile (1923), and Havana (1928), under the chairmanship of Sánchez de Bustamante.
- 22 Zanetti, 101–06.
- 23 Costa, *Imagen y trayectoria del cubano en su historia*, 171–76.
- 24 Schoenrich, "Dr. Antonio Sánchez de Bustamante."
- 25 Sánchez de Bustamante, *La Commission des jurisprudences*.
- 26 The signatory countries were Cuba, Panama, Dominican Republic, Brazil, Peru, Bolivia, Ecuador, Venezuela, Chile, Guatemala, Haiti, Costa Rica, Nicaragua, Honduras, and El Salvador.
- 27 Samtleben, *Derecho internacional privado en América Latina*.
- 28 Caicedo Castilla, "Desarrollo, orientaciones y porvenir del Derecho internacional privado en América."
- 29 Sánchez de Bustamante, *Manual de Derecho internacional privado*.
- 30 Gutiérrez y Sánchez, "El Instituto Americano."

- 31 For a perspective on the impact of the Monroe Doctrine on the Cuban Society of International Law, presided over by Sánchez de Bustamante, see Roig de Leuchsenring, *La doctrina Monroe*.
- 32 Peraza y Sarausa, *Personalidades cubanas*, 1:174–75.
- 33 Baquero, “Bustamante,” 157–59.
- 34 *Ibid.*, 158.
- 35 Schoenrich, 749.
- 36 Penfield, Review of *La autarquía personal*.

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