

WORKSHOP ON GLOBAL ADMINISTRATIVE LAW ISSUES IN LATIN AMERICA

**Sponsored by University of San Andrés and
New York University Institute for International Law and Justice**

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Summary of Workshop Objectives and Issues for Discussion

The workshop is jointly sponsored and organized by the University of San Andrés and the New York University Institute for International Law and Justice and its Global Administrative Law Project. The workshop provides a forum for engagement among Latin American scholars, government official, private lawyers and civil society representatives, along with some scholars from the United States and Europe, in discussing issues of global regulatory governance and administrative law from a Latin American perspective. Global administrative law is an important new area of practice and theory with important consequences for both global and national regulatory governance. At the global level, it addresses the use of administrative law techniques (such as transparency, participation, reasoned decision, and judicial review) to promote greater accountability and responsiveness by the growing variety of global regulatory bodies, including accountability and responsiveness to developing countries and civil society interests. At the domestic level, it addresses the impact of global regulatory authorities and procedural and institutional practices and norms on domestic systems of decision making, including domestic administrative law and the role of courts and other tribunals. See the Annexes at the end of this document for more on the **Concept of Global Administrative Law (Annex 1)** and **Global Administrative Law in Latin America (Annex 2)**.

In 2004 the Institute for International Law and Justice (IILJ) at New York University School of Law launched a Project on Global Administrative Law to foster research, publications, conferences and workshops, and international exchange and discussion on the emergence of administrative law techniques in global governance, and the impact of global and other transnational regimes, norms and practices on domestic decision making and administrative law. This Project, which is led by NYU professors

Benedict Kingsbury and Richard Stewart, involves a large group of scholars, and has so far produced more than 50 published articles and many other research papers.¹ It is hoped that the Buenos Aires GAL workshop will be followed by other Latin American initiatives to stimulate and support within the region future research, practical engagement and impact on global administrative law issues, and to help link these regional activities with parallel activities in other regions of the world. There is a serious risk that the emerging practice of global administrative law will be too strongly influenced by developed countries - states with strong institutions, global power and largely consolidated systems of administrative law. It is essential that the perspectives, experiences, ideas and contributions of developing countries, including the diverse countries of Latin America, shape the development of global administrative law. The University of San Andrés workshop is an initial step toward this goal.

The University of San Andrés faculty and other members of the Argentine organizing group are continuing, through this Workshop, a long-standing engagement with the adaptation of law and institutions to address public governance in the fast-changing environments in which Latin American states find themselves. Globalization, and the polyarchic governance of transnational regulatory and policy issues, is destabilizing this environment but also opening opportunities for creative lawyering and rapid innovation among all social and economic sectors. Addressing these issues means bringing together people from very different legal and policy communities, who may find unexpected points of engagement with each other in addressing accountability, participation, information, and their views of the roles of the state and of international institutions. The University of San Andrés, along with other Latin American law schools, has the specific objective of building a new kind of curriculum with new materials to train graduates to deal with these issues.

The concept of global administrative law encompasses the legal mechanisms, principles, and practices, along with supporting social understandings that promote or otherwise affect the accountability of global and regional administrative bodies -- for example, the World Bank, IMF, WTO, International Standards Organization (ISO), the Basel Committee of bank regulators, and so on. It also considers the influence of global

¹ To learn more about the NYU Global Administrative Law Project, including previous conferences and workshops, publications, and research papers *see* http://www.iilj.org/global_adlaw/

and regional regulatory and decision making norms and practices on domestic administrative bodies including authorities whose decisions impact international trade, investment, the rights of indigenous peoples, and so on. The aim is to that ensure that these global, regional and domestic bodies meet adequate standards of transparency, consultation, participation, rationality, and legality, and to provide effective independent review of the rules and decisions that these bodies make. This field of law is described as “global” rather than “international” to reflect the complexity of national and intergovernmental regulation, the increasing role of private regulators and public-private hybrid bodies, the wide array of informal institutional arrangements that operate alongside formal institutions, and the foundations of the field in a wide variety of transnational as well as international normative sources and practices.²

Globalization has a more and more pervasive impact on government decisions and policies in Latin American countries. They are strongly affected by the decisions of global regulatory bodies in areas such as trade (e.g. WTO), banking and finance (e.g. Basel Committee), monetary policy (e.g. IMF), environment (e.g. OECD), health and safety (e.g. Codex Alimentarius), human rights (e.g. the Inter-American Commission and Court of Human Rights), and others. They are also subject to regulatory requirements imposed through conditions on financial assistance (for example, by the World Bank and other multilateral and bilateral development assistance agencies and the IMF) and through treaty provisions such as the provisions in investment treaties prohibiting expropriation of foreign investor’s investments (treaty provisions on fair and equitable treatment or expropriation can change the possibilities of re-negotiation of contracts and imposition of environmental and other regulatory requirements by host countries). In many cases these requirements and conditions relate to decision making procedures and other governance elements that countries must follow in given areas, for example in adopting and enforcing regulatory measures that affect internationally traded products or services and international investment. Other bodies, including transnational networks of national regulators, private standard setting bodies, and hybrid public/private bodies, often have a more indirect but nonetheless powerful influence on domestic policies and decision making procedures. These impacts and more subtle effects are often especially powerful in the case of developing countries, which are

² A fuller Concept and Working Definition of Global Administrative Law, prepared by the NYU Global Administrative Law Project, can be found at the end of this memorandum.

particular dependent on foreign investment and assistance, and may often lack the institutional resources and expertise to influence, deflect, or otherwise deal with them.

From the perspective of global administrative law, these various regulatory and procedural and institutional impacts raise a number of questions for research and issues of concern.

First, what has been the impact of these requirements and conditions, as well as broader global governance influences, on government decision making and policies in Latin American countries, with particular emphasis on regulatory policies, procedures and the functioning of administrative law including the role of domestic courts. To what extent have these impacts been beneficial or adverse from the perspective of particular Latin American countries and their citizens?

Second, are global regulatory bodies imposing these requirement and conditions adequately accountable and responsive to the distinctive needs and interests of Latin American countries?

Third, to the extent that the legitimate interests and needs of Latin American countries are being adversely affected or disregarded by global authorities, to what extent can the development and adoption new administrative law mechanisms and techniques, either at the global or domestic levels, help address these problems? Does global administrative law primarily serve the interests of rich countries and multinational firms and invertors, or can it be harnessed to protect the interests of developing countries and social interests?

Fourth, in what ways are Latin American countries and their civil society organizations knowledgeable and effective players in global regulatory governance, and how might these be enhanced and integrated with better management of the domestic implications and influences of global regulatory standards and practices? The presentations and discussion of papers at the workshop will be of key importance in analyzing theses issues and the future development of global administrative law from the perspective of Latin American countries.

Policy initiatives in global administrative law, and the legal literature on these issues, have thus far come mainly from the United States and Europe. The NYU Global Administrative Law Project has as one major objective to increase the focus on the needs and interests of developing countries, and more generally on scholarship and

policy-making in Asia, Africa, and Latin America. The Buenos Aires workshop will be followed by comparable workshops in New Delhi, Capetown, East Asia (probably in China), and in the Southeast Asia/Pacific region. It is hoped that these workshops will introduce the global administrative law ideas and existing research findings to leading academics and practitioners in each region, draw together their ideas and analyses of global regulatory governance and its domestic impacts, and help build networks of expertise on these issues within and between regions.

ORGANIZATION OF THE WORKSHOP

The workshop will consist of five main panel sessions, each focused on a substantive area of policy and governance, while the workshop's introductory and concluding sessions will consider more foundational conceptual issues as well as practical steps to be taken in future work. Papers for the five panels will be written and distributed in advance of the conference. Each panel will begin, not with presentations by authors of the papers, but with remarks by a commentator who will give a short summary of each paper and offer some comments on the papers and the issues that they raise. Each of the paper authors will then have a brief opportunity to reply. Thereafter, the floor will be open for general discussion by all workshop participants, which we hope will be vigorous and spirited! Each session will be chaired by a Moderator. A Rapporteur will prepare a summary of the comments and debate at each session, which will be provided to the participants.

OPENING SESSION: THE EMERGENCE OF GLOBAL ADMINISTRATIVE LAW.

The introductory session will present the core idea of global governance as administration, the control and channeling of public power through administrative-law type mechanisms in global governance, and the connections of these dimensions of global governance with developments in Latin American public law and governance:

- *What are the emerging administrative elements in global regulatory governance, and how have administrative law procedures and other mechanisms developed to promote greater accountability and responsiveness by global regulatory bodies?*

• *How are global regulatory governance, and the emerging global administrative law, connected to developments in the practice and the conceptualization of public law and the public sphere in Latin American countries? How might the further development of global administrative law and the public spheres impact Latin American countries in dealing with the different aspects of globalization?*

**PANEL 1. PUBLIC-PRIVATE ORDERING IN THE GLOBAL ECONOMY:
IMPLICATIONS FOR NATIONAL AND TRANSNATIONAL ADMINISTRATIVE LAW**

In recent decades many Latin American countries have shifted from military authoritarian regimes to the establishment of constitutional democracies, and all of them have adopted structural economic reforms of neo-liberal type. With the urging and advice of IFIs (especially the IMF and the World Bank), these countries' policies of privatization, deregulation, etc. have been accompanied by demands for new approaches and institutions of administrative decision-making. The countries of the region have grappled with newer forms of public-private ordering (privatization contracts, monitoring and governance of private actors in sectors that were formerly state monopolies, contractual and treaty guarantees to foreign investors, transnational normative regimes established among private actors or in public-private partnerships that may impose externalities on others.) These dynamics have led to the authorities of the State being actively engaged, and sometimes called to account, in different transnational and regional fora. The channels and institutions to handle and solve most political tensions among national states have become ineffective and almost irrelevant on some of these issues in the last few years. At the same time, the growth of formal and informal networks of public officers and agencies of different countries, in response to these regulatory issues and competitive pressures, also affect the way in which national regulatory and administrative law is developing. In the specific context of Latin America, the projects of regional integration also generate opportunities and challenges for national systems of administrative law.

With this background **Panel 1** will focus in issues like:

• *How have Latin American regulatory regimes, and their regional strategies in informal networks and formal inter-governmental organizations, responded to the structural demands placed on them by privatization, private foreign investment, private orderings, and public-private partnerships?*

- *How could accountability of the private and public-private actors, and of the regulatory regimes, best be achieved? What forms of accountability are desirable, and what are the likely costs? Ought legal accountability to be a major objective?*
- *How should the boundaries between politics and law in these international spaces of political and economic decisions be defined and operationalized?*
- *Is it possible or desirable to achieve impartial decision making procedures in these areas of transnational or global governance?*
- *What role can and should play non-governmental non-commercial actors in these areas of governance?*
- *Has the limited political capacity of Latin American states to participate in the global governance of these issues had any influence in the outcome of the rule-making and institutional approaches that ultimately affect them? Can they act externally to change this? Is relevant participation of Latin American countries in this kind of global governance possible without a radical change toward its democratization?*

PANEL 2. TRANSNATIONAL INVESTMENTS: TREATY-BASED GOVERNANCE AND ITS IMPLICATIONS FOR GOVERNMENT, CIVIL SOCIETY, AND PUBLIC SERVICES

Economic globalization has raised the importance of the international agencies and mechanisms involved in commerce and economic regulations, since their decision actually impact on states fundamental economic policies like their policies of subsidies, freedom of commerce, etc.

In the private scope there is a consolidated tendency of replacement of domestic courts for instances of international arbitration and conflict resolution, like those that derive from the typical clauses included in bilateral treaties of protection of investments.

The case of Argentina is illuminating in this regard: After the 2001-2002 crisis, the country has faced a large number of international arbitral procedures at the Centre of Settlement of Investment Disputes (ICSID) as a result of the economic measures that the government has taken since then. Most of the cases pending before the ICSID entail claims of foreign shareholders that invested in various sectors of Argentine economy during the 1990s.

On the other hand, the progress of integration process in Latin America has generated a series of dynamics to control the asymmetries in the exchange, from direct political bilateral negotiation to the establishment of specific international regulatory mechanisms.

In this context, we will discuss in **Panel 2**:

- *Which interests are promoted, and which ones should be promoted by international organs that deal with regulation of international investments?*
- *What is the impact of internationalization of conflicts about transnational investment of corporations on the rule of law in Latin American countries? What is, or should be, the impact on national administrative law, on the institutional roles of national courts, and on central government or judicial control of actions by provincial governments or other public agencies?*
- *What is the best forum to settle disputes between government and private investors? Are they the international tribunals or domestic courts? (cfr. Are international arbitral pro investors? Would national courts be pro-state?)*
- *How do nationalization policies of natural resources recently announced by some Latin American countries affect the “rule of law” or “public interest” dimensions of regional integration? How will, or should, the disputes between investors, host countries and investors’ countries be addressed?*

PANEL 3. INTERNATIONALIZATION OF HUMAN RIGHTS: GLOBAL ADMINISTRATIVE LAW IMPLICATIONS

After emerging from military dictatorships, many Latin American countries have made major constitutional, legislative and institutional reforms regarding the role of human rights within their domestic law. In some cases -like Argentina- international human rights treaties can be enforced by national courts, and the interpretative decisions of international human rights tribunals may be regarded as authoritative or a basis for decision for some domestic courts. Thus the roles of both national courts and of the Inter-American Court and Commission of Human Rights have changed. Each deals with increasing numbers of cases on civil, political, economic and social rights against the State. But at the same time, there are important demands to increase the power and effectiveness of the state, to protect people against death squads, violent crime, and disruptions arising from transnational pressures on social policy and economic flows. Demands are rising to subject some non-state actors to regulation and obligations aimed at promoting human rights; but also to protect these actors under human rights rubrics (due process of law, free speech, property rights, etc).

On one hand, the Inter-American human rights bodies operate as part of a regulatory process, engaging in dialogs involving the executive branches of countries like Argentina, the domestic courts, the networks of Human Rights NGOs that constantly interact with the governments, and (to a lesser extent) with commercial

actors and with inter-government institutions such as the World Bank and the IADB. On the other hand, the diverse demands placed on the state in relation to human rights are impacting both the state's own regulatory structures and processes, and the national administrative law.

Panel 3 will debate:

- *How well do the Inter-American bodies understand and perform their regulatory roles? Are they helped or hindered by other actors (including human rights NGOs) in doing this?*
- *How are understandings of the roles and place of the State changing within national and international human rights processes? Are these processes adequately addressing privatized entities, private actors, and changing methods of regulation? Is national administrative law aligned with human rights objectives?*
- *How do transnational NGO networks understand their roles in relation to regulatory and administrative questions having human rights dimensions? Are they effective?*
- *What is the impact of the internationalization in the enforcement of human rights on democratic and administrative dynamics of Latin American countries, and how does this compare with prevailing views in Europe and the US?*
- *Should the accountability of international agencies in their interpretations and applications of international conventions (including "Friendly Settlements") be improved?*
- *To what extent are international tribunals and monitoring mechanisms of human rights shaping administrative law practices, obligations, mandates and public policies in Latin American countries?*

PANEL 4. PANEL 4. ANTI-MONEY-LAUNDERING AND GOVERNANCE IN LATIN AMERICA

With the goal of reducing illegal markets, usually conducted by organized crime groups, the anti-money laundering paradigm is a sophisticated crime control policy that involves substantial regulatory issues over financial markets and liberal professions and exercise powerful control over financial transactions all around the world. Though primarily set by the non-treaty limited-membership network body, the Financial Action Task Force, international networks of private banks, multilateral financial institutions, a network of Financial Intelligence Units (the Egmont Group) and some regional bodies are active contributors to a dynamic and ongoing public-private debate. The paradigm is based in mandatory reporting information from the private sector and includes strong sanctions powers exercised by the local state and by distant states and international bodies.

This Panel will analyze this mixture of national reforms, bilateral agreements and cooperation, multilateral treaties, international supervision by networks and formal institutions, peer review, and external pressure, as it has played out in Latin American countries. The roles of private institutions and of NGOs, both locally and regionally/internationally, in the enforcement of these new rules will also be considered.

Panel 4 will consider:

- *What have been the impacts of anti-money laundering efforts on national administration and legal controls of public and private sector actors? Are they in tension with national democracy? Are they sufficiently effective, and if not, what more should be done?*
- *Do the various external mechanisms (bilateral, network, regional, global inter-governmental, and private) to control money-laundering work well together, and do they treat fairly the interests of the state and of different groups within it?*
- *Should developing countries have a great capacity to influence the transnational norms and transnational administration of them? Should this influence be channeled through the state's representatives, or through direct participation of financial institutions, NGOs, state agencies etc?*
- *Is the good governance agenda resulting in better national and transnational governance? Does global administrative law have useful roles to play in delivering or recasting "good governance"?*

PANEL 5: ENVIRONMENTAL REGULATION AND GOVERNANCE

Latin American countries, including Argentina, have been much affected by struggles to control the regulation of Genetically-Modified Organisms in global markets (e.g. in soy-beans). Several have joined the US in the case successfully brought in the World Trade Organization against the European Union's moratorium on GMOs. The European Union's arguments (ultimately unsuccessful) rested in part on the Cartagena Protocol on Biosafety. Each Latin American country also has its own debates about risks posed by GMOs, with many local groups allied with transnational networks on various sides of the issue, but it is impossible to isolate the debate from the effects of global markets and institutions.

The environmental impacts in Latin American countries of development projects financed by international donors or private investors raise a variety of important

issues of regulatory governance and administrative law including opportunities for participation and review by affected citizens and interested NGOs. The recent case on the Pulp Mills on the Uruguay provides an important example involving a wide variety of global, regional, and domestic institutions, including the International Finance Corporation of the World Bank, the International Court of Justice, a Mercosur arbitral tribunal of Mercosur, Argentina's domestic courts, and the OECD Guidelines on Multinational Enterprises and litigation brought by the Argentine NGO CEDHA against the Botnia Company.

A related and important set of issues with broad application include the rights of the public to have access to environmental information, the right of the public to participate in environmental decisions, and access to justice to redress denials of these rights. The global and regional sources of these rights can include the Espoo Convention; regional agreements such as the Aarhus Convention with the potential for similar agreements in other regions; the procedures and practices of global bodies such as the Environmental Guidelines of the World Bank, and human rights norms and bodies, as exemplified by the recent decision of the Inter-American Court of Human Rights in *Reyes v. Chile* requiring Chile to end secrecy practices and disclose environmental impact assessment information. Rights to information access and public participation may also have domestic sources, with potential to apply them to projects that are internationally funded or have a regional character.

Panel 5 will consider:

- *Many environmental issues, including GMOs and the Uruguay River Pulp Mills dispute, involve multi-level governance. How adequate are the global administrative law rules about who can participate at which level, about how different institutions must interact and weigh one' another's actions, and about accountability and compensation for those who lose out. Are these complex regimes producing satisfactory results?*
- *What are the political, legal, and practical limits on efforts to apply and implement at the domestic and regional levels environmental norms and practices, including public access to information and public participation, that have been adopted by global funding organizations and other global bodies?*
- *Who should be the actors involved in administrative decision making on development projects and other environmentally important initiatives? What should their role be? What is the relevance of global norms and practices (including global administrative law) in answering these questions?*

- *What is the impact of international investment on social rights, particularly on those related to environment and health protection? To what extent do the substantive and procedural requirements of bilateral or regional investment treaties limit the ability of Latin American countries to take measures to protect social rights and to pursue environmental goals? Should representatives of social interests have some rights to participate in the decision making of investment treaty tribunals?*

- *In the context of global administrative law, are there any conflicts between human rights agendas and environmental protection agendas?*

CONCLUSION: GLOBAL ADMINISTRATIVE LAW AND LATIN AMERICA – EVALUATION AND NEXT STEPS

This session will draw together ideas and themes from the previous panels, and consider any further steps that should be taken in research, public policy dialogues, and curriculum development on the issues covered.

- *How does global administrative law affect decisional outcomes at the level of global decisionmaking? Domestic decisionmaking? Who benefits?*

- *Does the concept of global administrative law provide a useful construct for understanding and researching issue of global governance and the influence and impact of global procedural and institutional norms on domestic administrative decision making? What research and dialogues should now be pursued?*

Annex 1. Global Administrative Law: Concept and Working Definition

Much of global governance can be understood as regulatory administration. Such regulatory administration is often organized and shaped by principles of an administrative law character. Building on these twin ideas, we argue that a body of global administrative law is emerging. This is the law of transparency, participation, review, and above all accountability in global governance. We posit an increasingly discernible “global administrative space”, in which the strict dichotomy between domestic and international has broken down, administrative functions are performed in complex relations between officials and institutions not organized in a single hierarchy, and regulation using non-binding forms often proves highly effective in practice. Exercises of public power in the global administrative space are increasingly channeled, and controlled, by mechanisms of an administrative law type. These include rules requiring greater transparency, adoption of notice-and-comment procedures in rule-making, and the opening of new or strengthened avenues of judicial and administrative review. We thus regard global administrative law as encompassing the legal mechanisms, principles, and practices, along with supporting social understandings, that promote or otherwise affect the accountability of global administrative bodies, in particular by ensuring these bodies meet adequate standards of transparency, consultation, participation, rationality, and legality, and by providing effective review of the rules and decisions these bodies make. We describe this field of law as “global” rather than “international” to encompass the enmeshment of national and intergovernmental regulation, the increasing roles of private regulators and public-private hybrid bodies, the wide array of informal institutional arrangements that now operate alongside formal institutions, and the foundations of the field in normative practices, and normative sources, that extend beyond international law sources.

The Project distinguished among, but seeks to encompass each of, five main types of globalized administrative regulation. These are: (1) International Administration, by formal international organizations (such as United Nations Security Council individual sanctions programs, or UN administration of territory); (2) Network Administration, based on collective action by transnational networks of cooperative arrangements between national regulatory officials (such as the Basel Committee of national bank regulators); (3) Distributed Administration conducted by national regulators under treaty, network, or other cooperative regimes (such as the Basel Convention on transboundary movement of hazardous wastes); (4) Hybrid Administration, by hybrid

intergovernmental-private arrangements (such as ICANN, the Internet Corporation for Assigned Names and Numbers); and (5) Private Administration, by private institutions with regulatory functions (such as the ISO, the International Organization for Standardization).

New systems of administrative procedures, review mechanisms, and decisional principles have arisen to promote greater accountability in decision-making by this rapidly proliferating variety of global regulatory administrative bodies. The subjects of such global regulatory systems include individuals, firms and other economic actors, states, and non-governmental organizations. Global Administrative Law is an emerging field of law and practice addressing both the new structures of administrative law and international law that have arisen in these different institutional contexts, and their normative dimensions, including regime integrity, protection of subjects' rights and promotion of democratic values.

Annex 2: Issues of Global Administrative Law in Latin America

In the last two decades Latin America underwent fundamental changes in its traditional way to structure the relations between national state and international actors, internal and external market, and national civil society and the global one. As it was expectable, these transformations had significant impact in the institutional identity of these actors, and have created what can be identified as the New Latin American Public Space.

Nevertheless this radical transformation has not found even a language in which to be specified, nor a description on which to tackle the necessary normative discussions. In spite of this lack of conceptualization, the evidences of the transformation are concrete:

From authoritarian governments arisen in general from military coups to democratic governments, that is to say, to governments limited by majority decisions and constitutionalized rights.

From massive, and in some cases systematic, violations of human rights to the creation and enforcement of demanding national and international norms of defense for those rights.

From States that monopolized the provision of public services and utilities with centralized administrative regulations to their privatized provision with the creation of agencies with certain degree of autonomy in charge of the regulation of important sectors of the economy. This administrative decentralization generates as well the concern about the participation of the citizenship in general in the policies of the public utilities system.

From administrative laws shaped in the continental European tradition centralized in the *raison d'Etat*, to administrative, constitutional and procedural rules that open the possibility of deliberating with -and controlling to- the state. This legal transformation accompanies the policy just mentioned and needs the development of doctrines and processes, as well as actors able to make it work.

From passive judicial powers to judges (national and international courts) which are frankly active in the protection of national and international standards. In this case there is a change in the role of the judicial power, which is no longer completely

subordinated to the majoritarian powers, to exert certain level of counter-majoritarian control of the decisions taken by the other powers.

From the lack of organized civil society to the proliferation of NGOs (both national and international) which use the procedural mechanisms (both national and international) to act in the public arena (both national and international).

From a conception of representative democracy that only accepts the traditional parliamentary discussion to the multiplication of deliberation processes and control in national (regulatory agencies, the judicial power, markets of values, administrative bodies) and international (political, financial, commercial organizations) contexts that force the different actors to give reasons and to modify public policies.

As the precedent list shows, Latin American countries are facing the puzzling challenge of achieving a working combination of (a) respect and enforcement of fundamental human rights, (b) consolidation of democracy, and (c) the establishment of working, stable and foreseeable sets of public rules.

Moreover, this challenge is influenced by the emergence of a regional and global public arena that also needs to be conceptualized. Scholars, government officials, private practitioners and members of the civil society should be engaged in an open and ongoing debate about the features and nature of the changes in the public sphere, the dynamics and actors involved in them, and the ways in which domestic, regional and global institutions are dealing with them.

The five panels of the workshop on "Issues of Global Administrative Law in Latin America" have been designed to present specific issues, cases and ideas that will illuminate a more general agenda of the discussion that will include:

1.- An analysis of the way in which administrative law mechanisms can “promote greater accountability in decision making and rulemaking processes, in the rapidly proliferating variety of global regulatory structures.” [1]

2.- The identification of “a number of structural mechanisms that have arisen to develop and apply global administrative law, including domestic courts and legislatures reviewing domestic implementation of global standards and national officials’ participation in global administrative decisions, and new mechanisms developed at the global level for governance of international and transnational regulatory bodies.”[2]

3.- The definition and discussion of the “sources and content of the various doctrinal principles and requirements that have been developed and enforced by these mechanisms (such as transparency, participation, reasoned decision making, review, and substantive standards such as proportionality).”[3]

4.- The discussion of the adequacy of different “normative foundations of global administrative law, including intra-regime control, liberal notions of protection of the rights of individuals and of economic actors, protection of the rights of states, and securing democracy with respect to global regulation.”[4]

5.- The description, discussion and proposal of “different strategies for constructing global administrative law, including bottom-up approaches that seek to extend domestic administrative law to global regulatory decisions and top-down approaches that develop new administrative law mechanisms at the global level.”[5]

[1] The Emergence of Global Administrative Law, Benedict Kingsbury, Nico Krisch, Richard Stewart, New York University, <http://www.iilj.org/papers/2004/2004.1.htm>

[2] Op.cit.

[3] Op.cit.

[4] Op.cit.

[5] Op.cit.