

## SPECIAL ISSUE

# INTERCULTURALISM

## A COMPARATIVE LEXICON

Editor: Silvia Bagni

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### Editorial Introduction

“Everyone is an alien somewhere”  
(Coldplay)

This special issue, “Interculturalism: A Comparative Lexicon”, has emerged from an interdisciplinary collaboration of researchers involved in the Prin 2017 project, “From Legal Pluralism to the Intercultural State. Personal Law, Exceptions to General Rules and Imperative Limits in the European Legal Space”. The project further evolved at the 23rd International Roundtable for the Semiotics of Law, organized by Mario Ricca and Anne Wagner at the Pontificia Università Antonianum in Rome, entitled “Global Semiotics and Everyday Legal Claims, Intercultural Use of Law, Interreligious Dialogue and Translation Ethics”.

The research project “From Legal Pluralism to the Intercultural State” (<https://site.unibo.it/dal-pluralismo-juridic-allo-stato-interculturale/it>) involves researchers from four Italian universities (Bologna, Perugia, Roma-LUMSA, Trento) committed to investigating, from a comparative, diachronic and synchronic perspective, the evolution of the legal forms of regulation of cultural pluralism, with particular attention to the most recent phase of encounter/clash between multicultural and intercultural models. Though the research team consists primarily of public and comparative law lawyers, the involvement of colleagues from other disciplines has been essential, in particular that of anthropologists, sociologists and pedagogists, for two different reasons related to the objectives of the project. On the one hand, it is only through the contribution of ethnographic research that it becomes

possible to decode, or ‘interculturally translate’ according to Mario Ricca<sup>1</sup>, the facts, actions, behaviors and customs of others, so as to then select the applicable rules which take into consideration the different competing formants. On the other hand, the research has revealed how other social sciences have long developed their own definitions of interculturalism/interculturality, not necessarily corresponding to those transposed into the legal texts. In fact, legal science is probably the last of these disciplines to include an intercultural approach.

Research themes come in and out of ‘fashion’. For various contingent reasons, at times scientific publications proliferate on a given social issue. Examples include the COVID-19 pandemic, which has led lawyers, particularly constitutionalists, to reflect *en masse* on the legitimacy and limitations of emergency law; or the publication of a particularly impactful court judgment, such as the Dobbs case of the Supreme Court of the United States in 2022, which reopened the discussion on the right to abortion, not only in the USA, but worldwide. Sometimes these are ephemeral situations, which ‘disassemble’ over time as the resonance of the extraordinary event that caused them fades, as in the case of the pandemic. In other cases, novelty justifies the creation of a new branch of science, or a particular line of research, as happened with the Internet and, more recently, with Artificial Intelligence, a phenomenon that is generating broad discussions in the legal field regarding the body of legislation that will have to answer the ethical-legal questions its applications raise.

The study of interculturalism in the legal sciences corresponds, according to my personal experience, to both situations described above. On the one hand, some specific events, of a legal and socio-political nature, concentrated between 2005 and 2012, have given particular relevance to the theme. I refer to the adoption of various international documents that identify interculturality as a principle and an interpretative tool of general scope, for the construction of a fair and inclusive society. Examples are abundant: the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions; the 2008 Council of Europe White Paper on Intercultural Dialogue; the 2009 UNESCO Report on Investing in Cultural Diversity and Intercultural Dialogue; the establishment of the European Year of Intercultural Dialogue by the EU in 2008; the publication in Quebec in 2008 of the Final Report of the Bouchard-Taylor Commission, that recognizes interculturalism as an alternative public policy to multiculturalism within the Province; but above all, between 2008 and 2009, the new Constitutions of Ecuador and Bolivia, which proclaim their respective countries as ‘intercultural’, building around this principle a new form of state<sup>2</sup>.

In the same period, from a political and social point of view, the so-called “revolt of the banlieues” in France, in the autumn of 2005, has deeply marked world public opinion, as it broke out in a country that had made the ‘integration’ of its second and third generations of immigrants (even though through assimilation policies) its banner of inclusion. These events have opened a critical debate on the tools of cultural diversity management, which in 2011 brought Cameron, Merkel and Sarkozy, Heads of Government of three major European immigration states, to publicly declare, each independently, the failure of multiculturalism in Europe.

Jurists’ interest in intercultural studies<sup>3</sup>, catalyzed by the events mentioned above, has not, however, faded with the disappearance of media attention to the news related to the problems of the

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<sup>1</sup> Ricca (2023).

<sup>2</sup> Bagni (2017: 139 ff.).

<sup>3</sup> Rozbicki (2015: 1-23).

lack of integration of different generations of immigrants; neither with the weakening of the policies dedicated to the intercultural approach by European institutions and national governments after 2015; nor with the difficulties in implementing the constitutional mandate to apply intercultural principles in Ecuador and Bolivia.

The problems of coexistence in diversity generated by globalization are often presented to the public through a narrative of emergency and apocalypse, which has led Europe to a series of electoral rounds that are rewarding far-right parties and their solutions of wall-raising and refoulements at sea or at national borders<sup>4</sup>. Beyond this, lawyers who dedicate themselves to the new line of research of intercultural studies are aware that the only legal paradigm ‘that can save us’<sup>5</sup> is that which integrates multiculturalism and interculturalism. That is, recognition of cultural diversity, but on the assumption of the need for an effort of mutual understanding based on inter-subjectivity and inter-legality. Therefore, for some scholars, it is a matter of building a new branch of legal science, possibly questioning some cornerstones of the positivist paradigm. Undoubtedly, for all, it is not a matter of studying an ephemeral phenomenon or ‘a fashionable theme’, but rather a dedication to investigating the types of responses that law can give to one of the fundamental challenges of our globalized society<sup>6</sup>.

The new revolt of the third generations of immigrants in France, after the murder of the young French-Algerian Nahel, as well as the growing popular support for xenophobic and racist parties throughout Europe, can be partially explained with the ‘false’ integration policies implemented. They have formally defended diversity, accentuating the pressures of identity, without encouraging mutual understanding and the generation of a common language and culture in practice. On the other hand, the approach of the jurist remains overly dependent on the positivist paradigm, limiting itself to an investigation of formulas that are not tailored to the reality of social relations (and it must be said that from this point of view our project also suffers a deficit of abstraction). This generates the illusion that the word of the law is enough to change reality, forgetting that despite globalization, “people live first of all within the boundaries of their ‘home’ culture”<sup>7</sup>.

The special issue that we announce here proposes the publication in English of some of the entries that will be part of the volume “Interculturalismo. Lessico comparato” (edited by Silvia Bagni, Cinzia Piciocchi, Maria Chiara Locchi and Angelo Rinella, ESI, Naples, forthcoming), in response to the call for “an urgent need for a common conceptual lexicon”<sup>8</sup>, at least as a comparative meta-analysis of the state of the art of intercultural legal studies and current practices. From affirmative action to intercultural education, intercultural health to intercultural States to interculturalism in comparative law, from legal tradition(s), the millet system, multicultural States, multiculturalism and interculturalism (anthropology) to the political rights of migrants, our Lexicon aims to acknowledge and illustrate how interculturalism is represented, transposed, interpreted and applied through different formants in multiple comparative legal systems.

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<sup>4</sup> See, for example, Vox’s electoral program, <https://www.voxespana.es/programa/programa-electoral-vox>, pp. 99-103 on ‘Immigration’, which proposes, *inter alia*, the *immediate* expulsion of all migrants arriving illegally in Spain (stress added) and a naval blockade around the Spanish coasts to prevent landings.

<sup>5</sup> Mastropietro (2022).

<sup>6</sup> In my own work, I have proposed the idea of the ‘Caring State’ as a new form of state that bases the social contract on the principle of interculturality and an ecosystem approach: Bagni (2013).

<sup>7</sup> Rozbicki (2015: 14).

<sup>8</sup> Rozbicki (2015: 21). See also Mastropietro (2022: 89), who speaks of a “desired birth of an intercultural and global legal lexicon”.

The hope is that dialogue with other scholars on the subject, even non-jurists, could generate a constructive criticism, capable of bringing the research group to a new level of integration of legal studies with other sciences that deal with these same issues. The final goal would be to produce new knowledge, able to address the real problems people encounter in their daily mutual interactions between ‘Us’ and ‘Them’.

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