

# “We had something in mind, which then changed and became something different” – interview with Oreste Pollicino, co-founder of *Diritti Comparati*

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Oreste Pollicino

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**You founded [Diritti Comparati](#) in 2010. What motivated you to start a blog on comparative law in Italy?**

We started publishing the first posts in March 2010. *Diritti comparati* was a group project, a collective effort from the start: we started with three collaborators, myself, Alberto Alemanno and Andrea Buratti. Raffaele Torino joined the project a bit later. The idea was sparked by the factual situation of the Italian legal discourse. We noticed that in Italian academic debate, there was no platform or attempt to discuss comparative law, especially comparative public law, outside of classic law reviews. Law reviews require a lot of time, not only when drafting a piece, but also the submission process, waiting for the reply and the delay until publication. This makes timely reactions to specific events almost impossible. Our idea was based on the acknowledgement that there was a gap and we felt it was the right moment for us to fill this gap, to provide for a new space for debate on comparative law. We wanted to give our informal debates an at least semi-formal forum and a blog seemed like the obvious choice. The blog provides for a means to express one's opinion in a much less formal way than law reviews, and we wanted to provide a counterpoint to formality, which is a very typical trait of Italian legal scholarship.

**Did your idea of a less formal way of expressing one's opinion work on the blog?**

It worked somewhat. Of course, while some posts are less formal, others are more similar to shorter law review articles. We also noticed that debates did not take place in the comment section. People prefer to write another post as a reply instead of using the comment section. Usually, we do not have big debates around one single post, but more so on a topic that is then discussed in a number of different posts. The culture of blogging has also changed since we started. In the beginning, many people viewed the blog as a form of online law review and they submitted articles that could also have passed as paper-based law review articles. We then started to reject articles that would clearly have been accepted in a law review, but that were completely outside of what we envisioned for our blog. This was not easy. Legal scholarship in Italy is not used to a process where young law professors reject submissions, not even in the top-tier law reviews.

### **How would you describe the changes that came with requiring a specific form for blog posts?**

We feel that it is now accepted that we reject articles for the blog. People also got more used to the new format. There is a common understanding now that in order to publish on *Diritti Comparati*, there is no need for complete, in-depth citations, but that the format is different. Blogging means to be provocative, to be short and challenging. My impression – which I share with the other editors of the blog – is that there was a spontaneous convergence over the past few years. The new format also opened avenues to new authors, authors whom we didn't have in mind when we first started the blog. Of course, we also lost some people, who were disappointed that this was not just another law review. Instead of changing their style, they chose to change destination. But especially younger scholars took on the challenge of changing their style. I believe the younger generation might be more adaptable, more flexible than the older generation.

### **So you're saying that blogs might be especially attractive for younger scholars?**

Yes, absolutely.

### **Why do you believe that blogging might be especially attractive for younger scholars?**

For one, they are more used to online sources. Secondly, the editorial structure of law reviews also plays a role. It is not an easy path to publish in a law review, and sometimes, quality is not the only decisive factor. In Italy, like in many Mediterranean countries, there are excellent law reviews, but then, there are also others in which you mainly publish through connections. I don't think the blog is exclusively viewed as an alternative to law reviews – it works more as a supplement, because it works in a different way, without citations, with opinionated posts that are short. It is unthinkable to publish this type of posts in a law review. In addition, when the blog acquired visibility and started to be better known in the field of comparative constitutional and European law, visibility was an additional incentive to be published on the blog. Blog posts are a means to spread your opinion in a quite direct and effective way, and probably also more widely than through a law review. The blog also works as a forum to test your ideas, like a laboratory. You can submit your thoughts to immediate scrutiny of your peers: if your idea causes a lot of debate, it probably means that there is something behind it worth investigating, something worthwhile developing into an article. The blog is a tool to test your ideas at a preliminary stage.

### **When you created *Diritti Comparati*, were you inspired by existing blogs, either Italian or foreign ones?**

We looked at other blogs, mainly foreign ones, but mostly, we looked the domestic scientific field, and *Diritti Comparati* was a reaction to that. We knew that there were important comparative law blogs in the United States that had been around for many years. In Italy, the situation was different. When we started *Diritti Comparati*, there

were perhaps two other active blogs, but they were much more politically oriented. These were blogs on media law, law and economics, and they were characterized by the background of the author. They weren't open or neutral. We tried to challenge the academic scholarship by means of a blog that was different.

**Does that mean that a blog with a clear political stance, authored individually, wouldn't have been able to challenge domestic legal scholarship?**

Yes, I would say that. In order to challenge academic scholarship, you need to present yourself perhaps not completely neutral (maybe that's not really possible), but at least in a way that does not appear to be influenced by the theoretical and political background of a single author. I think that part of *Diritti Comparati's* development was thanks to the fact that we have four persons who came from different background, who did not share a particular theoretical approach, but rather the wish to provide a platform that was open to all kinds of contents. Even today, there aren't many blogs in public law.

**Are the changes you tried to effect through *Diritti Comparati* only on a format-level, or also on a content-level? Can the two be separated?**

It was certainly our aim to address both. We want to tackle transnational legal issues through a dialogue between public law scholars, European law scholars, international law scholars and others. But I should say that there is room for improvement, and I am not sure whether this is going to change very quickly. Much depends on the background of the authors. There are some authors who are more used to going abroad and to be inspired by alternative methodological pathways. It is easier for them to develop interdisciplinary approaches to the law. But generally speaking, there is a lot of room that needs yet to be explored. The attitude is to write about the legal field you know best, lest you fear to be criticized. Italian scholars are afraid of being wrong, inaccurate.

**Did you have particular topics in mind that you wanted to address on *Diritti Comparati*? And did it work?**

In the beginning, we had something in mind, which then changed and ultimately became something different. We originally had two large categories, one on judicial activity and judicial dialogue, focusing on courts, and one on comparative constitutional history and politics. So one category for current and future developments, and the other looking more into the past, because we thought it would be important to explore historical narratives in order to better understand the present. However, it turned out that the category on judicial dialogue was much more successful than the one on constitutional history. So we adjusted: you might see single posts dedicated to constitutional history or politics, but in general, they are book reviews, not original posts. The vast majority of posts discuss recent jurisprudence. The reason behind that, I believe, is quite simple: it is much easier to assess a judgment than to write an original post on constitutional politics or history, because you have the judgment with which to work. Case notes are in a way more compatible with the spirit of a blog, and they are absolutely prevalent on *Diritti Comparati* now.

### **Do you believe this development to be problematic?**

This is an issue that goes beyond the coordination of a blog. It touches upon general legal methodology and what we want to achieve with legal scholarship. In a way, focusing on court decisions discards a much older tradition, at least in constitutional law: there used to be a tradition that assesses all powers equally. But this trend of focusing mostly on courts is not only visible on the blog. If you look e.g. at PhD theses that are published in Italy, maybe one in five or even one in four will talk about the judiciary and address questions about judicial dialogue. In a way, that is a rejection of the “classic constitutional lawyer”.

### **Do you believe that the blog has the potential to move away from this development?**

It is difficult right now to imagine a blog in Italy that does not rely heavily on case notes. Maybe one could start with a commentary and then contextualize it in more general posts. That would be a two-step approach. Maybe this could be a challenge that ought to come from us, from the people running the blog. We have tried to foster new approaches, so why not this one? Another new approach that we have tried to support on *Diritti Comparati* concerns the linguistic aspect: when we started, it was easiest to run a blog in Italian, and it still predominantly in Italian. But more recently, we have tried to foster a more multilingual culture. We now publish more posts in English, also in Spanish and French. This was an input from the editors. So we do have a certain impact on how the blog works.

