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## In Memoriam -- Francisco V. Garcia-Amador

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## IN MEMORIAM

### FRANCISCO V. GARCÍA-AMADOR

BURTON A. LANDY\*

I had the privilege of knowing and working with Francisco (“Paco”) García-Amador for a number of years. He was a “gentleman and a scholar” in the true meaning of these words. Paco devoted a lifetime to international law and justice, first as public servant in international organizations and later as a professor of law. Through these activities he illuminated the path to follow for those of us in the private practice of international law. He richly deserved the title of “Lawyer of the Americas” and he will be missed.

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\* Founding member Paul, Landy, Beiley & Harper, P.A.

## VÍCTOR MIGUEL MARROQUÍN-MERINO\*

Hace solamente un mes que llamé a Don Francisco García-Amador para conversar sobre política exterior, derecho internacional, y escuchar sus buenos consejos de profesor y amigo. Como siempre, su voz estaba llena de chispa, buen humor y sabiduría. “Cuando vengas a Miami,” me dijo alegremente, “me llamas y almorzamos.” A pesar de la gran diferencia que había entre nuestras edades, podíamos conversar durante horas sin darnos cuenta del paso del tiempo.

El día de hoy llamé nuevamente a la Universidad de Miami, pero ese cariñoso “hola” con el que Don Francisco siempre me recibía no se escuchó en la línea telefónica. En vez de éste, las palabras de una secretaria me traspasaron el corazón. “Lo siento mucho,” me dijo, “el Profesor García-Amador falleció el día de ayer.”

Lloré amargamente, como los hombres lloramos cuando perdemos a un ser muy querido, tratando de comprender el por qué de su partida y esforzándome inutilmente por aceptar la realidad. Y es que Don Francisco García-Amador no era sólo uno de los más valiosos juristas de este siglo, sino también un maestro cariñoso y un hombre de admirable modestia y gran corazón. Los que lo veían sentado en su pequeña oficina en la Universidad de Miami no podían siquiera imaginar que en otros tiempos el anciano profesor había ocupado cargos tan altos como el de Embajador Plenipotenciario de la República de Cuba durante los años críticos previos a la Revolución, Consejero Jurídico de la Organización de los Estados Americanos, Embajador de Cuba ante las Naciones Unidas, y Presidente de la Comisión de Derecho Internacional de las Naciones Unidas durante sus años de producción más brillantes. En verdad, a pesar de éstos y otros muchos logros y de los innumerables honores que le fueron otorgados a lo largo de su carrera profesional, si en algo se reflejaba su grandeza de espíritu era precisamente en la humildad con la que trataba a los demás.

Para sus alumnos, Don Francisco significaba autoridad, la palabra precisa en el texto de un tratado, la honestidad absoluta en la investigación académica, y ese valor e integridad que distinguen a

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los grandes hombres de la historia: la capacidad de conceder, habiendo agotado todos los recursos disponibles, un sencillo “discúlpeme, pero no sé la respuesta a su pregunta.” Una vez, en un trabajo que escribí en uno de sus cursos de derecho internacional, cité textualmente las palabras de un famoso tratadista, pero subrayadas para que tuvieran mayor énfasis. Don Francisco me llamó a su oficina, y con esa voz calmada y bondadosa que siempre lo caracterizaba, me dijo, señalando el pasaje con un lápiz, “Victor, cuando subrayes las palabras de un autor, así sean las de tu abuelito, indica en un paréntesis que el énfasis es tuyo. Tu carrera como abogado depende mucho de la exactitud de tu expresión y de la credibilidad que poco a poco vayas adquiriendo. Son dos principios importantes que no puedes olvidar.”

Sí, Don Francisco era un hombre para quien los más pequeños detalles siempre fueron importantes. Pero también era un hombre de gran visión. Su impresionante capacidad de observación y su gran habilidad en el análisis jurídico lo llevaron a adquirir fama mundial en el campo del derecho internacional. Hoy en día, no puede hacerse un estudio serio sobre la teoría de la responsabilidad internacional del estado sin recurrir a la gran obra que él realizó sobre el tema en el seno de la Comisión de Derecho Internacional. De igual manera, su tratado sobre reclamaciones internacionales ha dado la vuelta al mundo, y no hay abogado que se respete en el área internacional que no acuda a sus líneas en busca de un consejo, de un fallo preciso, de un comentario brillante, de una salida airosa frente a lo que parece no tener solución.

Su amor por Cuba le costó su carrera. Hombre de principios, en su calidad de Embajador de Cuba ante las Naciones Unidas en Ginebra, Don Francisco se rehusó a obedecer las órdenes de Fidel Castro. El sabía que esa acción le costaría la carrera, ya que en ese entonces estaba siendo considerado para ser elegido magistrado de la Corte Internacional de Justicia en La Haya, Holanda. Para un joven diplomático como él, ése era el pináculo de su carrera. Sin embargo, cuando llegó la hora de tomar la decisión, su amor por la patria estuvo primero. Expulsado del cuerpo diplomático cubano y despojado injustamente de su rango de Embajador, nunca más pudo regresar a Cuba.

Recibido con los brazos abiertos en las universidades de Columbia y Harvard, de las que fue uno de sus ex-alumnos más destacados, Don Francisco prefirió la cátedra de derecho internacional en la Universidad de Miami. Quería mucho a Cuba, y el estar cerca

de ella era mayor satisfacción para él que el prestigio y remuneración que otros puestos pudieran ofrecerle. Gracias a esa decisión, nuestros caminos se cruzaron y tuve el privilegio de conocerlo y ser su alumno en las aulas de Miami. Casi al término de mis estudios, escribió una carta recomendando mi admisión a la Universidad de Harvard. Allá, su nombre abrió muchas puertas y evocó sonrisas afectuosas de antiguos colegas y distinguidos maestros. A mi llegada a Cambridge, tal como él me lo había pedido, llevé sus saludos personales al Profesor Milton Katz, quien había sido Embajador del Plan Marshall en Europa en los años de la posguerra. Todavía recuerdo la seriedad con la que me recibió el Profesor Katz cuando no sabía quien era, y la gran sonrisa que apareció en su rostro cuando le mencioné el nombre de Francisco García-Amador.

Podría pasarme horas contando anécdotas de nuestra amistad y de los años felices que compartimos como profesor y alumno. Pero aún si eso fuera posible, ninguno de mis relatos le haría justicia. Don Francisco fue sencillamente una persona incomparable; brillante, humilde, sabio y generoso.

Don Francisco, desde aquí, todos los que tuvimos el privilegio de tenerlo como profesor, amigo y consejero, lloramos su partida. Sin embargo, en medio de nuestro inmenso dolor, nos alegra recordar que su nobleza y enseñanzas quedarán siempre con nosotros. Dios ha de querer que un día nos encontremos de nuevo y disfrutemos de ese almuerzo que el destino no quiso que llegáramos a compartir. Hasta ese entonces, con gratitud eterna por su bondad y gran corazón, y orgulloso de haber sido su alumno y amigo, le digo solamente, tal como usted me dijo el último día que tuve la alegría de escuchar su voz, "hasta luego."

## FRANCISCO ORREGO VICUÑA\*

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## I. AN OUTSTANDING LATIN AMERICAN SCHOLAR

F.V. García-Amador can be counted among the very few Latin American scholars who made a significant contribution to the development of international law in the second half of this century. When the aggregate of his work is examined in perspective, it is not difficult to realize how penetrating his legal analysis was, and how perceptive his writings could be in defining trends and in anticipating the evolution which the law would follow.

The International Law Commission provided the framework for two of the subjects in which his contribution was distinctly made: The Law of State Responsibility and The Law of the Sea. The Legal Department of the Organization of American States (OAS), which he headed so distinguishably for many years, provided the setting for two other main areas of contribution: the evolving law of the Inter-American System and the law governing economic integration in Latin America. The University of Miami School of Law witnessed all this work coming to new heights of maturity and consolidation.

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## II. THE CHANGING LAW OF INTERNATIONAL CLAIMS

Under this title, García-Amador consolidated many years of work devoted to the subject of state responsibility and related aspects. As the Special Rapporteur of the International Law Commission on this matter, he prepared six reports between 1956 and 1961,<sup>1</sup> the last of which contained the *addendum* with the notable *Revised Draft on International Responsibility of the State for Injuries Caused in its Territory to the Person or Property of Aliens*.<sup>2</sup> The discussion was also developed in lectures delivered at the Hague Academy of International Law,<sup>3</sup> his comprehensive book published in Spain,<sup>4</sup> and his research at Harvard University.<sup>5</sup>

*The Changing Law of International Claims*<sup>6</sup> was published at a time of crisis and uncertainty in international law. The concept of the New International Economic Order had gained some degree of recognition in United Nations Declarations. Restrictive attitudes towards foreign investments had become manifest in regional agreements, such as the Andean Group Decision 24, and nationalization of foreign-owned property was a recurrent phenomenon in the developing world. Underlying all such instruments was a concerted contestation of international law, not exempt from strong ideological and political connotations.

García-Amador took issue with such developments and reaffirmed the validity of international law in the context of evolving

1. F.V. García-Amador, Special Rapporteur, *International Responsibility: First Report by F.V. García-Amador*, [1956] 2 Y.B. Int'l L. Comm'n 173, U.N. Doc. A/CN.4/96; F.V. García-Amador, Special Rapporteur, *International Responsibility: Second Report by F.V. García-Amador*, [1957] 2 Y.B. Int'l L. Comm'n 104, U.N. Doc. A/CN.4/106; F.V. García-Amador, Special Rapporteur, *International Responsibility: Third Report by F.V. García-Amador*, [1958] 2 Y.B. Int'l L. Comm'n 47, U.N. Doc. A/CN.4/111; F.V. García-Amador, Special Rapporteur, *International Responsibility: Fourth Report by F.V. García-Amador*, [1959] 2 Y.B. Int'l L. Comm'n 1, U.N. Doc. A/CN.4/119; F.V. García-Amador, Special Rapporteur, *International Responsibility: Fifth Report by F.V. García-Amador*, [1960] 2 Y.B. Int'l L. Comm'n 41, U.N. Doc. A/CN.4/125; F.V. García-Amador, Special Rapporteur, *International Responsibility: Sixth Report by F.V. García-Amador*, [1961] 2 Y.B. Int'l L. Comm'n 1, U.N. Doc. A/CN.4/134 [hereinafter García-Amador, *International Responsibility*].

2. García-Amador, *International Responsibility*, Sixth Report, *supra* note 1, at add. 1.

3. F.V. García-Amador, *State Responsibility: Some New Problems*, 94 RECUEIL DES COURS DE L'ACADEMIE DE DROIT INTERNATIONAL 365, 369-493 (1958).

4. F.V. GARCÍA-AMADOR, PRINCIPIOS DE DERECHO INTERNACIONAL QUE RIGEN LA RESPONSABILIDAD: ANÁLISIS CRÍTICO DE LA CONCEPCIÓN TRADICIONAL (1963).

5. F.V. GARCÍA-AMADOR ET AL., RECENT CODIFICATIONS OF THE LAW OF STATE RESPONSIBILITY FOR INJURIES TO ALIENS (1974).

6. F.V. GARCÍA-AMADOR, THE CHANGING LAW OF INTERNATIONAL CLAIMS (1984).

circumstances.<sup>7</sup> His writings are abundantly clear that his thinking was aimed, not at impeding a rightful evolution of the law, but rather at ensuring that international law should meet the legitimate concerns of both developed and developing nations. In this perspective, his contribution became most valuable, and the passage of time would prove him right.

In point of fact, the traditional reluctance of Latin American and other third world countries to accept international standards for the protection of foreign investments and the submission of related disputes to international adjudication gradually gave place to an attitude of moderation, in the light of which the Calvo Clause was laid to rest. Similarly, major capital exporting countries abandoned forms of abusive diplomatic protection which had at the origin led to adverse reactions on the part of host countries. This reciprocal effort at moderation explains the success of the International Center for the Settlement of Investment Disputes,<sup>8</sup> the Multilateral Investment Guarantee Agency,<sup>9</sup> and similar contemporary developments.

As aptly put by García-Amador, “[m]oderate, well-balanced revisions must be considered, as they were in the past, a *conditio sine qua non* in the current pursuit of a new international legal order. All legitimate interests, regardless of the particular categories of countries, must merit recognition and adequate protection under such a proposed legal order.”<sup>10</sup>

It is in the light of this perspective that the whole of his approach to the question of state responsibility for injury to aliens was based. In turn, this would indicate a necessary path for the later work of the International Law Commission on the question of responsibility and liability, although it should not pass unnoticed that on occasion the effort of this body to introduce conceptual innovations has resulted in a step backwards.<sup>11</sup> The principles of

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7. F.V. García-Amador, *The Proposed New International Economic Order: A New Approach to the Law Governing Nationalization and Compensation*, 12 *LAW AM.* 1 (1980); see also F.V. García-Amador, Note, *Current Attempts to Revise International Law: A Comparative Analysis*, 77 *AM. J. INT'L L.* 286 (1983).

8. Convention on the Settlement of Investment Disputes Between States and Nationals of Other States, Mar. 18, 1965, 17 U.S.T. 1270, 575 U.N.T.S. 159.

9. See generally IBRAHIM F.I. SHIHATA, *MIGA AND FOREIGN INVESTMENT: ORIGINS, OPERATIONS, POLICIES, AND BASIC DOCUMENTS OF THE MULTILATERAL INVESTMENT GUARANTEE AGENCY* (1988).

10. F.V. GARCÍA-AMADOR, *supra* note 6, at 754.

11. For a criticism of the International Law Commission approach to the question of



international law governing the matter, as rightly identified by García-Amador, are perfectly adequate to attend a variety of new situations if applied within a framework of balanced rights and obligations.

### III. BALANCED PERSPECTIVES ON THE LAW OF THE SEA

It is most interesting to realize that García-Amador's contribution to the development of the Law of the Sea followed an intellectual pattern closely related to that examined above in relation to international claims. Also in the Law of the Sea a confrontational attitude had come to characterize the policy of governments in the 1950s, which was reflected in Latin American legislation and state practice. The work of major scientific bodies, such as the International Law Commission at the time and the Inter-American Council of Jurists, on both of which García-Amador participated prominently, also reflected the confrontational attitude.

In this turmoil, both the First and Second United Nations Conferences on the Law of the Sea took place, in 1958 and 1960 respectively. Again in this framework of negotiation, García-Amador took an active role, not only on behalf of the fishing interests of Cuba, but also in the search of a mutually acceptable understanding between the differing views involved.

This he could do because he knew well the Latin American points of view and concerns. He had worked decisively in the formulation of a regional doctrine, with particular reference to the Declaration of Mexico on The Principles of the Juridical Regime of the Sea (1956)<sup>12</sup> and the Inter-American Specialized Conference held in the Dominican Republic shortly thereafter.<sup>13</sup>

He focused his efforts on how to find an accommodation between the claim of coastal states in Latin America to a greater share in the exploitation and conservation of the living resources of

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international liability for injurious consequences arising out of acts not prohibited by international law (1982-1983), see Francisco Orrego Vicuña, *State Responsibility, Liability, and Remedial Measures under International Law: New Criteria for Environmental Protection*, in ENVIRONMENTAL CHANGE AND INTERNATIONAL LAW 124, at 139-40 (Edith Brown Weiss ed., 1992).

12. INTER-AMERICAN COUNCIL OF JURISTS, ACTS AND DOCUMENTS OF THE THIRD MEETING (1956); see also F.V. GARCÍA-AMADOR, PRIMERA REUNIÓN DEL CONSEJO INTERAMERICANO DE JURISCONSULTOS (1950).

13. Inter-American Specialized Conference on Conservation of Natural Resources: Continental Shelf and Marine Waters, (Pan-American Union, 1956).

the sea and the rightful interest of distant-water fishing nations. He also had to ensure that this would prevent, on the one hand, the excessive extension of the breadth of the territorial sea and, on the other, the depletion and over-exploitation of such resources.

The contribution that García-Amador made to this search was remarkable, not only because of what it meant at that time but, above all, because it set the approach which years later would make possible an understanding on the Exclusive Economic Zone and other jurisdictional issues of the contemporary Law of the Sea. Such contribution is well explained in his important book on *The Exploitation and Conservation of the Resources of the Sea*,<sup>14</sup> and later works on Latin American legislation and other aspects.<sup>15</sup>

A first and fundamental starting point was to define the freedom of the high seas not as an entitlement to unrestricted exploitation of resources, but as a right, subject to the corresponding duties of conservation and due regard for the interests of other states. Conversely, coastal states could assert rights to areas of the high seas adjacent to their territorial sea—which in turn could be enlarged within a restrained breadth—but such rights were not “exclusive” in nature and equally subject to the duties of conservation and due regard for the interest of others. Such non-territorial forms of maritime jurisdiction were brought under the concept of the “specialized competences” of the coastal state.

Two-hundred mile claims were explained by García-Amador in this new light, and being to a large extent deprived of their territorial content, this paved the way for reaching the necessary accommodations. Such an accommodation would take years to mature, but as García-Amador wrote: “[w]hat we are faced with here is not merely the emergence of new rules of law within the framework of the old system; it is rather the fact that the traditional concepts and principles are undergoing a substantial evolution.”<sup>16</sup>

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14. F.V. GARCÍA-AMADOR, *THE EXPLOITATION AND CONSERVATION OF THE RESOURCES OF THE SEA* (1959).

15. F.V. GARCÍA-AMADOR, *LA JURISDICCION ESPECIAL SOBRE LAS PESQUERIAS: LEGISLACIONES NACIONALES Y PROPUESTAS DE GOBIERNOS* (1972); F.V. GARCÍA-AMADOR, *AMÉRICA LATINA Y EL DERECHO DEL MAR* (1976); F.V. GARCÍA-AMADOR, *LATIN AMERICA AND THE LAW OF THE SEA* (Law of the Sea Institute Occasional Paper No. 14, 1972); F.V. GARCÍA-AMADOR, *The Latin American Contribution to the Development of the Law of the Sea*, 68 *AM. J. INT'L L.* 33 (1974).

16. F.V. GARCÍA-AMADOR, *supra* note 14, at 201.

#### IV. THE LAW GOVERNING THE INTER-AMERICAN SYSTEM: A COHERENT APPROACH

A third major contribution which García-Amador made to the development of international law came after his forced exile from Cuba. When appointed to serve as the Director of the Legal Department of the OAS, the practice of both regional institutions and governments was manifold, but to a large extent lacked cohesiveness and precision. It was indeed the outcome of a long historical evolution, fraught with problems of competing interests and views, often resulting in compromises of uncertain legal meaning.

García-Amador undertook the demanding task of providing a systematic analysis of such law and practice, with which he was indeed familiar for having served long as a member of the Inter-American Council of Jurists and as a representative to a number of regional meetings and activities. This task was certainly not easy to achieve because necessary balances had to be kept and, above all, the law itself was subject to a continuing evolution, particularly rapid at the time of the Alliance for Progress and the role which the OAS performed thereunder.

The first such comprehensive analysis was published under the title *The Inter-American System, Its Development and Strengthening*.<sup>17</sup> Characteristic of his modesty, this book did not carry his name as the author, but that of the Inter-American Institute of International Legal Studies, which he had created and inspired. A second major work of annotation and compilation was published years later, containing a coherent explanation of all major treaties and documents of the Inter-American System.<sup>18</sup> Both works drew heavily on the many legal opinions he had to prepare while serving as Head of the Legal Department and, which to an important extent, helped to shape the evolution of the governing law.

This contribution could be explained by examining a number of subjects, but perhaps none would serve as a better example than the precision that García-Amador introduced to the concept of "political defense" which had been evolving within the Inter-

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17. INTER-AMERICAN INSTITUTE OF INTERNATIONAL LEGAL STUDIES, *THE INTER-AMERICAN SYSTEM: ITS DEVELOPMENT AND STRENGTHENING* (1966).

18. ORGANIZATION OF AMERICAN STATES, *THE INTER-AMERICAN SYSTEM: TREATIES, CONVENTIONS AND OTHER DOCUMENTS* (F.V. García-Amador ed., 1982).

American Security System.<sup>19</sup> The preservation of democracy, and later of human rights, had become paramount concerns of the security arrangements in the Western Hemisphere. Activities against such values generally fell within the concept of "aggression which is not an armed attack" foreseen in the Rio Treaty and the OAS Charter. However, a more precise definition was needed in order to implement lawful measures of self-defense to cope with such threats.

Aggression of a non-military character and other acts of intervention, with particular reference to the shipment of arms, affecting the political independence, territorial integrity, and stability of democratic institutions of countries in the region, were identified as a part of the definition sought.<sup>20</sup> This issue would later become paramount in the decision of the International Court of Justice in the case of *Military and Paramilitary Activities in and against Nicaragua*,<sup>21</sup> but as it had happened before with legal concepts originating in the regional system, the Court failed to take note of such a development.

Be that as it may, the point of relevance is that various forms of "indirect aggression" have come to be viewed as falling within the realm of violations of international law, thus justifying measures of self-defense, self-help, and countermeasures generally. The Inter-American System, and the contribution of García-Amador thereto, are at the very heart of this solution.

#### V. THE LEGAL ORDER OF LATIN AMERICAN ECONOMIC INTEGRATION: AN ATTEMPT AT RATIONALIZATION

At the time when García-Amador joined the OAS, the economic development of Latin America had gained a new momentum under the Alliance for Progress and other hemispheric priorities. The economic integration of Latin American countries constituted a major objective of all such programs. However, it was also quite apparent that the legal and institutional requirements had been to

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19. INTER-AMERICAN INSTITUTE OF INTERNATIONAL LEGAL STUDIES, *supra* note 17, at 113-18.

20. *Id.* at 114-15; see also F.V. GARCÍA-AMADOR, LA CUESTIÓN CUBANA EN LA OEA Y LAS CRISIS DEL SISTEMA INTERAMERICANO (1987); F.V. García-Amador, *The Rio de Janeiro Treaty: Genesis, Development, and Decline of a Regional System of Collective Security*, 17 U. MIAMI INTER-AM. L. REV. 1; F.V. García-Amador, *The OAS Charter After Forty Years*, in PROCEEDINGS OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW 111-14 (1988).

21. *Military and Paramilitary Activities (Nicar. v. U.S.)*, 1986 I.C.J. 4 (June 27).

a large extent overlooked, thereby creating a situation of uncertainty and lack of predictability which contributed little to the success of such initiatives.

The Inter-American Institute of International Legal Studies and other institutions, such as the Institute for the Economic Integration of Latin America, which the Inter-American Development Bank had established in Buenos Aires, undertook the task of attempting a legal rationalization of such complex economic developments. García-Amador was again at the forefront of this effort. First, he published under the name of the former Institute, *Instruments Relating to the Economic Integration of Latin America*,<sup>22</sup> a very much needed compilation.

This was followed by a series of conferences and courses organized both in Central and South America in order to discuss specific issues relating to the law of economic integration and its implementation at the domestic level.<sup>23</sup> This successful program was completed with the publication of *Derecho de la Integración Latinoamericana, Ensayo de Sistematización*,<sup>24</sup> a major treatise on the subject which not only achieved the desired rationalization, but projected the law into new areas of progressive development. Again characteristically, García-Amador's name does not appear as the author. The influence of this work in the region was well-known and helped to overcome very intricate legal issues arising both under international law and the national legal systems.

An additional effort was undertaken by García-Amador at the University of Miami School of Law in the context of the systematic analysis of *The Andean Legal Order, A New Community Law*.<sup>25</sup> Regrettably, however, the Andean Group would soon thereafter

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22. INTER-AMERICAN INSTITUTE OF INTERNATIONAL LEGAL STUDIES, *INSTRUMENTS RELATING TO THE ECONOMIC INTEGRATION OF LATIN AMERICA* (1968).

23. INTER-AMERICAN INSTITUTE OF INTERNATIONAL LEGAL STUDIES, *ROUND TABLE ON THE INTEGRATION OF LATIN AMERICA AND THE CONSTITUTIONAL QUESTION* (1967); INTER-AMERICAN INSTITUTE OF INTERNATIONAL LEGAL STUDIES, *SPECIAL MEETING ON LEGAL AND INSTITUTIONAL ASPECTS OF FOREIGN PRIVATE INVESTMENT* (1964); INTER-AMERICAN INSTITUTE OF INTERNATIONAL LEGAL STUDIES, *SECOND SPECIAL MEETING ON LEGAL AND INSTITUTIONAL ASPECTS OF FOREIGN PRIVATE INVESTMENT* (1965); INTER-AMERICAN INSTITUTE OF INTERNATIONAL LEGAL STUDIES, *ROUND TABLE ON THE JURIDICAL AND INSTITUTIONAL PROBLEMS OF THE ANDEAN SUB-REGIONAL AGREEMENT* (1970); *see also* INTER-AMERICAN INSTITUTE OF INTERNATIONAL LEGAL STUDIES, *INAUGURAL MEETING* (1964); INTER-AMERICAN INSTITUTE OF INTERNATIONAL LEGAL STUDIES, *FIVE YEARS OF ACHIEVEMENT 1963-1968* (1968).

24. INSTITUTO INTERAMERICANO DE ESTUDIOS JURÍDICOS INTERNACIONALES, *DERECHO DE LA INTEGRACIÓN LATINOAMERICANA. ENSAYO DE SISTEMATIZACIÓN* (1969).

25. F.V. GARCÍA-AMADOR, *THE ANDEAN LEGAL ORDER, A NEW COMMUNITY LAW* (1978).

enter into a period of stagnation not having realized in time that changes in its orientation were required in the light of the new economic policies pursued in the region.

## VI. THE GOVERNING ROLE OF INTERNATIONAL LAW IN POLITICAL AND ECONOMIC RELATIONS: THE LESSONS OF GARCÍA-AMADOR'S LIFETIME

García-Amador came to complete a full circle in the devotion of his lifetime to international law. His first monograph was published in 1946 under the title *Derecho y Realidad en la Vida Internacional*,<sup>26</sup> containing lectures that he had delivered in Ecuador, Peru, Colombia, and Guatemala. Therein, looking at the prevailing international political system, he came to the conclusion that

it can be easily observed that the extension and intensity of international relations is progressively increasing in view of the important role they have in the domestic life of all nations, and it is therefore much easier to understand why such relations must be subject to the appropriate regulation which we can find only under the rule of law.<sup>27</sup>

Such views were expounded in another important book published in Madrid in 1959: *Introducción al Estudio del Derecho Internacional Contemporáneo*.<sup>28</sup> Years later, in the full maturity of his legal thinking, he published *The Emerging International Law of Development*, his last major book.<sup>29</sup> In it, García-Amador came to identify "equity" and the "common interest" as the essential components of the law of development:

Thus, the ideas of "equity" and "common interest" or interdependence furnish the rationality of the right to development as well as the duties and responsibilities of the international community, especially its more developed members, to cooperate in

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26. F.V. GARCÍA-AMADOR, *DERECHO Y REALIDAD EN LA VIDA INTERNACIONAL* (1946) [hereinafter F.V. GARCÍA-AMADOR, *DERECHO Y REALIDAD*]. An earlier work had been published on questions of private international law, with an introduction by the distinguished Cuban jurist Antonio Sánchez de Bustamante y Sirven. See F.V. GARCÍA-AMADOR, *DOCTRINA DE DERECHO INTERNACIONAL PRIVADO* (1941).

27. GARCÍA-AMADOR, *DERECHO Y REALIDAD*, *supra* note 26, at 34. (author's translation).

28. F.V. GARCÍA-AMADOR, *INTRODUCCIÓN AL ESTUDIO DEL DERECHO INTERNACIONAL CONTEMPORÁNEO* (1959).

29. F.V. GARCÍA-AMADOR, *THE EMERGING INTERNATIONAL LAW OF DEVELOPMENT* (1990).

the achievement of the goals and objectives of the new order.<sup>30</sup>

Again the concept of the rule of law, cooperation, and the dismissal of surpassed forms of confrontation characterized his analysis, this time in the field of economic relations. This was indeed the essence of García-Amador's lifetime dedication to international law.

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30. *Id.* at 81.

## KEITH S. ROSENN\*

Professor Francisco García-Amador was a “major league” scholar, whose many books and articles made important contributions in shaping public international law. The sheer number of his publications is impressive, but even more impressive is the quality of his scholarship. His writing is clear, thoughtful, and thorough. More importantly, it is wise. I have always been impressed by the soundness of his judgments and acuity of his perceptions. His writing is constantly cited by modern authors as leading authority in the areas of Inter-American Law, International Claims, and Law of the Sea. I have also been impressed by his ability to write clearly and elegantly. This is a difficult feat to perform in one’s native language. Professor García-Amador, however, was one of those rare individuals who managed to write clearly and elegantly in both Spanish and English.

Professor García-Amador had several successful careers. In his first career, he taught law at the Inter-American University in Panama, and at the Universities of Havana and Villanueva in Cuba. In 1958, he was invited to lecture at The Hague in the prestigious Académie de Droit International. From 1962 to 1977, he served with distinction as the Director of the Department of Legal Affairs of the Organization of American States. His final career brought him back to academia, serving as a member of the faculty of the University of Miami School of Law and the Graduate School of International Studies. He continued to be an incredibly productive scholar right up to the time of his death.

Professor García-Amador trained well for his many successful careers. He received his initial law degree from the University of Havana, where he studied under Cuba’s most distinguished legal scholar, Antonio Sánchez de Bustamante. He then came to the United States, where he earned an LL.M. degree from Harvard Law School, and a M.A. and Ph.D. from Columbia University.

He never forgot the rigors of studying law in another language and in another culture. He took special care of the foreign LL.M. candidates at the University of Miami, spending countless hours

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helping students rewrite papers, again and again, until they finally produced a piece that met his exacting standards. A number of students would not have graduated, were it not for the painstaking efforts of Professor García-Amador. He regarded no student as hopeless. He remembered the personal attention that he had received from some of his professors at Harvard and Columbia, and felt a continual obligation to repay that kindness and consideration in kind.

Professor García-Amador had friends everywhere. I do not recall visiting any Latin American country without having a number of jurists send their special regards to "Paco," as he was affectionately called by his friends. Paco was, as my wife Silvia constantly reminded me, *uma pessoa finíssima*, one of those untranslatable Brazilian expressions used to describe a person who possesses in great abundance the qualities of good manners, grace, elegance, style, tact, and diplomacy. In short, Paco was a true gentleman in the finest sense of the term, as well as a diplomat and scholar. He was also a dear friend. He will be sorely missed.