

#MPIL100

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Science often begins with a coincidence. Or more precisely: a moment of serendipity, that happy opportunity that enables and produces knowledge in the seemingly unintentional coincidence of constellation and event. In the winter of 1924/25, such a stroke of luck occurred for international law scholarship. Viktor Bruns, Professor of Constitutional and International Law at the Friedrich Wilhelm University in Berlin since 1912, had, as his wife Marie later noted in her diary, “often and carefully considered the plan for a German textbook on international law in recent years”. He read books and brochures, “had Mrs. Wolff and legal assistants or students tell him about the contents of books so that he didn’t have to read through everything himself”. However, he soon realised that it would take more than a few clever and hard-working employees to achieve the overall vision he had in mind. What was needed was an institute. A few weeks before Christmas, according to Marie Bruns, he casually let this idea slip into a conversation with Friedrich Glum, the Director General of the Kaiser Wilhelm Society, which was founded in 1911. “Glum immediately took it up very enthusiastically. “But that could be done very well”, said the influential Prussian science manager; “last year our society was granted too much money. We can use the surplus for your institute. But we must act quickly, otherwise others will beat us to it with foolish endeavours. For example, an institute for theatre studies is being planned – what is the practical use of that?”.

If we can trust the zealous chronicler Marie Bruns, then this is how it all began on a winter’s day in the mid, often romanticised golden years of the Weimar Republic. Of course, there were still some battles to be fought. Allies were needed in science and politics and an effective advance team, led by Marguerite Wolff, “housewife of the new institute” and simultaneously in charge of a legal department. It took a founding group with a librarian, five assistants and five secretaries to support Director Bruns in the institute’s rooms in the Berlin Palace. But the “Institute for Foreign Public Law and International Law”, which was joined by a sister institute of private law in 1926, had become a reality – a first-class centre of legal expertise, well equipped with books, journals, documents and bright minds. A centre for basic research, a think tank for international law, an ivory tower, and an advocacy office.

The Max Planck Institute for Comparative Public Law and International Law (MPIL), which has been continuing the tradition of the Berlin foundation in Heidelberg since 1949, can now look back on 100 years of history. As an institution for basic research in international law, European Union law and comparative public law, The Institute is recognised far beyond the German-speaking legal community. By analysing current legal problems, the MPIL not only contributes to the theoretical development of law, but it also advises national, European, and international institutions. Throughout its history, the Institute and its staff have been involved in pioneering legal and political developments and have often made (legal) history themselves. Thus, there are ample reasons to commemorate and reflect on the historical development of the

institute and its contribution to science and practice on the special occasion of the anniversary.

History as a Problem? The State of Historical Information

History, it seems, has always been a problem for the Institute for Comparative Public Law and International Law. History was a matter of dissent, because for a long time, history was the overriding issue for the MPIL regarding the positioning of the institute and its staff in relation to the Third Reich. In those times, everything was represented: convinced supporters, skeptical observers, silent rejecters, and someone who dared to rebel against the system at the risk of his life. There were those who were expelled and persecuted after 1933, there were those who were deemed “incriminated” after 1945 and those who were quickly “exonerated”, there were those who kept the institute alive and embodied it through all system changes and disruptions. Sometimes there were good reasons to forget, but many things were lost in passing over the decades. Since its re-establishment in Heidelberg in 1949, the Institute has primarily looked to the future, pursuing jurisprudence at the pulse of the times, but was reluctant to address itself and its history, as was German society as a whole at the time.ⁱ The focus was not on the past, but on the major tasks of the present, which ranged from legal support for the reconstruction of the Federal Republic of Germany to the process of Western integration. Nonetheless, scholars have repeatedly studied the history of the institute. To date, however, a wide-ranging historiographical account has been lacking. With the exception of an essay by Ingo Hueck from the year 2000, the eventful history of the Berlin KWI from 1924 to 1945 has hardly been dealt with.ⁱⁱ Rudolf Bernhardt and Karin Oellers-Frahm, who themselves played an important role in the history of the institute for decades, published a chronicle in 2018 that documents the history of the institute since its re-founding in Heidelberg along directorial research agendas and outputs.ⁱⁱⁱ Felix Lange paved the way with his biography of Hermann Mosler and various individual studies.^{iv} Yet a great deal has remained unexplored and untold, much has been lost and suppressed, and many have been forgotten.

A Critical Look at the Institution: Culture of Remembrance, Networks and Canonisation Processes

[The MPIL100 blog](#) aims to take this opportunity as a starting point, to identify and fill historical gaps, but also to stimulate further questions. It will rethink current issues in the MPIL’s fields of research in their historical context and also look at the players who have worked at the institute over the past 100 years. The Institute’s formalised and informal networks will be of great importance.

Particular attention will be paid to the culture of remembrance and canonisation processes within the Institute, ensuring that those individuals who were previously overlooked due to their gender, origin, religious, or political orientation, particularly as a result of persecution during the Third Reich and in the course of the democratic transition after 1945, are brought back into focus. In doing so, a wide range of persons will be covered, including actors who, as non-scientific staff in the

administration, building services, or the library, have shaped the institute, in some cases over many decades, and helped to make its academic work possible.

A New Reading of the Old: Aspects of Disciplinary History

With the aid of historical distance, we would also like to take a fresh and critical look at the Institute's research achievements. This concerns the diversity and breadth of the research topics of the last hundred years, which begin with the dispute over the Treaty of Versailles in 1924 and extend to the League of Nations, martial law in the Second World War, European integration in the 1950s, German reunification, and the founding of the European Union. Whether comparative constitutional law, international and European law, human, animal, and environmental rights – these numerous academic developments are traced within the context of their origins and impact. This also includes an examination of the positioning of the Institute and its staff on historically critical topics and political contexts, such as the attitude towards the Third Reich and the ideology of National Socialism or colonisation. Access to these topics can be gained by analysing the numerous publications and editions for which the Institute is and was responsible. Since 1927, more than 300 volumes have been published in the "[Beiträge zum ausländischen öffentlichen Recht und Völkerrecht](#)", while the "[Zeitschrift für ausländisches öffentliches Recht und Völkerrecht](#)" has brought out more than 80 issues since 1929. Both encompass the central and longest-running publication organs and with this are a reflection of the Institute's academic production. The blog provides an opportunity and forum to re-read and comment on these publications with today's perspective and our questions about history.

From Technical Essay to Diary: The Sources

In addition to the academic publications, there are a wide range of other sources that can shed light on the history of the institute. During initial research, numerous previously unexplored documents were discovered, which are being scientifically analysed for the first time on this blog. These include legal opinions and information from the Heidelberg Institute, which bear witness to its legal advisory activities for ministries, authorities, and courts. Files on self-organisation, such as historical personnel and administrative files, enable socio-historical analyses of the Kaiser Wilhelm Institute's staff, while letters and previously lost archives of important Institute personalities help to reconstruct scientific networks. Last but not least, first-person documents such as Marie Bruns' diary entries and other autobiographical reflections by former members of the Institute open up personal perspectives on the Institute and its scholarly work. This is complemented by a large number of surviving photographs and early sound and film recordings, which the blog will provide a forum for. These will be combined with interviews featuring historical witnesses, which will also appear on the blog.

A Kaleidoscope of Perspectives

[MPIL100](#) aims to facilitate an inclusive, dynamic, and interconnected form of multi-perspective historiography and its transmission. We invite researchers from various disciplines to participate in our project. Active and former members of the Institute

are just as welcome as external researchers. Our blog aims to question existing narratives and interpretations of the Institute's work and history and draws on a variety of academic and interdisciplinary perspectives from Germany and abroad. In order to take account of the open and globally networked structure of the Institute and its multilingualism, the blog posts will appear in German and English, and in some cases also in Spanish and French. Reflecting on an institution and its players over time should also stimulate and enable a discussion of today's actors and the conditions of legal knowledge production. We invite you to participate and look forward to welcoming committed contributors and an eager audience.

ⁱ Hermann Mosler, 'Das Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht', *Heidelberger Jahrbücher XX* (1976), 53-78.

ⁱⁱ Ingo Hueck. 'The Discipline of the History of International Law', *JHIL* 3 (2001), 194-217.

ⁱⁱⁱ Rudolf Bernhardt and Karin Oellers-Frahm, *Das Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht. Geschichte und Entwicklung von 1949 bis 2013* (Berlin, Heidelberg: Springer 2018). Furthermore: Institut für ausländisches öffentliches Recht und Völkerrecht (Der Kaiser-Wilhelm-Gesellschaft)/Kaiser-Wilhelm-/Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht, in: Eckart Henning and Marion Kazemi (eds.), *Handbuch zur Institutsgeschichte der Kaiser-Wilhelm- /Max-Planck-Gesellschaft*

^{iv} Felix Lange, *Praxisorientierung und Gemeinschaftskonzeption. Hermann Mosler als Wegbereiter der westdeutschen Völkerrechtswissenschaft nach 1945* (Berlin, Heidelberg: Springer 2017). Also, inter alia, Idem, *Carl Bilfingers Entnazifizierung und die Entscheidung für Heidelberg – Die Wiederbegründung des Max-Planck-Instituts für ausländisches öffentliches Recht und Völkerrecht nach 1945*, *HJIL* 74 (2014), 697-732; Ders. *Kolonialrecht und Gestapo-Haft. Wilhelm Wengler 1933-1945*, *HJIL* 76 (2016), 633-659; Idem, *Between Systematisation and Expertise for Foreign Policy – The Practice-Oriented Approach in Germany's International Legal Scholarship (1920-1980)*, *EJIL* 28 (2017), 535-558; Idem, *Zwischen völkerrechtlicher Systembildung und Begleitung der deutschen Außenpolitik – Das Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht (1945-2002)*, in: Thomas Duve/Jasper Kunstreich/Stefan Vogenauer (eds.), *Rechtswissenschaft in der Max-Planck-Gesellschaft 1948-2002*, Göttingen 2023, 49-90.

