

Transcript, GQUAL Campaign for Gender Parity in International Representation
Borderlines Podcast Episode #19 / #3 in the Human Rights Practice Workshop series
Berkeley Law

Laurel E. Fletcher:

Hello and welcome to Borderlines, a show about global problems in a world fragmented by national borders. This is part three in a four-part series of special Borderlines episodes featuring Berkeley Law guest hosts, Professor Roxanna Altholz and myself, Professor Laurel Fletcher. We shine a spotlight on human rights champions, all guest speakers in our 2023 Human Rights Practice Workshop, where leading practitioners working in a variety of institutional settings share their struggles against corruption and impunity, the relationship between legal and social justice and the future of human rights movements.

Today, we welcome Claudia Martin to our show. Professor Martin is Professorial Lecturer in Residence and Co-Director of the Academy on Human Rights and Humanitarian Law at American University's Washington College of Law. In addition, she is the Co-Director of the LLM program in International Human Rights and Humanitarian Law there. Welcome Professor Martin to the podcast and welcome to Berkeley. Let's start with your professional origin story. When you were in law school in Buenos Aires, probably you didn't imagine that you'd end up where you are now, leading multiple human rights initiatives at a law school in the United States. So what did you envision doing when you were in law school and how did you get here today?

Claudia Martin:

Thank you, Laurel, for the invitation. It's a great pleasure to be here at Berkeley and also to share this space with you. I have another layer of my life beyond Buenos Aires because I grew up in a small town in a province in Argentina, so I needed to move from there to Buenos Aires first and then from Buenos Aires to the States. I've lived most of these years in Washington DC. But I always wanted to do international law, though I must say that it was difficult for a number of reasons. I guess that one of the reasons was I didn't have that many connections, but I was very much inspired by the times. I went to law school immediately after the dictatorship in Argentina. And that was an important time to hope that would be able to fight against impunity, that we will be able to rejoin the international community.

And I guess that was very inspiring for somebody who had a lot of ambitions. So in the end, I initially thought that I was going to be a diplomat, but at the time the Ministry of Foreign Affairs was still a very conservative place. It was not necessarily very welcoming for women. And so I decided that I was not going to be a good diplomat, that it was much better for me to find a space where I could do more advocacy and I always wanted to change the world. So that, in the end, brought me to Washington to pursue an LLM in human rights and humanitarian law at American University. And then the rest is history.

Laurel E. Fletcher:

Well, fill us in a little bit on that history. So for listeners who may not know, the Washington College of Law is world-famous for its human rights program and human rights initiatives. There have been several professors on the faculty who have been members of the Inter-American Commission on Human Rights. I believe there have been faculty members who've served on the Court, Inter-American Court of Human Rights. There have been international experts on the faculty serving in various UN capacities. It's got a premier LLM program. It spearheads moot court competition for the Inter-American system. So it really is unique among law schools in its deep connections to the world through, in particular, human rights

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law and more specifically in Latin America. So I wonder if you could just say a little bit about what you've been doing at AU since you got there.

Claudia Martin:

Well, it's interesting because when I was planning to come to the US, I was looking for different opportunities and I happened to meet Claudio Grossman, who at the time he was running the LLM program in American University. Eventually he became the dean. He was there for many, many years, and I realized that the place that I wanted to attend was American University because of all these things that you were mentioning, the deep connection with Latin America, the expertise, the blend of theory and practice, and the opportunity to learn more human rights by doing things. So I only applied to American University and I was very happy to go to law school to do my LLM there. It opened many opportunities for me, including going later on to work at the Inter-American Commission of Human Rights, which was my dream. I wanted to work for the Commission. The Commission had had such an important impact in Argentina during the dictatorship that for us was an institution that we wanted to cooperate with.

And so that opportunity, again, was very important for my life. Later on, I went back to American University, this time to work as coordinator of several programs, and eventually we created with the support of, then-Dean Claudio Grossman and other members of the faculty, including Robert Goldman, the Academy of Human Rights and Humanitarian Law, which I continue to run. And within that program, we set up the moot court competition that you mentioned that has been in existence for 28 years now. And it had trained thousands of students who now are pretty much permeating the Inter-American system. They're working everywhere, in governments, NGOs, the organs, the Commission, the Court, everywhere, the UN. We also set up a program of advanced studies to train lawyers. We decided to do a bilingual program because we care very much about training the civil society in Latin America that do not speak English and was not able to access this type of specialized training. And from there, we set up the LLM that I run now, and I continued to teach and to engage with the students who come to the law school.

Laurel E. Fletcher:

You said when you were finishing law school in Argentina, one of your ideas was become a diplomat, but you thought in part because of the way that the diplomatic core, socially conservative, had treated women, that that was not going to be your best option. Let's talk about access to international law, international bodies for women, because that really brings us to our topic today of the GQUAL Campaign. So I know that you started this campaign, you were there at the very beginning. Tell us what happened.

Claudia Martin:

Well, it's interesting because I always wanted to do more mainstream human rights work because there are very, very few women in the mainstream human rights specializations and in the work of NGOs. And so initially, I did my best and actually, all the work that I have done in American University, I have been mostly surrounded by male colleagues. But eventually I realized that good work and being very dedicated was not sufficient, that shattering the glass ceiling required much more than being a

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competent professional. So eventually we got together with some friends, one of them at least was my colleague, and we were classmates at the University of Buenos Aires, Viviana Krsticevic, and then two other colleagues, Maria Leoni and Alejandra Vicente. And we set up this GQUAL Campaign. They're the members of the secretariat. We have been together in this project since 2015, and the ambition has been to promote more women to international bodies and courts because we were able to understand that women were not getting there easily, that there were a lot of obstacles and a lot of stereotypes.

Laurel E. Fletcher:

So say a little bit more then about what is it that the campaign is trying to do to address what you've described as institutional limitations to the advancement of women in international law?

Claudia Martin:

Well, the idea of the campaign was to promote gender parity in the composition of international bodies in general, international courts, international monitoring bodies, international organizations in general. When we launched the campaign, we thought that it was going to last for only a few years. It was so accepted that women needed to be represented everywhere, included in these international courts and international bodies. But then we realized that in spite of all the acceptance, changing practices and fighting against stereotypes is a longer project. So what we have been trying to do is to institutionalize the need of providing access to women for these international institutions, both at the domestic level and also at the international level. We're able to realize that one of the problems is at the pipeline, that the domestic jurisdictions is very restricted and women don't get to the international courts because they're not nominated at the domestic level.

And then of course, if women are nominated, then there are no considerations of gender when states select members to these international tribunals or international bodies. Pretty much members of the human rights treaty bodies or the international and regional courts, they're selected on the basis of an exchange of votes. So there are no considerations of gender parity or diversity, which is another important matter in terms of having legitimate international institutions. We have been involved in this campaign trying to change that, to institutionalize better procedures and proceedings at the domestic level to give the chance to women to be recognized and to be nominated to international positions, and then to change the international institutions to consider and to take into account gender whenever they select new members for international bodies, justices or judges or other members for situational bodies, for example.

Laurel E. Fletcher:

I imagine that many of our listeners may not understand how members to international bodies are actually chosen. So you talk about nomination processes and voting processes. Give us some insight into how does this work.

Claudia Martin:

Well, one important thing to understand is that international courts and international bodies are pretty much set up through treaties. And treaties are adopted by states. So states are very important in the

international sphere. Then states also have the power to nominate the candidates. Candidates cannot nominate themselves to be members of the International Court of Justice, for example, or the International Criminal Court. It has become very popular recently with the indictment of President Putin. So it requires that states nominate candidates and for that, of course, as I mentioned before, procedures are not clear. And so states pretty much nominate on the basis of a very small and reduced network of candidates. And those networks most of the times do not include many women. So for a number of years, and we have the numbers, I think that GQUAL has been very good at showing data, that the composition of international tribunals pretty much reflected those who had power or who represented the leads in the different countries. And again, I think it comes from this very reduced network of potential candidates.

So once the states nominate candidates, then depending on the different treaty systems, states need to get together and select those members. Each treaty body or international court has a number of members, 18, 20 depending on the treaty. And if it is at the universal level, then all the members states to the treaties vote to decide who will be a member for a number of years. And the same happens with the regional organizations, be the Inter-American Court, the European Court of Human Rights. So we have a state very much permeating both at the domestic nomination and also at the international selection, the final outcome of the composition of these international institutions.

Laurel E. Fletcher:

Let's start with the nomination process at the state level. How does that work? Do states look to only their own nationals, or for example, can states look and nominate the best qualified person that they think should be on the body regardless of where they are in the world?

Claudia Martin:

That depends on the treaty. Some treaties allow states to nominate non-nationals. For example, the American Convention of Human Rights allows states to nominate candidates who are not nationals of the state as long as they are nationals to one of the states of the Organization of American States. That happens, for example, with the Inter-American Commission and Inter-American Court. But other states have different type of requirements. However, I guess that the practice is that the states only nominate nationals because there's an interest in having, again, some form of representation even if whoever gets selected to these international tribunals or institutions do not represent officially the state, they're independent experts. But again, I think that there's always an interest of states to have nationals involved in the development of standards in international law. So the US for example, has not ratified that many treaties, but they make an effort to have always a national of the US in the composition of the treaties that they have ratified.

Laurel E. Fletcher:

You said you thought the campaign might last a few years because it seemed obvious. Where would there be resistance in this day and age to having women serving in equal numbers on international bodies? And yet, I sense that there is a longer story here. So what do you think has made it so difficult for this campaign pledge to be accepted and acted on?

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Claudia Martin:

Well, I guess that there are a number of reasons. I think one of the most obvious one is that these are positions that a lot of people want to have, that a lot of qualified people who can be nominated and selected for these positions. And it's difficult to understand, particularly for our male colleagues, that the space needs to be shared and that women represent 50% of the population almost everywhere, and that then we have the right to be seated at the table as they do. The other reason I guess, is there are a lot of stereotypes. We hear a lot the argument that there are not enough qualified women to be in these international bodies. And I think we have been talking in general, but there are not that many positions. There are about 500 positions overall in international tribunals and international bodies. Our argument is always, how can you argue that there are not 250 qualified women in the world to participate and integrate these international institutions?

So I think it's a combination of a number of factors. So the idea is accepted. Everybody agrees that women should be represented, but when it comes to actual changes to be made, we have a lot of pushback. So we have been advocating that in some situations where women have never been represented, then if there's a list of candidates, the list should be made up only of women or similar affirmative actions. And again, that creates a lot of resistance. And there is this perception that we are a little bit radical. But again, I think it's mostly because these are positions that a lot of people want to have and it's difficult to accept the spaces should be shared.

And I think it's the same with other diversities. Of course, we are very aware that women are not a homogeneous group and that there are a lot of diversities within potential candidates. And so we believe that that should be represented as well. The campaign has been, of course, very vocal about having not only women, but a different -- all type of women, in the sense of having representatives from different races or ethnic origins or sexual orientation. But there's a lot of resistance, as I said, and there's a lot of work still to be done.

Laurel E. Fletcher:

Talk to us about some of the successes of the campaign. I know that the campaign has gone on longer than you thought when you sat down initially. Tell us about what you've accomplished so far.

Claudia Martin:

Well, I think the most important thing is that we have inspired and changed the debate. Now at the UN level and at the regional levels, and even within the domestic jurisdictions, there is an acceptance and there is always a group of civil society organizations or women groups who are talking about gender parity for everything. So if we are talking about the composition of international bodies, we have these women advocating and supporting GQUAL. But the debate has also permitted the selection processes of justices for the Supreme Courts, for example. So there's a lot of debate in Latin America, and I guess in other places as well that we should have gender parity in the composition of Supreme Courts. And so again, I think it's amazing for us because we have become such an inspiration for others to carry out the struggle beyond the international institutions.

Also, we have been able to permeate somewhat the Human Rights Council. We have a resolution from the Human Rights Council acknowledging the under-representation of women in international tribunals

and bodies. A report that was done as a consequence of this resolution by the Advisory Committee to the Human Rights Council. This report acknowledged, again, the representation and maps out adopted recommendations that created somewhat a roadmap to changing institutions, both again at the domestic level, at the international level, and even within the institutions. So the need for action is already accepted. We have been able to make changes at the domestic level. In Argentina, for example, the state decided to set up a procedure, not a perfect one, but a procedure, more transparent procedure for the nomination of candidates for international positions that now they allow for some vetting from professional institutions and civil society organizations. So we have had some very important successes, but we still have so much to do. And that's why the campaign is so vibrant, and that's why we have so many people following what the campaign is doing.

Laurel E. Fletcher:

Getting the UN Human Rights Council to adopt a resolution, to adopt a report on gender parity is an incredible achievement. For most civil society activists, that would be the pinnacle of success. I know it didn't happen overnight. Can you talk about the strategy? What led to that moment? Because if I just go to the website and I see a resolution and I look at the resolution, I might think that it was just done by diplomats who decided it was time to do this. But as an activist, I know that that's not how these things come about. Can you tell us the backstory?

Claudia Martin:

Eventually we realized that the Human Rights Council adopts several resolutions on women's rights. And there's one in particular on the elimination of discrimination against women. And the resolution is mostly promoted every two years by Mexico and most of the times other Latin American countries. And since we are originally from Latin America, we had that opening to talk more with our representatives in Geneva. And that's how the conversation started. We met with the representatives from Mexico who were pretty much sponsoring this resolution on the elimination of discrimination against women. And we convinced them that it was important to include within the resolution the fact that there was under-representation, there is indeed under-representation of women in the composition of international courts and monitoring bodies. After a lot of work and negotiations and lobbied, we were able to convince them to incorporate the language into the resolution.

But we were convinced that having the language in the resolution was not sufficient. There are so many resolutions that we needed to have another piece of action to make sure that the resolution will have an impact. So eventually we agreed that the Human Rights Council has this think tank that is called the Advisory Committee. They are made up of 18 experts who produce reports on different subjects to illuminate somewhat the Human Rights Council on different agendas that should be pursued and followed in the future. And so we agreed with Mexico that having a report by the Advisory Committee would be an important step to put the resolution into action. And so the resolution in itself acknowledged under-representation, but also requested the Advisory Committee to produce the report. And after the resolution was adopted, we worked very, very closely with the Rapporteur from the Advisory Committee to draft the report.

The report is a fantastic piece for the campaign because it not only acknowledges important things that we care about, such as the right of women to be equally represented, the obligation of the states to

make sure that women are equally represented in international tribunals and mechanisms, but also provide a set of recommendations to different actors including the states, the Human Rights Council itself, and the Office of the High Commissioner for Human Rights. So the combination of these recommendations has created a roadmap for action. Since then, we have been following up with the different institutions on the recommendations. So it was a lot of work, but I think our connections to Latin America opened this opportunity to work with whoever was in charge of sponsoring the resolution. And I guess that's a lesson learned. If you want to do advocacy, you need to get close to those who will support your cause because it will be much easier to convince them of the need and also to convince them of taking action.

Laurel E. Fletcher:

When were the report and resolution adopted?

Claudia Martin:

The resolution was adopted in 2019, and the report was actually published in 2021. The resolution requested the Advisory Committee to prepare the report within a two-year window. I'm sure that if you think about 2021, we were just in the middle of the pandemic. So we did a lot of lobbying, a lot of work online, but the report was very successful. But since the report was published during the pandemic, we were concerned that it was not going to be known by civil society organizations. So by the time that the report was about to be published, we coordinated with other colleagues and we published a symposium where we cover different aspects of the report so that if people didn't want to read the report, at least they will have access to different actors who were somewhat related to the report and will learn more about the recommendations and they would pay attention to the action. So it was a combined set of strategies from the resolution to the report to the symposium afterwards. And again, all permeated by the pandemic. It required a lot of creativity, I must say.

Laurel E. Fletcher:

Well, congratulations on getting this resolution adopted and then getting the report written and out. I know we're just not even two and a half years later. Maybe it's too early to have some reflections on this, but I wondered if you had some preliminary reflections on what this report has achieved. Many people will hear something of a, "Oh, it's a UN resolution, oh, it's a UN report, that's not really law. What difference does it make?" What do you tell those critics? What difference does this make?

Claudia Martin:

I think the most important thing is that acknowledgement by an international institution of something that you are trying to promote is very important. Once you have the documents, the resolution, the report, then you need to put yourself into action. And so what we have been trying to do since then is trying to implement the recommendations at different levels. We work with Argentina and some other countries to create the domestic procedures for nomination. This is not an easy work, it's a lot of work, but we have been putting a lot of energy into that. We have also been following up with other recommendations, including working closely with the consultative group that selects the members of the Special Procedures, this famous Special Rapporteurs or working groups that follow up on different

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thematic issues. Even if they haven't been willing to adopt a system of selection that would represent gender parity, each time that they produce or they have a cycle of nominations, they underline that they're respecting somewhat gender parity. I guess that the recommendation and our continuous monitoring has made this happen.

In addition to that, we use the resolution and the report to lobby the Organization of American States. And for a number of years in particular, last year, we got a resolution at the Organization of American States that promotes and requires, actually, states to nominate and select the members of the Inter-American Commission and the judges of the Inter-American Court respecting, inter alia -- among other things -- gender parity. So we used the report to convince the regional system that they should take a similar path and a similar approach to women's representation to human rights bodies.

But again, once you have your cause acknowledged, then you need to put a lot of energy in making things happen. And if you have recommendations, implement the recommendations even if it is a very slow process. I think we have had a number of successes and we have more women now at the regional courts, and we have more women at the international level. GQUAL, as I said, has been producing data to show that. I cannot say that everything is the result of the resolution, but the resolution has had and the report has had a tremendous impact in making some changes. But international law is very slow. So for those who are anxious, they need to be patient. And eventually, if you're patient and you are diligent and you are committed, then eventually you achieve the goals that you're pursuing.

Laurel E. Fletcher:

Professor Martin, you are an inspiration. This campaign is inspirational. I hope it inspires the next generation of activists. So imagine that you're in a room with this next generation thinking about getting involved in human rights activism. What advice do you have from your own experience that you'd like to pass on to them?

Claudia Martin:

Well, I guess that you need to be convinced and committed, that you want to make a change. I'm very concerned about women because I know it's a very difficult field to break in. Under-representation exists not only at the international tribunals and mechanisms, but also at the organizations that work in human rights issues. And there are all these silos that women end up working for women's rights but not for other rights. And so I always tell women, and I would tell women in this case, that they have to be convinced that their contributions are very important, that we have to accept that there are a lot of obstacles, but they're not impossible to overcome.

I remember that one of the things that we were told when we started GQUAL was, "Oh, you're doing this because you want to be selected, you want to participate." And I remember that we were a little bit troubled by that, and eventually we decided to say that indeed we wanted more women and we wanted ourselves to be in that position as well and that it was not a crime, that it was natural for very competent women, very professional women who have dedicated their lives to the human rights movement to be elected and to participate in the work of international organizations. So there was no shame that we were doing this campaign for other women, but also for ourselves and our own

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aspirations. So I guess that that's the message. Be convinced that you can do it and be shameless that it's important for women to be represented everywhere.

Laurel E. Fletcher:

I think some might be surprised that GQUAL Campaign came from women from the Global South. I'm not surprised. Are you surprised? And who are your most unexpected allies in this fight?

Claudia Martin:

Well, I'm not surprised because I think that recent examples show that the women from the Global South have been discriminated for many years, but most recently they are very empowered. They have been changing laws that restricted access to sexual and reproductive health in many countries, for example, in Latin America, that the new generations have very strong aspirations they are not ashamed of claiming, but they feel that they deserve. They have access to education. And so they have been educated and they expect as any person with an education to be able to contribute to society. And so I think that there has been a tremendous change in the Global South and the situation of women in spite of all the discrimination and continuous violence that we face. So I'm not surprised that we have that aspiration.

Of course, I think that the experience of being in the US was also very important for us. Women in this country have also been trying to change the life of women for many, many years. And so I think that that has been very inspirational for us as well, our own experience and all the experience that we gained by living in the US. I'm not surprised that we decided to take up this cause. But we want to inspire others. And so we also want to work with the most developed countries, and we want to be able to inspire women in the north to support the GQUAL Campaign. And I think we have been successful. So I guess that a good combination of women from the south, the north, and also some good male allies can make this campaign more successful.

Laurel E. Fletcher:

Professor Martin, thank you so much for this conversation. You, GQUAL, all of your colleagues, all of your allies, we wish you every success. Thank you for being here.

Claudia Martin:

Thank you, Laurel, for the opportunity. I enjoyed very much the conversation.

Laurel E. Fletcher:

Thank you for listening to this special episode of Borderlines, part three of the Human Rights Practice Workshop series. Don't miss the other episodes. Be sure to subscribe to Borderlines.