

Víctor Cázares Interview

[00:00:00] **Bernardo:** So here we are in our first episode of the Northeast blog, podcast, which, and I have the immense pleasure of having Victor as our first guest. So, Victor, tell us a little bit about yourself and where you come from, just a little bit before we get into your research.

[00:00:19] **Victor:** Thank you very much for inviting me, Bernardo. I'm from Mexico. I studied political science there before becoming a historian. I started my journey in history in Sweden. I did my master's there and then the PhD history in Edinburgh. And right now I'm here at Newcastle University. I'm doing my postdoctoral research in the School of Modern Languages, also in a sort of joint venture with the law school, and I'm quite happy to talk about my research with you.

[00:00:55] **Bernardo:** Oh, that's great. So the first question I would have for you is since you have [00:01:00] this background, which is, you know, very interesting, how do you think that This intersection that you have of history and law, how does it shape both your worldview and your research?

[00:01:14] **Victor:** Well, it is quite interesting because I started in political science in Mexico, but political science in Mexico is not like the United States that is based on numbers and statistics, so it was much more based on political theory. For me, history was a way to see all those sorts of frameworks, how they really work in real life and how they develop, and then really ponder on the contradictions and the mismatch.

It's a problem with evidence, with the sources. with the concepts. How can we account better for this situation? So I really found in history is much more open to different methodologies and ideas to actually to try to solve the puzzle because I guess in political science and law there are some [00:02:00] specific tools to do that.

But history is very open to, well, how we can do it. We don't really have a set of rules about doing things besides checking sources, cross-examining, so there is some sort of methodology, but it's a bit more open than I think that other fields. So I really liked that.

[00:02:20] **Bernardo:** You mentioned this of being open to different methodologies. How does that reflect in your current research?

[00:02:28] **Victor:** Well, right now, I'm exploring something that is kind of like sociological approaches to law, which is something new I didn't apply before because before I used a lot of conceptual history, but it was much more based on sort of like analysis of discourse, analysis of words and the meaning.

And that was very useful to analyse historiographies. but now that I'm actually working on real constitutions, I found that there is another universe below the [00:03:00] walls of the law. And this sort of sociological approach has helped me with that, not just the analysis of the text, but going a bit beyond that. And that has been extremely useful and insightful.

[00:03:13] **Bernardo:** And that was another point that I wanted to raise. So, there's a lot of this discourse into constitution or constitutionalism and democracy, which are both very contested concepts. Does having a constitution presuppose or influence having a more democratic regime?

Does it not? Is it the opposite? Does it not have any correlation? What's your idea about democracy and Constitution?

[00:03:41] **Victor:** Well, that depends on the period and the moment and the circumstances. I think that right now, as we are speaking today, it's very important that both projects, the constitutional project and democracy, are connected; the problem I see is that [00:04:00] that sort of idea we have now that we praise and we consider valuable and something we should fight for is not or was not a hysterical reality before, right? That was not like the main intention. So even though you have a lot of things, like there's a lot of elements in the early stages of constitutional projects, that makes like a good connection, right? You have citizenship, laws, rights, voting, but the more I look at those constitutions, not just in Latin America, but in the United States, even with those, I clearly see a lot of exclusions for that project. So the more you peel back everything, you discover more and more exclusions that, in a way, at the end, it is, for me, very difficult to see democracy there.

[00:04:57] **Bernardo:** Interesting. And another question that I had for you, knowing that even the Americas, we have like at least two different constitutional traditions. So we have the United States with, the very concise constitution.

And then we have the constitutions of Latin America, very much influenced by the French constitution of the French Revolution. they're very extensive. They talk about a lot of subjects that are not constitutional in that sense of organizing

the states or just being the Bill of Rights. How do you see that in terms of both the evolution and the present?

So, what is a constitution? Is a constitution just the basic principle? You know, building blocks of a state and the Bill of Rights, or can it have more than that?

[00:05:45] **Victor:** Well, actually, if you look at, at least, before doing Latin American history, I studied a lot the history of the United States, and that is a very interesting question because at least I remember One of the historians I studied before, [00:06:00] actually I interviewed him, he was invited in, I guess in the 80s when Brazil had a new constitution to, to advise, because he is the main figure, constitutional history in the United States, so he was invited in Brazil.

And so, to the question, what advice would you give us to draft this new constitution? And he said, keep it short. But the Brazilian said we have more than 250 articles, right? In a way, his answer somehow is saying because then he clarifies. What happens in the United States, according to him, because this is a very sociological account of democracy, is that there are many things that are not included in the Constitution of the United States in the original text, for instance, political parties, inter groups, federal agencies, a lot of social practices that are according to this sociological account, the core of American democracy. But none of that you can read it in the Constitution. So it's sort of like [00:07:00] somehow there is a tradition of historians in the United States that they place the narrative of democracy as something that is happening in their society at large.

And it's disentangled from the constitutional text. But the constitutional text is very useful in this narrative because, somehow, it works like the story. So, we are slowly democratising the constitution because we are advancing in other areas of society.

If the Constitution, as Gordon Wood says, is short. And then, also you need, in this case, like he's also making the case that there are other problems that somehow the Supreme Court resolves.

[00:07:38] **Bernardo:** One question that I have to, I can't skirt this question, and I know we're taking a more historical context, but we can't avoid the question of Chile and both referendums.

I can understand Why the 2022 Constitution wasn't approved. You can read a lot about it, but I [00:08:00] think it's a lot of analysis post factum, which kind

of justifies whatever you're reading. Someone who is very interested in history and political science can understand that.

And then you had last year, a very conservative constitution that was also rejected. Why do they want to keep a constitution that is from the dictatorship, that is from Pinochet?

Why not adopt one of the new constitutions?

[00:08:28] **Victor:** Well, I think that, in a way, no one really wants that constitution. That's why you have two completely different projects, right? So, there are, like, two options right now to change the constitution so you can choose. The problem is that, in a way, what you can see what I read is that it is like there are two countries in a way.

So there are two visions of the country, how the country is going to be. How do you solve that? Because there is no method [00:09:00] to solve those problems, right? There is no theory or anything that tells you when you have two completely different visions of society. How can we resolve this? So the problem of replacing that constitution is that there is no kind of like an integral new kind of social-political project that somehow pulls more people.

So you have like two completely different projects, but nothing that really is much more appealing to all the sectors it's a problem, I guess, in the society that Chile is a quite divided society in many ways, unequal in many ways, completely.

In economic terms, it's like two different countries as well. So I guess what you can, well, what I read from that is you have two countries. In a way, fighting a war. And then that's actually the connection I study is mainly the side of building up a new constitution when Chile is seen [00:10:00] seemingly is.

Falling into another war, right? Because there is this social conflict that ends up in an almost literal war on the streets of Santiago and almost everywhere. So there is always like this. And that's how the promise of developing a new constitution came about. It worked to sort of settle a bit that problem, no?

It's not; it cannot be completely resolved because there's still economic and political issues are there, right? So, but in a way, that problem cannot be solved by a constitution. You have to really create and fight for some sort like a solution that somehow brings these two worlds together,

[00:10:41] **Bernardo:** And in that vein, you can't say to an American, let's have a new constitution.

It will blow their minds. The idea is that you have one constitution that will be forever, right? You can have amendments, but even those are very, you know, restrictive, or we don't have a hundred amendments. Whereas in Latin America. You [00:11:00] have multiple constitutions in many countries.

And whenever there's, a social movement, a social chaos, there's always this promise of either reforming the constitution or adopting a new constitution. so my question for you would be. Is constitutional law or is the constitution being used as an excuse for the use of power or for the maintenance of power when you have this social chaos?

Or is it kind of like a chicken and egg situation? Is that our tradition in Latin America is of having multiple constitutions and as the society evolves then the demand for a new constitution comes.

[00:11:43] **Victor:** Well, I will say something about the United States first that I think that, in a way, there is a huge and growing movement right now to change the constitution, like to really get rid of this like almost 200 years old constitution so there is a lot of law professors pushing for [00:12:00] this because there is a lot of problems now. Now, because the same problem that Chile has somehow is a problem that almost every country has, it's very deeply divided right now in the United States. It's very fragmented; it's like two countries.

And the constitution is not helping, to solve those problems. And actually it has a lot of provisions to stop the solution, right? because you cannot do these sort of. solutions. but I will say that in a way, yes, Latin America, you have much more tradition of changing the constitution, which I think is fine.

It's okay. It's really like changing a car when it's not working. Why do you keep, and there is some sort of idea that we realize like, the U. S. Constitution, that is the same card that's like 200 years ago. No, it's changing through many different ways, through the Supreme Court, resolutions.

So, if it's not working, I guess it's okay to change it. But you have also this idea that the Constitution should last. Now, there [00:13:00] is a question that always, all the historical actors involved with the Constitutional Conventions or projects, Asks like to what extent this is going to last. I guess Jefferson said it was; how many years?

Like, 50 years or 25 years. Every specific period of time you need to change it as well because those rules shouldn't be forever, right? But somehow, the appeal of a constitution is that it should be forever, right? But I think that is interesting. The constitutions have that is part of like the, it's like somehow the constitution is the part of the law that is sort of sacred, that is really about the supreme law, that entails justice, democracy, and so on.

And then we place too much weight on that when it's, from my humble point of view, it's just another tool to govern the society, right? And if you need to change it, just do it. Change it. The problem is that when you had, for instance, in many countries in Latin America, it is that [00:14:00] they put too much hope and aspirations into those projects without the equal funding. So that, there is the problem when you actually put a lot of weight on something that is not going to work because you don't have enough. Like, kind of like if the economy cannot match the dream, then you have a problem, right?

So then, in that moment, then all the constitutional problems, or projects, they devalue, you know, because you cannot keep up. You cannot pay for the promises,

[00:14:30] **Bernardo:** so, as we speak, we have two big wars happening. So, we have Ukraine, and we have the Palestine-Israeli conflict. And you were talking about constitution and war-making or peacemaking. And one of the things that I can, kind of foresee and foresee maybe not the best word, but I was in a conference and, this presenter was talking about how she is working with [00:15:00] policymakers, after the end of the war.

I don't know how she knows when the war is going to end, but to have a unified regulation for doctors. So, apparently, how it is nowadays in Ukraine, you don't have a single certification body for doctors. But the reason I'm asking you this is that it seems to me that, just as you know, in the case of this researcher, Her intention is to create a policy for doctors after the war is over.

Don't you think there might be a push for a new constitution in Ukraine? And how does that relate to this process? And I think you're very right to identify constitution with violence and constitution with this context that people, I don't know if they willingly or unwillingly ignore about the violence in the birth of constitution.

[00:15:59] **Victor:** In [00:16:00] Ukraine, there is an amazing book that I recently read that, by Larry Benton, that is called, they call it Peace, that is really about how the framework for imperialism was created around the world, not just in the Americas, in colonial America, even though it has a lot of examples of that.

And it's really interesting to see that even peacemaking processes are also framed in a way that when the peacemaking process fails or when there isn't a truce or a ceasefire, that is what we are asking right now. There is a lot of violence, then it comes these sorts of agreements to stop the violence, but then, after those agreements, massacres come forward, because when the signatures of these agreements, they can argue whatever thing, to say, Ah, [00:17:00] he is violating the terms, and then the reaction is even more lethal than before because the law intervened to regulate.

But then it made, just by that, by that intervention, it made also sort of like the reaction lawful. So you can actually have much more violence against the other part because they all, this size, violated the terms. So it's quite interesting to see how really when, and also she's very smart in saying that in all these attempts to really regulate war are, in a way, good intended.

They really try to stop it, but they have like this tendency to create to give, to the agreement, some sort of area of law that when you break it, it's like the sense of betrayal is so intense that it leads to some sort of massacres. So I find it quite interesting also in this context of these bold wars, you know, that somehow they are framing these kinds of like, [00:18:00] All the violence is on how to protect someone, and when you are protecting someone, then you have the right to do it, and that's very complicated, you know? Because that also comes with much more violence

[00:18:11] **Bernardo:** A question that I would also have for you and it's, what does history have to tell us about constitutions and just law in general, because at least the way I see there is, you know, this side who's very into historical analysis and sees a lot of value on that and how it can shape how we understand the social context that we have today, or if we're talking about the constitution, how the constitution came to be, and try to, curb some of the vices that come from, a very authoritarian origin. And there are some people who are very, I would say, pragmatical, that see, well, the constitution is there, there's no point in analysing history. So obviously, someone who is [00:19:00] interested in history and political science and law. What do you think that history can contribute to that dialogue?

[00:19:08] **Victor:** Well, I think that it also gives you some perspective on how to change the law. Because we are always changing the law, you know, in different ways.

And then also you can be more aware of, Unexpected consequences of that. No, especially when it comes to a constitution that somehow it has also this eerie thing that somehow it gives you a space to change everything, right? So it's far like having the constituent power is you can do everything.

Otherwise, you are not that powerful. So, I guess maybe this is completely biased towards the work I'm doing, But we always have to have second thoughts about trying to fix things with constitutions.

Maybe try to fix them first, and then if it doesn't work, let's try a different approach. No, [00:20:00] but not everything can be fixed with that. And even when you try to do it with that powerful tool. You really have to be very conscious about how to use it. For instance, here in the UK, they wanted to have the parliament with Brexit of the power to do and change things and have much more independence in terms of Ruling, handling the economy; you can see that when you give them freedom to handle the economy, they destroy the economy, right?

You need to do some changes. Right? So it's really complicated to, navigate. But there is always really you have to think about this kind of like more medical way, like there is some sort of specific operation that can be performed, but the operation should be the last resource of all these treatments.

[00:20:50] **Bernardo:** How is it to translate research into other media? And how is it to use art or use, you [00:21:00] know, audio, video?

How do you think that other media and how this art can play a role, and how does that relate to our research?

[00:21:11] **Victor:** Well, in a way that I recently made a film in which I was trying to somehow convey this idea of how violent constitutions can be, and I couldn't find the way to do that properly in the written word, and then, based on this essay from Walter Benjamin, I really thought that the best way to do this, it was through art, to try to find a different kind of concept of metaphor to see how these things work, and I really found in the idea of the hurricane that somehow, it's a force of nature that is destructive, but also clears out the space to build something new, right? That is something [00:22:00] that constitutions do, no? So they clear out the space, like, they get rid of all these old laws.

So you can have a new law now, but this clearing also needs a bit of violence. So it's really, but you can see that in a hurricane. And I tried to use this and to tell the story about. legal change in the Americas because, I was a bit inspired by this companion of Latin American legal history recently, recently published by Brill, in which they are, telling really the whole history of law in the continent from really pre-Columbus.

contact indigenous law to 20th century law, which is really a very ambitious project. And there you can really see this emphasis on colonial law as a system in which colonial law in the Americas usually has been seen through [00:23:00] the eyes, like you have the law for indigenous people, and also the law for the settlers, right?

But it's really what you can see in all these essays: is that somehow, this colonial world was completely different, because there were not two jurisdictions, there were many jurisdictions, and sometimes, it's very interesting to see how also indigenous people. customs and law were somehow integrated into the colonial system.

So it was not just a position of the European law and how, for instance, at the level of the court level, how judges, they really had a lot of freedom to interpret law with different sources, indigenous sources, like a lot of different things. And they were really sort of bending the law to serve, the specific problem, specific thing in specific groups.

It was not; there was nothing really vertical and in position. And I really found in that idea, the idea of the Baroque. Now [00:24:00] there is a world in which all the law, it's closer, closer to sort of like the local interests, no? And that is really, and those sorts are really powerful.

And then you can see when you have the independence, there is a project to actually make all those laws that are much more vertical. Now, there is one law, there is one nation, and there is no more messy jurisdictions.

There is going to be the assembly deciding what is law, and then the judge, for instance, that before he was somehow interpreting, actually creating law. They really they have just to apply the law, right? So they don't really have interpretive powers or something. So I really found that like how the, for me, it was quite interesting to see how before all these issues were decided in the local level, now they will be decided in a higher level, and that in Latin America, it was not [00:25:00] too much through constitutions, even though they play a big role, but there is a lot of codifications, civil codes, that also copied a bit from

Spain, but most of them in Latin America, they copied from Chile, that Chile got the first code. But you can see that it's through constitutions and through these codes that they try to take away the law from this local interest.

And then it's really interesting because you can really see that there is a really sincere liberal project behind it because they really want to make law equal. So they don't have all distinctions, right?

But in making this legal system equal and uniform, they were also excluding a lot of people. No, they were mainly women, servants, slaves, that a lot of people who use the formal colonial system to actually get justice. Now, if they had a problem, they can actually [00:26:00] go through the legal system and have some satisfaction.

The more equal the law gets, the more exclusive it gets. And in the end, it ends up serving this universal law. All, always, only serves; it has a bias against, or in favour, it has a favour, in favour of the law. Free Christian males. Those are at the core of the new equal law.

So the, the, this universal law is serving them. No, it's not really, because it's closing all the access to other groups. So you, the more equal and liberal becomes the legal system in general, less access other groups have. If you are not male with property and free and christian and catholic, It's really complicated to get, through the legal system.

And, and I guess, and I really wanted to emphasise that to do that change really require not [00:27:00] just wars, like, how, like, how to change the law, because most of the constitutions in, this period, they were rejected, right? And this has been always been depicted as a failure of the law. Institute in Democracy, the region, right?

But when you can see it from the other side, you can see that there is a lot of groups fighting to keep the law closer to them. they were really not willing to accept a second tier of government, there were very few countries that make that transition quickly.

Chile is one of them, and I really argue that somehow it's because Chile had a lot of immediate, important, urgent military affairs to handle, in comparison to Argentina, it was smaller at the time, Argentina also had to try, and that's the problem. Argentina tried first with armies and then with constitutions.

But in both cases, they failed, right? So they [00:28:00] failed to institute both because it was very difficult to convince the local interest that this is going to serve some sort of like the abstract nation. That at the beginning, no one really bought that.

Like, ah, an abstract nation. Yes, that was something that was very difficult to sell. Now, it is common currency, but what I want to say now that I'm thinking about the experience of law in Europe and in Latin America is that if you really look The thing from a higher, from a very broad perspective, in both cases, there is no, the dream, the enlightenment dream, to have one nation, one law, only work in the United States.

In Latin America, you had different countries, Europe as well. Europe didn't have anything like that, so in a way Latin America and Europe, they share that They are very suspicious of, someone claiming to have a higher, like, this European identity.

It is not a universal identity.? But translating [00:29:00] those sort of, like, romantic ideas of identity into law. That's super complicated.

[00:29:07] **Bernardo:** One last question, which is just open for you to say: How was your creative process of doing the film? Are you a creative person in the, the cliché sense of, are you connected with, you know, drawing or something? Because, personally, I love art. But I cannot draw for the life of me.

So, how was your process of coming up with it?

[00:29:29] **Victor:** Well, I cannot draw or have any sort of skill in that regard. I was very lucky that my sister in Mexico helped me with the visuals. She's a graphic designer. I was telling her the story, and she developed that part, but, even though she was in charge of the visuals. It was important to come up with a story. And writing that story for the screen was complicated a bit. And that's why I sort of rejected the categories I'm using for the [00:30:00] book. I'm writing right now, that infrastructural powers and all that, I think that's not going to work.

And I went with some sort of artistic categories like baroque, like as an art expression, but also a musical expression, because in a way, when we were working on the film, we were very conscious about the visuals, but also the sound. and the music. So the music has, when it comes, and this is something fascinating that I really found in my research, that you have when, in the colonial times, a lot of Baroque music created there.

So, and what Baroque has is, is really, is, is all this combination of curves and lines that are somehow super messy and strangely organised. There is, in all that strange form, music. So there is something uniform that you can, there is something that you [00:31:00] can read as music, even though it has all these messy forms, right?

That somehow, maybe, better than all these linear forms of music so that you can have some sort of like a, with all these strange, but somehow, for instance, in law, the academia is a bit against all those forms. It more is actually striving for clarity, something that is clear, well organised with footnotes, But sometimes the best way to approach to one historical reality might be on an artistic form that is actually closer to how these are actually developing.

So, there is perhaps a mismatch between the content of what we are analysing and the form that we have to deliver it. Now then, I think that maybe, but I know that it's quite complicated in many ways, technical ways to do something like this, to combine music, to [00:32:00] combine visuals, to create a story. I mean, just writing is quite difficult.

[00:32:04] **Bernardo:** And will you do it again? Since you've exercised some new muscles. So will you do that again?

Because I've seen it and I really liked it. And it really shows, as you were saying, an innovative way of showing law.

Would you be open to doing it again with another project, with another subject?

[00:32:26] **Victor:** Yes, but it also depends on the funding, right? I'm really lucky to be funded by the Leverhulme Trust. They actually pay for all this. When it comes to the soundtrack, I am paying for the songs as well, so they are paying for the songs, so it's, it's really, requires a lot of money, you know, and, and sometimes that's complicated in academia, I can visualise how we can have some sort of regional histories of law, visually represented, no? So, much more like a [00:33:00] close up to these specific areas that will be, amazing, and also it will be something that people actually watch, and I think that when it comes to these sort of artistic exercises, you really have much more freedom to explore how things look like without really feeling, restricted, even though really for this specific. The project I did, I could have put a footnote in each scene.. I didn't. , I didn't, that's her academic brain, like the, you know, the writing.

Okay, this I have to, right? Yeah. I didn't, but I did include a bibliography at the end, like kind of like selected bibliography because when I gave my sister the

list of all the bibliography, she sort of, no, it's going to be super long because we agreed on seven minutes.

Bernardo: I would say it's a very successful project.

I really enjoyed it. And hopefully, if it's not you, but other people pick this up in terms of, [00:34:00] trying to express law and especially, legal ideas into other media. So, for example, we're talking about the Chilean constitution or, like, Brexit. It's very hard to explain legal concepts, but when you have different media, maybe that's an interesting way of dealing with that.

So, two final questions. Are we optimistic or pessimistic in terms of constitutions?

Victor: I would say I am a bit pessimistic about what they can do to achieve something good. But that is my source of optimism because the less we play with the Constitution, maybe with the better we are

[00:34:40] **Bernardo:** if you had to describe the American Constitution as it is right now, which genre of music would it be? So, would it be like punk rock? Classical music? What does it resemble?

[00:34:54] **Victor:** Well, I actually think that in a way, the knowledge I got when I [00:35:00] studied for 10 years is that the U.S. Constitution is really there, you really can see a very nice balance between the Maroc, Baroque and modernism. That is quite difficult to achieve because in Latin America, projects have is that they really try to be more modern.

Chile's constitution is much more modernist than the U. S. Constitution. The U. S. Constitution still has the Electoral College. What is that? It casts many other aspects that make that law look extremely Baroque and old, but there are other aspects because you have a powerful central government that makes it look very modern; it casts a bit of balance between the two sounds or genres that is quite interesting. Now, somehow, the problem with that is it gives power to both sides; if you have the Constitution, you can translate it into musical notes.

It's so easy to [00:36:00] silence the baroque and just play the modern, you know, and on the other hand, I mean, it depends actually really, too much on who is playing, right? So who plays the music because you have a lot of options, you know, and they are there in the same musical notes, right?

Bernardo: I love this idea. Because, again, my academic mind just wants to read an article on people defining different genres of music to each constitution,

So now we come to our final moment and I will have to explain to the listeners, is what I call the ping pong crossfire. So It's basically, free association, so I'm going to say some, prompt words for you.

And you have to answer it in one word or a short sentence. So you cannot give me an academic explanation, just whatever comes to your mind. It doesn't have to be, you know, elaborate.

So I'll start with: law.

Victor War.

[00:36:58] **Bernardo:** peace.

[00:36:59] **Victor:** [00:37:00] War.

Bernardo: Constitution.

[00:37:04] **Victor:** People.

[00:37:06] **Bernardo:** Music.

[00:37:08] **Victor:** Baroque.

[00:37:10] **Bernardo:** history.

[00:37:11] **Victor:** Tango.

Bernardo: So now that we've come to an end. Do you have a final quote message? Something. Just leave our listeners with it.

[00:37:24] **Victor:** Well, yes.

Thank you very much for this opportunity. I wish I had a quote, but somewhere, I read that usually, we tend to associate Empires and imperialism with weapons, right? With force When you really look at history, you see that there is a lot of law going on.

There is a guy I don't remember his name right now. He said Law is the first language of imperialism, So that's the emphasis that is super important for the project. You cannot win and conquest only with [00:38:00] wars and weapons.

Bernardo: Oh, I loved your answer and I believe it really sums up our conversation in an interesting way. I definitely hope to see you both as a researcher and a filmmaker, maybe who knows.

We'll see this film are another. In a film festival. And it's very interesting to see your research evolving into this artistic. Aspect of it.

So that's definitely something I'm looking forward to. Thank you so much for being our first guest and having this amazing conversation. Thank you so much. And thank our listeners. For being with us for this conversation.