

RCSL NEWSLETTER

INTERNATIONAL SOCIOLOGICAL ASSOCIATION RESEARCH COMMITTEE ON SOCIOLOGY OF LAW

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**No 2
2021**

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PRESIDENTIAL ADDRESS

Dear friends and colleagues,

The most important event for RCSL in the past months was the Virtual RCSL Conference from 20-22 September 2021 with the main theme: **In times of pandemics and populism: increasing inequalities.**

It was the first virtual RCSL conference we have had, although all of us have meanwhile become used to virtual meetings. They have some advantages, colleagues from all around the world can attend without needing travel funding and – sometimes difficult and long - journeys. And we did not charge participation fees which made it easy for young people to attend. But, of course, virtual conferences have disadvantages too. They cannot replace the intensive contact and experience of standing and sitting together and talking face to face, having many informal contacts and eating nice meals together and vivid discussions/exchange all around. This is the soil on which new ideas and cooperation are grow.

Why did we plan this virtual conference? We had scheduled a wonderful RCSL Conference in Lund, Sweden, for the end of August 2020 with the very timely topic **Law and Digital Society: Re-Imagining the Futures.** Everything was nicely planned, the website was set up, there was an active team, and we were about to put together the program from the many paper proposals we had got, when the Corona lockdowns started and in March 2020 we had to cancel the meeting. Initially we thought we might simply move the meeting to August 2021. But with ongoing travel restrictions and persisting infection risks in spite of vaccinations which many of us will have got meanwhile, we had to decide to further postpone the meeting. As we have next year the big socio-legal meeting in Lisbon, and the year after that the World Congress of the International Sociological Association in Melbourne, we have decided together with the

colleagues at Lund University to hold the Lund meeting at the end of August 2024. And we still have the proposal by Stefan Machura for a RCSL Conference in Bangor/Wales pending, for which we had also already made preparations.

(continued in page 2)

ARTICLES & REPORTS

Presidential Address, Ulrike Schultz	1
Thomas Mathiesen, Håkan Hydén.....	2
Susanne Karstedt, Robyn Holder.....	3
In Honour of Vincenzo Ferrari, Ulrike Schultz.....	5
Workshop 'Legal Expertise' Friederike Bahl.....	7
ISA World Forum, Lucas Konzen.....	8
Institutional Memory Lectures, Martin Ramstedt.....	9
Seminar Sociology of Law, Laura Lora.....	10
Workshop 'Judicial Policies on Gender and Violence Against Women', Fabiana Severi.....	12
Podgorecki Prize 2021, Sharyn Roach.....	12
Podgorecki Prize 2021, Jacek Kurczewski.....	13
Podgorecki Prize 2021, Mavis Maclean.....	14
Lawyers in Society, Ulrike Schultz.....	16
The Legal Professions, Richard Abel.....	19
Research Handbook on the Sociology of Law, Jiří Přibáň.....	21
Legal Recognition of Non-Conjugal Families, Nausica Palazzo.....	23
Law, Judges and Visual Culture, Leslie Moran...	24
About the History of an Early Law and Society Project, Richard Abel and David Trubek.....	24
Oñati Socio-Legal Series, Leire Kortabarria.....	25
Sortuz: Oñati Journal, Leire Kortabarria.....	26
CfA: Special Issue "Politics of Informality in Criminal Procedures", Damian Rosset.....	27
RCSL Membership.....	27
Call book donations for the IISL library.....	27
RCSL Board, Working Groups.....	28
RCSL office address.....	28

2 RCSL NEWSLETTER 2 2021

The ISA World Forum which was scheduled for autumn 2020 was postponed to February of this year as a virtual meeting, and we had a good representation of RCSL members, many from Latin America. But this did not make up for this year, so we finally took the decision to organise this virtual RCSL meeting.

The ISA World Congress which was scheduled for July 2022 will now take place from June 25 to July 1, 2023, the title chosen is: Resurgent Authoritarianism: Sociology of New Entanglements of Religions, Politics and Economies. And – and this is important to know: As the World Congress has also been postponed by one year, and as the election periods of all research committees is connected to the meeting of the World Congresses, I and all other RCSL board members will have to serve another year.

Why did we choose 'In times of pandemics and populism: increasing inequalities' as title for our conference? We wanted to keep the Law and Digital Society topic for Lund, and in two, three years it will be just as relevant as it is today. So we chose a title referring to what worries us all these days:

The pandemic, the growing populism in countries worldwide and the resulting increasing inequalities.

We had equal participation of women and men as presenters, from 21 countries, colleagues from about 50 countries have registered from all continents, which proves the international impact our work has. The new Working Group on Legal Pluralism adds to representation from countries of the global south. And we had a good mixture of established scholars and young colleagues as presenters and attendees. For us at RCSL integrating the young generations is of high priority. They are our future.

As we always do at our RCSL meetings we held the prize ceremony for the RCSL Podgorecki Prize winners. As we did not meet last year and could not do it at the ISA World Forum, we presented the winner of the 2020 prize, Alysia Blackham as early career scholar, and the winner of the 2021 prize, Jacek Kurczewski for his outstanding lifetime achievement.

On both evenings we had special sessions: a session in honour of Vincenzo Ferrari who had his 80th birthday last year in December dealing with his achievements for sociology of law, and a session on the mega project on lawyers in 21st Century Societies which is closely connected to Rick Abel who had his 80th birthday last Monday.

But alas we cannot only celebrate birthdays, we also have to regret losses. With many of our community getting older we have meanwhile obituaries in our biannual Newsletter regularly. Last year our colleague Reza Banakar died at the early age of 60, He held the chair in Sociology of Law at Lund university. He was, and I cite Hakan Hyden his predecessor in the chair, who has written that he was "one of the most prolific and consistently committed scholars of contemporary sociology of law, a researcher who combined a deep interest in the theoretical foundations and problems of the field with an enduring allegiance to empirical research. And he was an active supporter of the international socio-legal community." I have known him well too, meeting him first when he was RCSL secretary.

A team of four editors is preparing an anthology commemorating Reza Banakar. Pierre Guibentif has written a chapter for it reflecting on Reza Banakar's proposal that sociology of law 'must limit its dependency on both law and sociology' which he discussed in the opening session under the title Socio-Legal Agency in Late Modernity – Reappreciating the Relationship between Normativity and Sociology of Law.

Let me give a big thank you again to the co-organisers of this virtual conference, the RCSL Vice Presidents, Pierre Guibentif and Sharyn Roach Anleu, the RCSL secretaries Barbara Bello and Laura Lora and Luigi Cominelli who had offered the technical environment and support and was available every minute of the conference.

Keep well, with best wishes,

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OBITUARIES

THOMAS MATHIESEN HAS PASSED AWAY

It is with great sorrow that I must announce that Thomas Mathiesen passed away on Saturday 29 May 2021. Thomas Mathiesen was born on 5 October 1933 and was involved in establishing the sociology of law as a discipline in Norway and the Nordic countries.

Thomas Mathiesen studied sociology at the University of Wisconsin between 1953 and 1955, and earned his doctorate at the University of Oslo in 1965 with the thesis *The Defenses of the Weak*. Mathiesen has been Professor of Sociology of Law at the Faculty of Law, University of Oslo since 1972 and Professor Emeritus since 2004.

Mathiesen was a central member of the so-called 'golden generation' of Norwegian sociology. He was internationally recognized primarily for his research on prisons, his strong social commitment and his participatory action research. Mathiesen was one of our most prominent social researchers. He was, for half a century, not only a central thinker in criminology and the sociology of law, but also an active voice in public debate.

Thomas Mathiesen has meant a great deal to the sociology of law in Scandinavia. He succeeded in the 1970s one of the pioneers of sociology of law, Vilhelm Aubert. Mathiesen was important also for sociology of law at Lund University, Sweden. The textbook, *Law in Society* has for a long time been used in the introductory course in sociology of law. He has participated in several doctoral dissertations in the sociology of law in Lund, mainly as an examining committee member. He has been among the experts in several appointments over the years, including at my professorship in 1987 and most recently, when Reza Banakar became professor in 2013. And in recognition

of his importance to the subject in Lund for more than a quarter of a century, he became an honorary doctor at the Faculty of Social Sciences at Lund University in 2003 at the proposal of the Department of Sociology of Law.



Thomas Mathiesen (1933-2021).

Mathiesen received several awards for his research and activism such as the Denis Carroll award, the Zola Prize for civil courage and the Norwegian Society of Sociology's honorary award. His research has been translated into Swedish, Danish, German, English, Italian, Spanish, Serbian and Mandarin, to mention a few.

With the death of Thomas Mathiesen, a central figure in the sociology of law has passed away. However, many of his ideas and thoughts live on in books, such as *Den dolda disciplineringen: Makt och motmakt* *Essäer om Politisk Kontroll* (The Hidden Discipline: Essays on Political Control), *Power and Media: An Introduction to Media Sociology* and *Power and Counterforce, Towards a Surveillant Society* to name but a few of all the publications Thomas Mathiesen has delivered over the years. They all have such character and strength that they do not disappear with the author's death. Thus, *Det uferdige* (The unfinished (1)) lives on.

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NOTES

(1) Contribution to political action theory from 1971.

WOMEN IN SOCIOLOGY OF LAW

SUSANNE KARSTEDT: LIFE IN A BIG EMPIRICAL PROJECT

Dr Robyn Holder sat down to talk with long time member of the RCSL, Professor Susanne Karstedt. The conversation ranged from the evolution of Susanne's intellectual life, beginning as a sociologist and now self-describing as both a socio-legal scholar and a criminologist. In the conversation, Susanne illuminated some of the early years of the RCSL and IISL.

It was almost inevitable that Professor Susanne Karstedt's scholarship should cast a wide net. Her father, her mother and her sister were librarians, their lives elbow deep in knowledge. Almost as inevitable was that scepticism should be a driver to Susanne's research. Born in Germany in the shadow of the Holocaust and the silence of "ordinary Germans" (1), Susanne had an interest in crime, law and justice, and the moral questions that we need to ask'. She studied first at the University of Hamburg under Lieselotte Pongratz, who later became one of that country's first female professors of Criminology.

The turbulent 1960s were the 'heydays when European and, in particular, German scholars started to realise the labelling approach, so the question who defines what.' Says Susanne, 'in the German context this was immediately a very Marxist question.'

Immediately, however, with her interest in law, Susanne asked, 'what is the reaction to deviance, and the question that Tom Tyler later posed so beautifully, why do people comply with the law, and what do they actually think about laws? What are their ideas of justice? As a very young scholar I did a survey study on knowledge and opinion of law: What do people know? How do they react?'

Many at the time viewed law as superstructure and intrinsically oppressive. Yet, for Susanne, law 'was a power in itself' and she was drawn to the strong revival of the sociology of law in Europe. This revival was energised by eminent scholars in Germany, like Erhard Blankenburg, Johannes Feest and Volkmar Gessner; names familiar to those in the RCSL. As Susanne says, 'They were decisive in making RCSL the vivid community of scholars which it is today. They were among the founders of the International Institute of the Sociology of Law (IISL) in Oñati in the Basque country, and, both Johannes and Volkmar later became directors of IISL Looking at photos from the time, it was a male-dominated enterprise.'

Susanne was immediately enthusiastic about the IISL and ran her first workshop in 1997 (ultimately one of five). In 2001, then Director, Bill Felstiner invited her to become a regular teacher, which she did for 15 years. The 'the vivid community' at Oñati provided a fertile space for Susanne to bring criminology directly into the sociology of law, teaching criminological theories, globalisation, crime and justice and comparative criminology.

Susanne's main engagement with the sociology of law, and one of her biggest topics in socio-legal studies, was triggered by her interest in transitional justice which 'started in the 1990s, with the reunification of Germany, and the reaction to the human rights violations and abuses that had been committed in the former GDR, East Germany, and so the big question

was how does that relate to what happened after the Nazi regime, after 1945?’

As Susanne and I are both in the School of Criminology and Criminal Justice at Griffith University, I am interested in what she thought the sociology of law contributed to criminology. Susanne says she was drawn to the ‘big empirical project’ of criminology but is concerned that ‘a preoccupation with and dominance of prevention [has] crowded out questions about law and justice.’ She referenced Sutherland who asked, ‘what does criminology engage with’ and his answer that it is concerned with three big questions: ‘the making of laws, the breaking of laws, and the reactions to breaking of laws.’

Developmental and life course criminology, crime event criminology, and place-based criminology have all grown enormously. Each demonstrates primary engagement with Sutherland’s second question and has fostered ‘two big strands’ of criminological research: ‘The first ... are offender-focused, like life course studies. The other is crime events, where do they happen, when do they happen, under which conditions do they happen? So, the focus is the crime event and the offender (including decision making), and somewhere down the line also the victim, as you know very well, it is a quite neglected topic, or has been for a very long time a neglected topic in criminology.’

However, the first of Sutherland’s questions ‘is exactly a socio-legal question’, and the third includes all questions around justice’ says Susanne. She believes that, at the moment, ‘it is as necessary as it could ever have been to have a socio-legal perspective in criminology’. She continues: ‘Tom Tyler brought the question in some ways back, by asking when do people comply, how do people react to criminal justice? And, of course, restorative justice, with John Braithwaite’s idea of regulation sciences taking over from criminology, which of course did not happen at the time. And has not happened. Good socio-legal ideas like these are urgently needed in criminology.’

I would also like to mention the most recent development, and that is the criminology of the South, and related the question of colonialism in criminology. Law is a kind of deep collective memory, as Maurice Halbwachs has said, perhaps a kind of unconscious memory of our past, and therefore we need to study how it is related to our dark and easily suppressed past. Law is quite a monument, bridging the past and the present.’

Being Australian-born and inheriting a colonial system, I had to ask how she viewed colonialism in criminology? Says Susanne, ‘of course it is about how the practitioners, the professionals in criminal justice, react to the big question of bias.’ But more deeply, ‘it might be a historical perspective, a socio-legal historical perspective on the laws of colonialism, how the laws of colonialism still shape ideas of justice or the justice system.’ One could ask about this shaping, this interactive development, for other critical scholarship, she says, such as southern criminology and feminism, for example.

But questions of law always bring questions of justice. Criminology, says Susanne, asks ‘how do we execute justice? What is the justification of the state here, what can the state do?’ Socio-legal scholars push further

and ask, ‘What, actually, is justice? In a democracy, for example, what is the engagement of the population, what do they want? With the politicians, and policy makers, or those who are practitioners in criminal justice, from all these circles, how do ideas of justice align or differ? Justice for victims but also for offenders, how do we think about it, how can we research it, what do we want to do?’

Critical scholarship has different meanings, but for Susanne it means testing ‘established knowledge’ – an approach she is proud of. One such line of inquiry responded to Braithwaite’s work on shaming and restorative justice. After contact with Braithwaite (now a good friend), Susanne thought ‘hmm, is that actually for the state? Should the state (or its agencies) do something with our emotions?’ It is characteristic of Susanne’s work that the question drew her to other great sceptics and thinkers. In Martin Luther’s Ninety-five Theses, which ‘allegedly [he] nailed to a church door ... quite a number, about one third, actually deal with the question of whether an institution like the church can look into our hearts’. Susanne explains, ‘For Luther the question was are they allowed to look and use it – the usage of it. And that was the question that I asked about restorative justice. Should you use the emotion of shame in such a process? In the end it turned out that shame does not play a huge role in restorative justice. For me that was the start of thinking about the role of emotions in law. I think this is now a quite broad stream, a major emerging topic in socio-legal studies, and I’m proud that I was one of the first in this field.’

Though ‘law’ is commonly critiqued and disparaged in criminology, Susanne says that an early ‘revelation’ for her was E.P Thompson’s Whigs and Hunters, and his phrase that the “rule of law Is an unqualified human good”. This is, she says, ‘still one of my most cherished quotes. Yes, a human good, precious and fragile.’

Susanne’s renown as a comparative scholar traverse how this question of human good works across nation states and globally. Arriving in Britain in 2000 to take up a Chair of Criminology at Keele University, Susanne says it was ‘a necessity’ to become a comparative criminologist because ‘it was clear to me that I could never engage with the arcane system of British policing or law’. She had ‘a kind of idea about German criminal law and procedure, but what happened in the UK or in the common law system was beyond me!’ Susanne took a quantitative approach to comparison ‘using indicators for legal systems, or for crime and justice’. She admires the other approach of David Nelken who ‘really goes into the nooks and crannies of legal systems, like how does the Italian system work?’

Comparative research has allowed Susanne to pursue the big topics of the relationship between democracy and crime, and between criminal law and its institutions in democratic and authoritarian states. Her first comparative research sought to answer the question whether individualism would increase violence, which German colleagues thought it would (in contrast to Durkheim’s hypothesis). Using Dutch psychologist Geert Hofstede’s cultural indicators, she found, to her ‘great joy’, that ‘actually individualism reduces violence ... later then supported in a different way by Pinker’s study’. Working also alongside good friend, Gary

LaFree, these studies prompted a series of studies in response to the question, 'how do democracies shape crime and justice?' Studies that, for Susanne, 'can only be answered if you compare different democracies' especially when we see that, 'criminology or criminal justice are very parochial perspectives which pose that, this is how we do it, this is our national system, this is what our community wants, they want these types of policing, or this is what happens here. And I think it is hugely important that criminologists look beyond that, and that they find out how are things done elsewhere. And also questioning themselves. Bad things in criminal justice do not only happen elsewhere. They also happen in countries where people think we are the best of the good. I really try to instil in my students this idea that it is important to question ourselves on what we do about crime and justice.'

In line with other critical sceptics such as Nelken, LaFree and Ian Loder, Susanne tests claims. An example, she says, was 'everybody said that trust in police and legitimacy is higher in democracies. I thought, okay, we can test that. So I tested it, and I found that was not the case. And that is why I love comparative research. I think it's fun.'

Comparative research is often lauded in a manner similar to interdisciplinarity. For Susanne, both are important for similar reasons – 'there are questions that we can't answer on our own ... we talk to other people, and we find a common problem.' But it 'all takes time, to find exactly this type of problem where you can work together, and where there are advantages to work together, rather than say tick the box for interdisciplinarity.' In today's pressured universities, Susanne does not 'think that that works very well.' One problem, she says, 'there is a huge pressure from funding agencies, ARC (Australian Research Council), RCUK (Research Councils UK) channelled down through and from universities, everybody talks about silos, and we need to work together, and the question is how difficult is that? The pressure on young scholars I think is huge to do [interdisciplinarity].'

Also, defining a problem does require a good disciplinary foundation. Susanne grounds her methodological and conceptual thinking in sociology, not in law. Each discipline, she stresses, brings its own strengths and limitations, and it is not easy combining things as a socio-legal scholar. She urges early and mid-career scholars to 'follow what interests you'. It was advice Susanne received from Joan McCord, an early mentor, an eminent criminologist and the first woman to become president of the American Society of Criminology.

One of the things that runs through Susanne's scholarship and which she says has interested her since growing up in post-war Germany are questions about 'morality. That is, '... the moral question for the person who commits crimes, and the moral questions for those who do justice. The first question I share very much with my colleague Per-Olof Wikström; his criminological theory acknowledges it as part of offender decision making. Offender decision making is not only rational choice; it includes also a value choice, the moral choice, and emotions. From the start I think the question of morality was quite present for me. It led

on to research on middle class crime, but equally on research on Nazi war criminals, atrocity crimes and transitional justice.'

We agree that questions of morality in what is a crime and what should the law do, have fallen out of favour for a long time in both criminology and socio-legal studies. Susanne says that, in her teaching on genocide and war crimes, she asks, 'why is this important for criminology? It questions our ideas about offenders and about crimes.'

Susanne's long period of scholarship in emotions and law, and violence and decision-making, and institutional and social struggles with responsibility and response is not yet over.. She wants to do something to bring back 'questions of values and morals and ethics'; something that is a book about perpetrators of mass atrocities/atrocity crime/ genocide. I would like to write a book that questions the many cliches that are circulating presently, a book that also questions ourselves.'

Susanne's life exploring the big empirical project with a sceptical mind is not yet over.

NOTES

(1) Karstedt, S. (2009): 'The Life Course of Collective Memories: Persistency and Change in West Germany between 1950 and 1970.' *Polish Sociological Review* 165: 27-38.

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REPORTS

VIRTUAL RC SL 2021 CONFERENCE: INTRODUCTORY SPEECH FOR THE SESSION IN HONOUR OF VINCENZO FERRARI

It is with pride and pleasure that I can speak the introduction to this session in honour von Vincenzo Ferrari. As RC SL President, I would like to convey to him the greetings of our entire community and our gratitude for the magnificent work he has done in our field, sociology of law.

Vincenzo is the nestor of the Research Committee for the Sociology of Law, I guess most of you will know what a nestor is: an outstanding representative of our community, a wise advisor. And we could also call him Doyen, the worldwide high-ranking ambassador of Sociology of law.

This session is to honour him and his work. Initially we wanted to organise a conference in Milan to celebrate him on the occasion of his 80th birthday which was in December last year, but Corona has prevented it like many things. But we are happy that friends and companions are gathered here in this virtual room to

speak about their work and connection to Vincenzo, most of them former RCSL Presidents and former Scientific Directors of the International Institute for the Sociology of Law in Onati.

If you consult the website of the International Institute for the Sociology of Law in Onati you find a short CV. <https://www.iisj.net/en/profesores/ferrari-vincenzo> Let me briefly sum up.

Vincenzo Ferrari, born 1940, received his *laurea* (LLM) from Milan University, became a lawyer, member of the Milan Bar and he is still practicing.

Vincenzo as a socio-legal scholar and teacher

Simultaneously to his work in practice, he had started his academic career under the lead of Renato Treves as an assistant at Milan University's Law School, he then taught Sociology of law in Cagliari and Bologna and was called back to his Alma Mater in Milan in 1990 where he held many positions. Besides his teaching that continued until his retirement in 2011 he held many high positions at his law school and he was especially concerned with the activities of the prestigious League of European Research Universities.

His research has spanned numerous fields, civil law, labour law, the administration of justice, combining theorization with the empirical observation of the life of the law, acquired during his career of lawyer and honorary judge.

I cannot sum up here not even his most important publications, he is author or editor of more than 200 scientific publications which deal amongst others with fundamentals of sociology of law: functions of law, law and society, developing sociology of law and teaching sociology of law. And he is the main editor of the Italian socio-legal Journal: *Sociologia del Diritto*.

Vincenzo as an international scholar

He has always lived an international life. Vincenzo has taught in numerous foreign universities particularly in the Hispanic world. He was appointed honorary professor of the Universidad Externado de Colombia and of the Universidad Metropolitana of Caracas, and then doctor honoris causa from the Universities of Buenos Aires, Rosario, Zaragoza and from the Universidad Nacional Autónoma de México.

What helps in his international activities is that he is gifted in languages: And Vincenzo does not only speak Italian (and Latin), but Spanish, French and some German.

Vincenzo and RCSL

The RCSL was established in 1962 during the congress of the International Sociological Association in Washington as Research Committee number 12. ISA had been founded in 1948. Sociology of law had however only gained in momentum as you may know in the 1960s and 1970s. Renato Treves, (University of Milan) was elected as the first president, with Adam Podgórecki as vice-president and William Evan as secretary. The first discussions of the Research Committee dealt with basic questions of "Scope and Methods of the Sociology of Law".

Vincenzo became RCSL president following Jean van Houtte from 1990-1994 and has been a RCSL board

member over many years. In 1988 when he was law professor in Bologna he had organised the RCSL meeting in Bologna, a phantastic congress which I remember very well. Before, in 1979, Vincenzo had organised a meeting in Cagliari/Sardinia and later supported by Luigi Cominelli the conference in Milano/Como 2008.

The Italian Community in RCSL has always been very important in RCSL politics, and I remember very well the work Vincenzo has invested in designing the RCSL structures and drafting the RCSL statutes.

By the way you can read about our RCSL history on the fabulous detailed website which Pierre Guibentif is organising and servicing.

Vincenzo and IISL

In our German BarBlog, the blog of the Berlin working group on Sociology of Law you can find an interview with Vincenzo titled: socio-legal practice – the IISL as a utopia which has become true (<https://barblog.hypotheses.org/1753>).

In 1988 RCSL was looking for a permanent office. Vincenzo, Jean van Houtte and Volkmar Gessner, my German colleague, who was RCSL secretary at the time got into contact with Kiko Caballero of the University of the Basque Country and managed to find a place for the Institute, the old historical university in Onati and could draft after only six months an agreement which gave birth to the Onati International Institute for the Sociology of Law. Vincenzo said in the interview that in Italy that would have needed at least ten years.

Many of you will have been there for workshops, as master students, as visiting scholars using the wonderful socio-legal library and you will know how important Vincenzo was for the design of the institute's scope of work, organisation of workshops, teaching in the Master Program and in maintaining the library which became an important task in recent years. Vincenzo acted as Scientific Director from 2016-2018.

Personal remarks

I have been on the board of the Onati Institute since 2006, Anne Boigeol the then RCSL President had nominated me at the time, and now I am - together with some others of the pioneer generation - a kind of living memory of the institute's history and all the activities which take place there. I had known Vincenzo since the famous meeting of the Lawyers in Society Project in Bellagio in 1984 and met him in many socio-legal contexts, but in his years as SD we have co-operated intensely. These were difficult years for the institute, we had painful financial cuts, we had to balance out an organisational restructuring which caused frictions. The more important it was that Vincenzo was there together with his wife Maria Teresa who supported him. The students could access him all the time, spending many evenings together at the long table in the Residencia. I have also enjoyed his company there, which gave us more time than usual for stimulating discussions on socio-legal questions and I enjoyed his fine humour.

I cannot go into detail here with his work, I recommend the video recordings you can find on Youtube:

An interview from Hakan Hyden from Sweden with Vincenzo available at:

<https://www.youtube.com/watch?v=ek63hNxElcU>

His brief introduction What is Sociology of Law, available at:

<https://www.youtube.com/watch?v=tpiLDREI-HI>

Also his brief introduction to the Onati Master course in 2018, available at:

<https://www.facebook.com/watch/?v=1381153551919204>

On the 20th of January 2021 Vincenzo Ferrari has given a talk in the new series of IISL institutional memory lecture titled "1989-2018: Thirty years of changes in the socio-legal field" which will be part of an IISL publication which will come out at the end of the year.

Dear Vincenzo, RC SL, for which I speak as President, IISL for which I speak as a long-standing IISL board member, and I personally owe you incredibly much. Your contributions to sociology of law are indispensable. We all do hope that you can go on actively adding to our work in many years to come. So at the end I can only say just a simple: Thank you so much, mille grazie Vincenzo.

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VIRTUAL WORKSHOP 'LEGAL EXPERTISE IN THEORY AND PRACTICE'

On the 25th and 26th February 2021 the Hamburg Institute for Social Research (HIS) held an international conference on Legal Expertise in Theory and Practice. The two-day virtual workshop, which was organized by its research group on "sociology of law", explored the changing role of expertise in creating, shaping and negotiating law as well as the need for a transformation of its theoretical framing.

Ranging from forensic expertise to topics of cybersecurity and environmental law, courts have been heavily relying on expert opinions beyond traditional sources of legal expertise from academia and legal practice. With financial consultancy and private dispute resolution in the hands of transnational companies and big law firms, legal expertise has long traveled the world outside the courtroom. Some scholars argue the rule of law even had more effect worldwide on societies than the field of medicine.

Therefore, we as the organizers were less interested in "expertise" in and of itself but rather how it can inform social science about the way normative orders are created and renegotiated. Where does legal expertise start and end, is it mostly a matter of professional jurists or does it reach further?

With this in mind, we launched a web conference following two goals: firstly, the opening and the closing sessions were focused on the role of socio-legal research in understanding legal expertise and conceptualizing its impact. Secondly, to initiate a productive discussion all eleven panels were organized in pairs of two: each session had one speaker giving a brief input and one panel commentator critically

following up on its main conclusions. For that we invited a selected international group of socio-legal scholars who shared their works, analyses and perspectives.

The discussions profited from a wide array of diverse backgrounds, different theoretical perspectives and experience from various legal systems brought in by legal scholars, sociologists, historians, anthropologists, political and socio-economic scientists from Austria, USA, Columbia, United Kingdom, France, Switzerland and Germany. Together they allowed an interdisciplinary investigation into the benefits, features, and challenges of conceptualizing legal expertise.

In the first session Julia Dahlvik (University of Applied Sciences Vienna) and Christian Boulanger (Humboldt University Berlin) discussed the struggles over expertise Austrian ombudsmen face. As a supreme body that investigates maladministration on the basis of around 18,000 citizens' complaints each year, its bureaucratic interactions between ombudsmen, case workers and citizens depart from the idea of legal expertise as exclusively or even primarily being a matter of the legal profession.

While the first session outlined expertise and its impact onto other areas, the next two sessions focused on legal expertise within its own sphere: challenges to and for legal expertise is not something solely beyond but something within the professional field itself. On the topic of great expectations and the capacity of judges to cope with foreign legal orders Nora Rzakowski (Ludwigsburg University of Applied Sciences for Public Administration and Finance) and Friederike Bahl (HIS) discussed a peculiar circumstance: while their non-expertise for foreign law is widely accepted, it seems almost adverse for judges to admit that they are not versed in EU or international law. In the following session, Birgit Apitzsch (Soziologisches Forschungsinstitut Göttingen) and Ulrike Schultz (FernUniversität in Hagen) discussed an identified shift in the self-conception of judges. Being sensitive to the perception of their status and skills by other legal professionals and laypersons the judges' understanding of their own expertise has shifted beyond a strictly legal skillset and towards the significance of communication and trust.

Tracing our steps back from legal professionals in and beyond their jurisdiction the last two sessions of the first day expanded the geographical dimension of legal expertise regarding cross-national topics. In the fourth session Johanna Mugler (University of Bern) and Lars Döpking (HIS) concentrated on international tax law: while international tax norms, rules and standards have not been so much the focus of public awareness – especially before the financial crisis in 2008 – tax law has grown into a task beyond primarily national authority. On the note of transnational effects, Suzana Sawyer (UC Davis) and Laura Affolter (HIS) discussed the translatability of forensic expertise in a global context. Rendering judicial decisions, forensic experts have proven to play a crucial role in transforming legal claims across various jurisdictions and even continents.

The second day started with the impact that different social theoretical and legal approaches might have on

conceptualizing expertise. In the first session Franziska Brachthäuser (Free University of Berlin) and Tobias Eule (HIS, University of Bern) investigated the jurisprudential emphasis on continuity that ties legal expertise and its transformation to legal dogmatics. By referring to a reassessment the German Supreme Labor Court made in its 1952 ruling on the right to strike, the two scholars stressed the necessity for a historical reconstruction of standing jurisprudence: a current ruling might be influenced by its historical reasoning (and therefore complying to views, interpretations and customs not shared today).

In the second session Andrea Kretschmann (Leuphana University Lüneburg) and Clemens Boehncke (HIS) explored the development of legal expertise by reconstructing its sociological understanding. Sociology's conception of modern law as part of a differentiated society has somewhat limited the theoretical understanding of legal expertise to that of legal professionals. The expertise of laypeople has thus remained under-conceptualized and requires reevaluating our theoretical perspectives.

Imploring the need for conceptual differentiation between expertise and professionalism Konstantin Hondros (University of Duisburg-Essen) and Alain Pottage (SciencesPo) pleaded for rethinking the systematic hybridity of legal and non-legal professionals in contemporary legal fields like the music industry. Especially copyright issues concern lawyers specialized in copyright law and music experts likewise in their efforts to effectively assess so-called 'soundalikes'.

These fluid boundaries and blurred lines of expertise led us to our last two panels and the question: where and how does extrajudicial expertise find its way into the law? While research on the use of external information in legal matters often focuses on how outside expertise, its source and validity, is assessed by judges the fourth panel explored a different angle: Valentin Feneberg (Humboldt University Berlin) and Livia Holden (University of Oxford, University of Paris Nanterre) argued that in asylum jurisprudence, it is the judges' often implicit background knowledge of and extrajudicial assumptions about the country of origin that effectively decide cases all the while being hardly ever contested.

In the last session Carolina Angel Botero (Universidad de Los Andes in Bogotá) and F. Derya Montes (HIS) reassessed the role of anthropologists in granting rights to natural entities like rivers. By being able to communicate in what ways water plays a role for communities there is a case to be made for their status as expert witnesses in environmental lawsuits. As such they are taking part in navigating and redefining core legal issues like the question of what it means to become a subject of rights before the law.

The workshop concluded with a discussion panel, summarizing the ways in which we can take our examination of legal expertise further. Through the contributions to the workshop, we learned how legal actors such as judges, prosecutors, and lawyers as well as music experts and citizens, use legal expertise not only to reinforce the authority of the law but also to test, shift or change the scope of its practicability for society.

Taken together, the papers in this workshop challenged us to look at law through the lens of legal expertise in at least three different, yet related, ways: Firstly, we were pushed to closely examine the relation of expertise and knowledge. Understanding expertise might not only be about a positive account of the intellectual resources we can vouch for but also about their limits. Is uncertainty basically the end of expertise or does expertise rather evolve around the capability of finding the relevant information? The second aspect refers to its material dimension. Be it in the persuasiveness of numbers, in creating artefacts, or demonstrating evidence – expertise seems not to be a set of competences that we just have but something that is put into practice. Yet perhaps most importantly, the multifaceted empirical reality of legal practice puts the traditionally close connection between expertise and profession to the test. Instead of the common differentiation between lay-persons and experts we might have to think about today's experts rather in terms of a continuum that ranges from traditional legal professionals to citizens and various influential intermediaries like companies and NGOs in-between them. How such a continuum changes the relationship between expertise and power remains an open question. Expertise is usually understood as involving some kind of asymmetry. But are we observing new combinations of expertise or does establishing one expertise always bring about the loss of another? To grasp the wide range of their interaction, intersectionality and transformation we need more theoretical tools and further empirical investigation. In this sense the interdisciplinary dialog has only just begun.

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IV ISA FORUM OF SOCIOLOGY

The *4th ISA Forum of Sociology* was originally scheduled to take place in Porto Alegre, Brazil, in July 2020. Having played the role of RCSL Program Coordinator, I must admit that I am very disappointed. It was supposed to be such a memorable event! But against all the wishes and expectations of the Brazilian sociolegal community, it was not possible to warmly welcome our colleagues from around the world in the vibrant city of Porto Alegre. The outbreak of Covid-19 has dramatically impacted every aspect of life, and academic meetings were no exception.

The decisions to postpone the Forum and convert it to an online meeting due to the global pandemic were taken by the Executive Committee of the ISA with responsibility and resilience, but also great sadness and reluctance. Scenes from a foreseeable public health disaster made any other option unbearable. Brazil has been heavily affected by Covid-19, with more than 580,000 lives lost so far. Unfortunately, there is plenty of evidence of a policy allowing the virus to spread supported by the highest authority in the country, threatening the worldwide effort to contain the pandemic.

The virtual *4th ISA Forum of Sociology* was eventually held on an online meeting platform from February 23 to February 28, 2021. Due to several withdrawals of papers previously accepted, the entire program had to be reorganized. To prevent more withdrawals, especially from global South participants, ISA decided to maintain the original timetable, standardized presentations to the oral format, and reduced registration fees. Given the circumstances, the outcome was positive. In line with the Forum's key theme, *Global Challenges of the 21st Century: Democracy, Environment, Inequalities, and Intersectionality*, over 750 sessions were organized, with 3,500 participants from more than 100 countries. Because only about 50 RC SL members are also ISA individual members, our Research Committee was limited to hosting a maximum of 10 sessions. The RC SL program prioritized session proposals related to the WGs, "Civil Justice and Dispute Resolution", "Gender, Law and Society", "Human Rights", "Law and Development", "Law and Migration", "Law and Politics" and "Social and Legal Systems". In addition, two other session proposals were accepted, "Sociology of Law in Latin America" and "Judicialization of Social Problems and Governance of Security in Comparative Perspectives". Also, a Business Meeting was held, with the participation of RC SL President Ulrike Schultz. A total of 45 highly interesting papers were presented by sociologists of law in different stages of their careers. Detailed information about RC SL Program at the virtual *4th ISA Forum of Sociology* is available on: <https://isaconf.confex.com/isaconf/forum2020/meetingapp.cgi/Symposium/578> (Please notice that only registered participants have access to the recordings of the oral presentations).

It is still uncertain when the pandemic will allow us to hold in-person global meetings again. ISA has already reached the decision to postpone to June 25-July 1, 2023, the XX ISA World Congress of Sociology, in Melbourne, Australia. In the meanwhile, we must keep sociology of law as a transnational enterprise alive strengthening our bounds online.

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THE IISL INSTITUTIONAL MEMORY LECTURE SERIES

It is with great pleasure that I follow the invitation of Pablo Ciocchini, the editor of the RC SL Newsletter, to write a brief account on the virtual IISL Institutional Memory Lecture series which I launched at the beginning of 2021 in close cooperation with IISL Publication Officer Leire Kortabarria. The inspiration for this lecture series sprang, most immediately, from a painful sense of loss that many of us have felt since Summer last year, in the wake of the passing of three eminent law and society scholars: Manuel (Manolo) Calvo García, Professor of Philosophy of Law and Sociology of Law at the University of Zaragoza, who died on the 21st of June 2020; Reza Banakar, Professor and Director of Research in the Sociology of Law

Department at the University of Lund, who passed away on the 27th of August 2020; and Sally Engle Merry, Julius Silver Professor of Anthropology at New York University, whose passing was on the 8th of September 2020.

I began my term of office as the new IISL Scientific Director on the 1st of September 2020, and my sense of loss became even more marked by the worsening COVID 19 situation. The latter forced us to break with many time-honoured ways in Oñati, only allowing for a rather emaciated version of academic life, with more than half of the students participating in the IISL Master's having to attend online. Besides, COVID propelled the institute into an enhanced period of organisational change, marked by rapid digitalisation and more agile ways of doing things. All of the workshops hosted by the institute had to go online, too, and there were hardly any visiting scholars in person until Summer 2021, leaving the library glaringly empty. All this induced in me a heightened sense of temporality.

The third factor that inspired the launching of the IISL Institutional Memory Lectures was a much more positive one. With a desire to deepen my understanding of the historical conditions that had led to the foundation of the institute in Oñati, I happened on Pierre Guibentif's useful book *Oñati IISL-IISJ 1989-2000* from 2000. Both its wealth of information and its datedness drove me to approach a number of scholars with a request to share with us their more recent memories of the institute in conjunction with their take on the development of the respective socio-legal fields they had hitherto been most active in.

The series commenced in January 2021 with Vincenzo Ferrari's excellent opening lecture. It bore the fitting title "1989-2018: Thirty years of changes in the socio-legal field". The lecture not only provided an important historical overview, as its title had promised to do, but also a useful inventory of key issues for contemporary and future socio-legal research. Vincenzo had formed part of the RC SL Team visiting the Basque Country in 1988, in order to negotiate the final agreement with the Basque Government which had provided the legal basis for the foundation of the IISL-IISJ in Oñati. It was many years after his Presidency of the RC SL (1990-1994), though, that Vincenzo eventually had the time to serve as Scientific Director of the IISL (2016-2018). Vincenzo's lecture was followed in February 2021 by Mavis Maclean's vivid recollection of the successful development of the international research network "Family Law and Family Policy" within the RC SL Working Group "Comparative Studies of Legal Professions". The network, which actually forms Subgroup 2 of the highly diversified and productive "Legal Professions" Group, has held many conferences at the IISL, all characterised, so Mavis, by a strong sense of community. That the value of community has gone well together with excellent scholarship in the "Family Law and Family Policy" network is borne out by meanwhile nine publications. Having been a former President of the RC SL (1994-1997), directly following Vincenzo's term of office, Mavis was indeed well positioned to testify to the

benefits of communal scholarship at both the RC SL and the IISL.

The March 2021 Memory Lecture was delivered by Bill Felstiner. It very much had a character of its own, as it was devoted to his experiences around his probably less well-known relief work in Chad. Bill started his lecture by relating how the conditions in refugee camps in Eastern Chad had reminded him of the fact that Oñati, at the time when he had been Scientific Director of the IISL (2000-2002), had had as a sister city a refugee camp in Algeria. He then shared with us the details of the successes and failures of his refugee relief project in Chad, which had lasted altogether thirteen years. Given the fact that the IISL keeps attracting scholars and students with an activist vocation from all over the world, Bill's reminiscences reflected an important aspect of the institute's history. In the following month, i.e., in April 2021, we hosted a lecture by Ulrike Schultz, President of the RC SL since 2018. Ulrike's lecture equally attested to some measure of activism. Titled "Breaking the Bowl: Integrating Women's Issues and Gender Questions into Socio-Legal Teaching and Research", the account of her professional trajectory as a female legal scholar in the male-dominated German legal academy was personal, engaging, and inspirational. Ulrike aptly demonstrated that scholarly careers, like scholarly research, are always configured by concrete socio-political and cultural relations. Her lecture was a lively plea to push for more diversity and inclusiveness in our respective spheres of influence.

The last lecture before the summer break, was delivered by Johannes Feest, who had been Scientific Director of the IISL from 1995 to 1997. Speaking from the perspective of "A Penologist in the Basque Country", Johannes was the only speaker in the Memory Lecture series so far who broached the issue of the context in which the IISL had been founded, and in which it had operated for so many years – the violent Basque Conflict and its aftermath. Johannes' lecture confirmed the timeliness of a cooperation I had initiated, at the beginning of 2021, between the institute and stakeholders of the Basque Country, in order to further the development of a Basque Model of "Restorative Justice in Prisons". The cooperation involves the organisation of a couple of dialogue circles and an international workshop, funded by the Basque Government. The idea for the cooperation was actually sparked by the upcoming transfer of ETA prisoners from remote Spanish detention facilities to penitentiary centres in the Basque country in the first week of October 2021.

The next cycle of IISL Institutional Memory Lectures will begin on the 20th of October 2021. Our first speaker will be Teresa Picontó, Professor of Law at the University of Zaragoza, widow of Manolo Calvo, and a socio-legal scholar in her own right. Teresa's lecture will be titled, "A Life Shared with the Sociology of Law: Manolo and Teresa".

The speakers for the November and December lectures have already accepted our invitation. The first will be Jacek Kurczewski, who was Scientific Director of the IISL from 1997 to 1998. The second speaker will be Pierre Guibentif, who directly succeeded Jacek as Scientific Director in 1998, staying in office until 2000.

The titles of both their lectures have not yet been decided upon.

Suffice it to say that all the lectures I have mentioned so far are being and will be transformed into written contributions to the first volume of an OSLS Special Issue on "IISL Institutional Memory". The second volume will accommodate contributions by younger speakers participating in a new cycle of lectures in January 2022, which I will announce in the next RC SL Newsletter. Please, regularly check the websites of the IISL and the Oñati Community for concrete dates and registration instructions. Thank you for your interest.

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SEMINAR ON SOCIOLOGY OF LAW AT THE UNIVERSITY OF BUENOS AIRES

Socio-legal events were held in 2020 and 2021 virtually, in Spanish and English, organised by the Seminar on Sociology of Law. The Seminar is directed by Dr. Laura N. Lora and it based at the *Universidad de Buenos Aires, Facultad de Derecho, Instituto de Investigaciones Jurídicas y Sociales Ambrosio L. Gioja* under the auspices of the RC SL.

The seminars' goal is to bring together in the ambit of the Instituto de Investigaciones Jurídicas y Sociales "Ambrosio L. Gioja" specialists in Law, Sociology, Philosophy, Sociology of Law and/or scholars dealing with empirical socio-legal studies so to generate exchanges between colleagues in order to debate topics related to the field of Sociology of Law and/or studies on Law and Society. The seminars will promote the exchange and debate of research work with an interdisciplinary sociological and legal perspective, so to discuss, analyse and compare the research that is being carried out at any given time on the different fields in which the Sociology of Law works.

The different activities on law and digital societies with national and international guest lecturers are as follows:

De Giorgi, Raffaele (Universita de Salento, Italy); Extremismo. Odio e intimidación en línea. (Online extremism, hate and bullying) August 10th, 2020.

"With the diffusion of the web, the explosiveness in itself is manifested because it is open to all through a universal inclusion (...). To control this explosion and guide the possibilities of universal communication, semantics are activated in the description of society, which have their places also in the West in cultural and philosophical manifestations, which lead to pursue a goal: the destruction of the foundations and semantic bases of modernity, enlightenment". (Di Giorgi, Raffaele). Available at: <http://www.derecho.uba.ar/noticias/2020/extremismo-odio-e-intimidacion-en-linea>

Campilongo, Celso (University of São Paulo, Brazil); Natalia Aruguete (Conicet, Argentina) Activismo y movimientos sociales en la era digital (Activism and social movements in the digital era)."Digitalization can

be seen as a rapid and transformative force that is taking over many aspects of life. It can also be seen as a spectrum of opportunities that helps humanity and strengthens democracy. Throughout history, emerging technologies challenge legal paradigms and today it is more relevant than ever. In a digital world the privileges and disadvantages of digital advances are also not shared equally. This underscores more than anything else the need to undo the mistakes of the past and imagine a more inclusive and democratized process of producing and sustaining the innovations that will shape the near future." (Lora, Laura)

Ferrari, Vincenzo (University of Milan, Italy); Hipótesis para la Sociología del Derecho del futuro (Hypotheses for the sociology of law of the future) July 20th, 2020. "One of the great challenges currently facing the sociology of law is associated with the question that opens up the possibility of automated law. The sociology of law is as big, and extensive as law itself. It is not only a question of talking about big data or artificial intelligence, one cannot avoid talking about big data or artificial intelligence, one can say that there are many schools of thought, research, reflections, and attempts to apply these new research technologies to law. To what extent can the application to law of artificial intelligence associated with temporary access to large amounts of data lead to reforms of legal regulation capable of resisting the challenges that caused the crisis of the enlightened model of law? We can also imagine that these technologies could go even further ahead of such a model thanks to a complex mathematization of automated legal decisions to the exclusion of human intervention." (Vincenzo, Ferrari)

Zuleta Puceiro, Enrique (Universidad de Buenos Aires); Acceso a justicia: hacia un nuevo paradigma. Mapa nacional de necesidades jurídicas insatisfechas (Access to justice: towards a new paradigm: a National map of unmet legal needs.) November 16th, 2020. "Access to justice is the possibility for every human being to have access to the instruments – not exclusively jurisdictional – that are provided by the legal system and the political system for the protection of rights and individual and social interests. It is a tool that makes it possible for declarations of rights to become concrete, effective, justiciable when there is a matter of an unsatisfied legal need or without the need to go to court, to be resolved in a large number of instances that are growing and that are part of the field of AMRD's (adequate, alternative methods of prevention and resolution of disputes)". (Zuleta Puceiro, Enrique)

Fariñas Dulce, María José (University Carlos III of Madrid, Spain); Extremismo, odio e intimidación: la "whatsappización" de la política (Extremism, hatred and intimidation: the "whatsappization" of politics), September 9th, 2020. "Everyone has access to Twitter and WhatsApp and everyone immediately, that is, without thinking, expresses emotions. It is not wrong to express emotions evidently the human being is a component of reasons and emotions. The problem is that political manipulation of people's emotions is

taking place. What matters is the primary emotion, the impulse that arises at a given moment without giving time to think, reflect, debate and construct ideas." (Fariñas Dulce, María José). Available at: <http://www.derecho.uba.ar/noticias/2020/extremismo-odio-e-intimidacion-la-whatsappizacion-de-la-politica>.

Silva García, Germán (Catholic University of Bogotá, Colombia); Estudios socio jurídicos empíricos (Empirical socio-legal studies), Octubre 7th, 2020. "The main objective of the research was to investigate the ideologies of legal operators in the criminal field. If we follow Max Weber's concept of social action, so widely used in the field of social sciences and also in legal sociology, we could think that ideas can be investigated insofar as individuals tend to act rationally and these actions are carried out by means that seek to achieve certain objectives, and as these objectives represent ideas, we can deduce what these ideas are from the analysis of the means that have been used to achieve them." (Silva García, Germán)

Faliero, Johanna (UBA, Argentina) Inteligencia artificial, y aprendizaje automático, El agujero negro de los datos (Artificial intelligence and machine learning, The black hole of data), November 4th, 2020. "Naturally, there are new challenges in terms of privacy, intimacy, information self-determination, which we from the legal field have to address not only from the regulatory point of view but also from the point of view of the consequences and impacts and from the perspective of mitigating the harmful effects that may occur." (Faliero, Johanna)

Fucito, Felipe (Universidad de Buenos Aires) Teletrabajo. Vida laboral en transición, entre lo público y lo privado, rutina comunicación y eficiencia (Telework. Working life in transition, between public and private, routine communication and efficiency.), June 30th, 2020. "All these questions invite great sociological and philosophical prophets to tell us what the world will be like in seventy, eighty or a hundred years, and in general none of them will live to see how they were wrong. Prophets are always wrong, the only one who was not so wrong was Orwell, in terms of the technologies he imagined. Prophecies are wrong because they place the new technology or invention in a current social context, what is difficult even if you can anticipate the technology is to see how the social conditions that accompany it will be, which are different from the social conditions of the person who is thinking about the society of the future. Today we have the issues arising from artificial intelligence that are just at the beginning regarding the control they may come to have over us, which is notorious in teleworking." (Fucito, Felipe)

Schultz, Ulrike (President of the International Committee for the Sociology of Law, Germany); Cuestiones de género en las profesiones jurídicas (Gender Issues in the Legal Professions), August 21th, 2021. "In the 1990s it was difficult to find women specializing in aspects of the legal profession and

sociology of law worldwide. This has completely changed. Not only are there many women working in this field, but we also have a large number of publications on the subject, which gives us a clear picture of the situation of women in the legal profession worldwide. There are differences between common law and civil law countries. From the historical development of each country there are differences between the laws, the legal system and the structure of the profession. The social status of women lawyers, judges, notaries and law professors varies from country to country. For example, in England, working in a legal academy used to have a low reputation. Today there is a feminization of the profession and women are no longer marginalized but are now a majority. More than 50% of the students are women. However, the obstacle today is the permanence of the glass ceiling, which means that the opportunities to develop a career are still better for men." (Schultz, Ulrike). Available at: <http://www.derecho.uba.ar/noticias/2021/cuestiones-de-genero-en-las-profesiones-juridicas-en-alemania-y-en-el-mundo>.

Parmentier, Stephan (Leuven, Belgium) and Umaña Hernandez, Camilo (Universidad Externado de Colombia): Justicia transicional (Transitional justice) August 25th, 2021. "In recent decades many societies have moved from authoritarian rule to new forms of democracy or from violent conflict or war to the end of hostilities to peace. In this context the new power holders inevitably face difficult questions about the legacy of the past: How to deal with the perpetrators of serious crimes of the past? Is it better to remember the horrors of the past or to forget them? Is it possible to break impunity and criminally prosecute the criminals responsible? How can the harm done to the victims be repaired? All these issues are nowadays subsumed within the general concept of transitional justice" (Parmentier, Stephan y Umaña Hernandez, Camilo).

Pribáñ, Jirí (Cardiff University) Presentación del Research Handbook on Sociology of Law (Presentation of the Research Handbook on Sociology of Law) August 25th, 2021. "To carry forward the handbook we have decided to bring together an international group of scholars in legal sociology and to review major themes, concepts and classic ideas, which are still part of contemporary scholarship in legal sociology. We have invited scholars from different traditions, perspectives and experiences showing academic and disciplinary diversity, including historians, anthropologists, ethnographers, economists, to cover their disciplines and the importance of legal sociology for their own research." (Pribáñ, Jirí). Available at: <http://www.derecho.uba.ar/noticias/2021/presentacion-del-libro-research-handbook-on-sociology-of-law> <http://www.derecho.uba.ar/derechoaldia/revista/377>

Picontó Novales, Teresa (University of Zaragoza, Spain): Infancia y adolescencia. Perspectivas socio-jurídicas (Childhood and adolescence. Socio-legal perspectives) September 15th, 2021. "The subject of my latest research and work are the rights of children to a life free of violence in the family, with special

reference to gender violence. These are the latest concerns at the legislative, judicial and institutional level in Spain. Since 1990, when the Convention on the Rights of the Child came into force in Spain, there has always been a need to reinforce and extend these rights to other areas, as the Convention was lagging behind in the face of new situations." (Picontó Novales, Teresa).

All the material of these activities is available at: http://www.derecho.uba.ar/investigacion/inv_actividad_es_novedades_sem_permanente_lora.php.

Recent lectures

Joxerramón Bengotxea (Instituto Internacional de Sociología Jurídica en Oñati, España) 29 september 2021.

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WORKSHOP "JUDICIAL POLICIES ON GENDER AND ON FIGHTING VIOLENCE AGAINST WOMEN: ADVANCES AND CHALLENGES"

The Workshop took place between 31 August and 2 September 2021. Its objective was to gather researchers from several regions of the world and Brazilian judges to discuss judicial policies of gender equity and confrontation to violence against women. The opening table had the participation of researchers Ulrike Schultz (Germany), Maria da Glória Bonelli (Brazil), and Gislene Aparecida dos Santos (Brazil), as well as representatives of the Brazilian Judiciary's top organs. The researchers discussed the topic: Gender, Judiciary and access to justice for women: a review of research agendas in Brazil and other countries. On the second day, researchers Claudia Espinoza (Mexico), Aluminé Moreno (Argentina), and Ana Carolina Nunes (Brazil) shared experiences and studies from their countries on judicial gender policies and access to justice for women. On the third and fourth day, Brazilian researchers Wania Pasinato, Luseni Maria Cordeiro de Aquino, Fabiana Severi, and Ana Lúcia Pastore brought the results of their research that evaluates the results of Brazilian judicial policies on combating domestic violence against women in recent years. The event was broadcasted by Escola Paulista da Magistratura's Youtube channel. It had an audience of approximately 400 people every day.

The videos will be available at:
<https://epm.tjsp.jus.br/Noticias/Noticia/68819>.

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THE PODGÓRECKI PRIZE 2021 FOR LIFETIME ACHIEVEMENT

Following careful deliberation, the Podgórecki Prize Committee awarded the 2021 Prize for Lifetime

Achievement to Professor Jacek Maria Kurczewski, nominated by Professor Mavis Maclean, CBE, Oxford University and Emeritus Professor Masayuki Murayama, Meiji and Chiba Universities. I am grateful to Mavis and Masayuki for the text of their nomination, on which I have heavily relied.

Professor Kurczewski is an eminent sociologist of law and a public intellectual who has persisted with his scholarship during the complex situation of Poland since the 1960s. His research was and remains an important reminder of the fragility of the rule of law, which should not be taken for granted. During the Polish People's Republic, he actively opposed the totalitarian state and in the transition to democracy post-1989 he took up public leadership roles, including as judge of the Tribunal of the Republic (1989-91) and Deputy Speaker of the new parliament (1991-93).

He has been engaged in research, analysis, and teaching in the sociology of law throughout his long career, continuing in the Polish school of legal sociology, derived from Leon Petrażycki. In 1965, he completed a Master of Arts and a PhD in 1972, both in Sociology at the University of Warsaw. Adam Podgórecki was his supervisor for these two degrees and his doctoral thesis was published in 1977 with the title: *On researching law in the social sciences*. With Adam Podgórecki, Jacek Kurczewski conducted his first studies of law, legal awareness, and the application of law, despite the unfavourable political climate in Poland at the time. His academic appointments were at the University of Warsaw, where he is now Professor Emeritus.

Several of the studies initiated and directed by Jacek Kurczewski were international in scope, including the research carried out in the 1970s in the UNESCO Centre for Social Studies, focusing on local legal structures. Jacek Kurczewski pioneered research on alternative models of dispute resolution, the results of which were published in Poland and internationally (*Social Conciliatory Commissions in Poland: A Case study of Non-authoritative and Conciliatory Dispute Resolution as an Approach to Access to Justice*, 1978). As Professors Mavis Maclean and Masayuki Murayama observe: 'Jacek Kurczewski had a talent for turning difficult situations into valuable research opportunities'. A good example of this ability can be found in the studies and analyses of the sense of law, legal awareness, and unofficial law carried out during the time of intense market shortages and rationing of all essential goods (*The Rationing Contract*, 1985). Core topics and foundational themes such as the operation of law, theories of justice, conflict resolution, and the functioning of the legal professions have been constantly addressed in his work over fifty years. In this vein, his most recent book is: *How People Use the Courts: The Disputes and Courts in Poland* co-authored with Professor Małgorzata Fuszara (Peter Lang, 2017) and he still publishes on dispute processing and the rule of law.

Jacek Kurczewski has actively contributed to sociology of law as a profession, including membership of: the Board of the European Institute for Sociology of Law, Brussels; the Board of the *Polish Sociological Review* (including a term as editor-in-chief); the Board of the

Research Committee of Sociology of Law, International Sociological Association (thrice elected). He was Scientific Director and member of the Board of the International Institute for the Sociology of Law [IISL], Oñati, Spain. His contributions to IISL workshops on access to justice and dispute resolution are ongoing and can be seen in the many chapters he contributed to the Onati series with Hart arising from IISL Workshops. The latest is currently in press for the volume *What is a Family Court for?* edited by Maclean, Treloar and Dijksterhuis.

Jacek Kurczewski studied and lived the sociology of law and socio-legal change, offering mentoring and guidance to several generations of young socio-legal scholars. His courage and perseverance in maintaining honest and original scholarship through teaching, research and political involvement are exemplary. His first major book in English, *Resurrection of Rights in Poland* (Oxford University Press, 1993), provides detailed case studies of the move towards democracy, and *Living the Sociology of Law*, his later memoir, offers an inspiring account of these years. He not only maintained the integrity and development of the subject in Poland but brought others in to learn at first-hand about the hardships, and the ways to survive, develop and advance sociological understandings of law: its benefits and limitations.

The Prize Committee consisted of Professor Stefan Machura (Bangor University, Wales), Professor Germano Schwartz (Centro Universitario Ritter dos Reis, Brazil) and me as Chair.

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SPEECH BY JACEK KURCZEWSKI ON THE OCCASION OF THE PODGÓRECKI PRIZE CEREMONY

Thank you, Sharyn for all these kind words. I am honoured by your speech but above all by the prize. The Research Committee of the Sociology of Law became my home in my scholarly youth. Here there was the freedom and openness of speech while in my country from school through to the university there was repressive censorship, fear of political accusation that might lead to expulsion from academia, not to mention academic advancement. Here I met the friends from my generation, some of whom we shall celebrate, Vincenzo Ferrari and Rick Abel, long life to them! But also others, Mavis Maclean with whom I am still collaborating on her ambitious projects concerning sociology of family law and justice, some elders like Bill Felstiner and some youngsters like Masayuki Murayama, as well as others, like Jean Van Houtte, Hubert Rottleuthner, Andras Sajo or Martin Krygier, and many who are no longer with us like Richard White, Kees Schuyt, Lester Mazor, Philip Lewis, Wolfgang Kaupen, Paavo Uutisaalo, Vincenzo Tomeo – not forgetting the founding fathers of the Committee, Renato Treves, Bill Evan, Vilhelm Aubert and ... Adam

Podgórecki, (1925–1998) my mentor in the sociology of law who passed away 23 years ago.

As this is His, Podgórecki's Prize, let me say a few words about him. Certainly, a character, full of the wit and black humour that survivors from totalitarian oppression share. He himself had two masters, one was Leon Petrażycki, a Polish-Russian thinker, second, the Chinese sage Si-tien. Adam's mottos came from the latter, his inspiration from the former. Some people still believe Si-tien was a historical figure but in fact his sayings, apophthegms, aphorisms etc. had all been carefully elaborated by Podgórecki himself. Some say the same about Petrażycki who remains for most sociolegal scholars as enigmatic as Si-tien. But Petrażycki was real. This is the price one pays for living on the periphery of academic superpowers. However, we are born to do our job.

And what is the job of sociologists of law anyway? Certainly not to attempt to overtake legal thinkers in the production of speculative knowledge, phantasms of autopoietic furor. Also, not the scrupulous supervision of citizens as to whether they abide by what the State tells them to do. It is research and theory but openly and unabashed normatively oriented. We also need the multilateral academia where a variety of orientations and concerns co-exist. Podgórecki's concern was to study the rise, functioning and demise of totalitarian law. This is a permanent task but now more evident when the symptoms of *authoritarian-virus pandemics* are again threatening. It is time to remind us that there is no value in a study of rules of law unless the law is the ruler. The Common Law world had not yet suffered totalitarian experience as almost the whole of Europe did during the past century, and it is much of the world's population experience nowadays. Struggle for control of justice between the Polish government and Polish lawyers is just one of many manifestations of the A-pandemics (meaning authoritarian pandemics or pandemics of authoritarianism) which are however threatening humankind in Europe and everywhere.

Podgórecki was raised under German National-socialist occupation and afterwards lived under the Marxist Communist party dictatorship that also repressed my family. So, when as a student of sociology in Warsaw I met Podgórecki I was attracted not so much by the then new sub-discipline of sociology of law as by the rebellious message he had brought in with it from Petrażycki: *the pluralist anti-statist concept of law* that allows for disdain for the official law of the state and its servants, including lawyers. I needed time to discover that there are lawyers with good intentions and laws that may serve good intentions as well. I even had a chance to assist such lawyers in making such laws. Knowledge of social functioning of the law acquired through participation in our Research Committee helped me very much. I have mentioned some of my friends, but even rascals, whom I met from time to time also helped me to understand how the law might be misused. Petrażycki used to shock lawyers by telling them about the law of friendship linking people better than the state does as well as the law of card games that people abide by much better than state law. I share with many the hope that in the future state law will vanish, meaning that the free dynamic, open and renewable contract between a

plurality of equals will be the constituent pattern of public life. Last year while doing comparative research on Polish and German business I learned that they both consider the stability and security of legal regulations as the most important aspect of the rule of law.

As if such stability cannot be secured in the concentration or labour camp! The study of the rule of law in all its aspects and manifestations remains the most important task of sociology of law. This means respect for the spirit of law, not of the state – *states do not have spirit* – but the spirit of the people who consider the law, that is - their mutual rights and obligations - as binding for freedom and cooperation. And this relates to the major topic of the conference – covid pandemics – to take into account the global debate about voluntary vaccination which is nothing other than a debate on mutual rights and obligations – as binding for freedom and cooperation!!!

Jacek Kurczewski
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PODGORECKI PRIZE WINNER 2021: PROFESSOR JACEK KURCZEWSKI, UNIVERSITY OF WARSAW

As a longstanding colleague and friend, I am honoured to introduce and congratulate Jacek Kurczewski, who holds the RCSL Podgorecki Prize for his outstanding contribution to the sociology of law.

As an English scholar, trained in history and then empirical research in social policy, the term Sociology of Law was new to me, even as a founder member of the Oxford Centre for Socio Legal Studies when Jacek was first invited to visit us by Don Harris, the founding director, half a century ago. There had been a long-standing connection between the law faculties of Warsaw and Oxford which had hosted the Warsaw faculty in exile during World War 2. But Jacek's first visit was to do much more than sustain old friendships: he opened our eyes to the richness of the developing relationship between sociology and law, and between theoretical and empirical research. Jacek introduced us to the work of Petrażycki, and not only brought with him his young colleagues including Malgorzata Fuszara, and Stefka Naoumova but also led the way for Adam Podgorecki himself to come to us as Co Director of the Oxford Centre when he left Canada. Adam had supervised Jacek's doctoral work, the thesis being published in 1977 under the title "On researching law in the social sciences". It was with Adam that Jacek was to conduct his first studies of law, legal awareness and the application of law, despite the unfavourable political climate in Poland at the time. This work was not only pioneering and original, but politically aware. It was difficult to carry out such research in Central and Eastern Europe at a time when totalitarian regimes were in full control. However, several of the studies initiated and directed by Jacek were international in scope, including research carried out in the UNESCO Centre for Social Studies focussing on legal structures. Jacek also pioneered research on

alternative methods of dispute resolution, the results of which were published in Poland and also abroad (for example Social Conciliatory Commissions in Poland: a Case Study of Non-authoritative and Conciliatory Dispute resolution as an Approach to Access to Justice, 1978).

The central topics of sociology of law including the operation of law, theories of justice, conflict resolution, and the functioning of the legal profession have been constantly addressed in his work and remain so. At the time of writing, August 2021, I am editing the papers from an Onati Workshop held remotely in September 2020 about The Purpose of a Family Justice System, in which Jacek and Malgorzata Fuszara present empirical data on attitudes among the Polish population to what kinds of family matters it is appropriate for an individual to bring to a court for resolution ... including divorce, post divorce parenting, abortion, domestic violence including elder abuse, conflict about sharing responsibility for the household economy, sexual orientation and transitioning, (bearing in mind that Poland has the first elected transitioning MP). The development of individual confidence in the secular authority of the state in the post communist period is carefully plotted for these different forms of family dispute, and compared with the domination of family tradition and religious teaching.

These kinds of ideas were new to us in Oxford, as were Jacek's ways of working, and of sharing and disseminating sociology of law internationally. Instead of sitting at a desk, alone, to work I learned to walk and talk to argue and share, and later to reach out to enjoy new settings for research activity and debate not only in Warsaw, Bellagio, Sofia, Madison Wisconsin, Durban, and Delhi, but above all in Onati. Jacek did not only study the sociology of law, he lived it. Although in the early part of his career academic and scientific work on social and political reality under a totalitarian regime was always challenging, Jacek had a gift for turning difficult situations into valuable research opportunities. A good example can be found in the studies and analyses of legal awareness and unofficial law carried during a period of intense market shortages and the rationing of essential goods (see *The Rationing Contract*, 1985). During the later Communist period in Warsaw, Jacek was deeply concerned with the future of democracy and the rule of law ... issues which we now face afresh in the United Kingdom and we continue to benefit from the lessons of the Polish experience.

As the political situation began to change in Poland, Jacek was in the forefront of the Solidarnosc movement, sitting at the famous round tables at which change was discussed and developed in the period leading to 1989, and eventually becoming not only an elected member of the Sejm but accepting the office of Vice Marshall, or Speaker of the House. The experience leading up to this political involvement is reflected in his essays on the "Resurrection of Rights in Poland" published by Oxford University Press in 1993, and the practical side of law making is recorded in "Making Family Law; A Socio Legal Account of Legislative Process in England and Wales 1985-2010 with Maclean published by OUP in 2011. Here we

included the question of how votes are counted in parliament. Jacek had notes that when he presided as speaker there might be more votes cast (electronically by pressing buttons beside members seats) than there were members present in the Sejm. He asked what happened at Westminster, and was amused to learn that the House of Commons has two supervised exits through which members must leave the Chamber during a vote, one for those voting yes, and one for the nos.

The relationship between individual, family and state became the focus of a number of meetings to be held at IISL Onati, where debate developed about how in Eastern Europe there was a concern to retain welfare provision without reducing individual liberty, while in the West the political right sought to combine independence from the state for the family with interdependence within the self sufficient family group. In Poland privatising the family has also desecularised family law, and this has made actions which the Catholic Church disapproved of, particularly abortion, more likely to be proscribed. A group of sociologists of family law began to meet in Onati holding workshops on Families Policies and Law, specific issues like post separation parenting, and broader issues including access to justice in diverse societies and in periods of austerity. We asked the question of what do we want from family law... how do we frame a regulatory system for interpersonal behaviours, what are the advantages of liberal non-intervention v welfare collectivism, of facilitative rights based models or particular religious frameworks. And we considered the nature of family law and family values, and the pros and cons of private ordering.

But there is another dimension to Jacek's work: his ability to enhance intellectual experience by embracing the community experience of sociology through lived social cohesion and conviviality. When Jacek acted as Scientific Director for the IILS Onate masters students he did not only provide a stimulating intellectual experience for the students from a number of countries with very different experiences and values. He also created a community of scholars of the sociology... largely via the kitchen. Jacek's appreciation and understanding of the impact of cooking and eating together led him to invite the masters students living in the Residencia Antia to take turns to cook together for the joint evening meal. The strategy was not always successful... there was a young boy from Nigeria who would take no part in womens work, but then ended up having to live on bowls of cereal until he changed his mind. And the sad experience of 2 boys from Hungary who became very attached to 2 local girls from Onate. They would all cook together, but then could not agree on a suitable time to eat... the boys were very hungry by 5 pm while the girls, from Onati, thought any time before 8 was not acceptable.

And for those of us fortunate enough to visit Jacek in Warsaw, there was the addition of the element of music... in particular the five yearly international Chopin Competition, where pianists from all over the world competed but usually lost to pale skinny Polish boys who played not just the notes but also the silences in Chopin's piano music. And wherever Jacek was,

there would be walks, in the hills above Onate, the hills around Vienna or the beach in Durban.

We celebrate and salute Jacek...Renaissance scholar and Renaissance man of humanity, curiosity, intellectual rigour, musicality, gastronomic inspiration ... and now the esteemed Podgorecki Prizewinner 2021. We thank him again for his contribution to the Sociology of Law.

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LAWYERS IN SOCIETY: REMINISCENCES AND REFLECTIONS – TO RICHARD ABEL’S 80TH BIRTHDAY

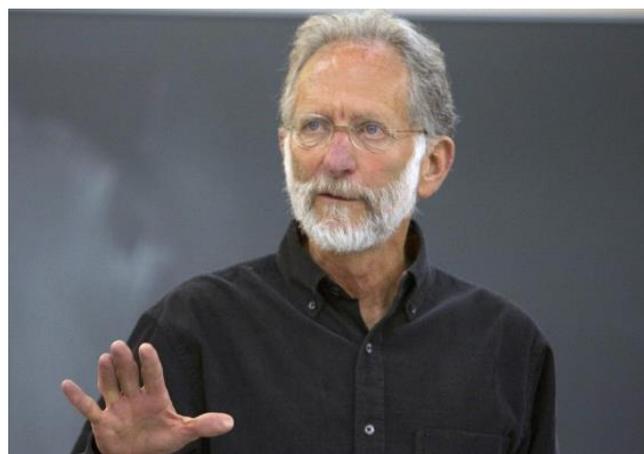
This is a brief personal report of a most remarkable international comparable socio-legal research project and about Rick Abel, who played a crucial role in it. He had his 80th birthday on the 13th of September 2021. We celebrated it at the Virtual RCSL Conference from 20-22 September 2021.

Lawyers in Society – the original project

Let me begin with the history of the original project: In 1980, I was asked whether, with Erhard Blankenburg, I could contribute a chapter on the German Legal Profession (1) for an international comparative project on Lawyers in Society, the conveners and later editors of which were Philip Lewis and Rick Abel. Philip Lewis had conceived the idea, and took the lead in its development in the late 1970s, but was quickly joined by Rick Abel. Philip Lewis sadly died on the 25th of August 2019. (2)

One of the main ways in which the project proceeded was through meetings at conferences and special workshops. The most important of these was the now legendary meeting at the Rockefeller Foundation in Bellagio in 1984, which Rick organised. This left deep traces on the lives and subsequent careers of many of us who participated, and we were envied by many colleagues in the field who had not had the chance to attend. The after-hours discussions could be as stimulating and productive as the work sessions; for instance, one such conversation focused on the neglected subject of women in the legal profession (3), and this launched me on my long research engagement with women lawyers. (4)

Rick and Philip needed a lot of stamina to do the publications. Remember we were writing with typewriters, there was no e-mail and international, particularly intercontinental, phone calls were very expensive. Many of us had not previously been involved in international comparative work, and many scholars worldwide did not have the good command of English they have today. And finally: Scholars at the time were mainly men. At Bellagio we were only 5 women (Anne Boigeol, France; Georgina Murray, New Zealand; Laura Cardia Vonèche, Switzerland; Magali Sarfatti Larson, USA/Italy and I, Germany) as compared with 22 men; yet at that time 18% represented a very good proportion. (5)



Richard Abel

Magali Sarfatti Larson’s book on *The Rise of Professionalism: A Sociological Analysis* (6) was our theoretical reference point, although most of us did not really understand it, as we only dared to admit years later. ‘Deprofessionalisation’, ‘Re-professionalisation’ and ‘market control theory’, which the Americans were talking about, were strange to us humble Europeans. Nevertheless, we all could agree that there was some kind of “Professional Project”, some unwritten strategy that the legal professions pursue. In a word, those of us from the civil law countries and other parts of the globe outside the common law world (and those who were not native English speakers) tended to be shy and highly impressed by the American, Canadian, Australian and English/Scottish colleagues. (7)

Three big books resulted from the project in 1988/89: *The Civil Law World*, 460 p., *the Common Law World* 400 p., *Comparative Theories* 550 p. (8) 32 colleagues contributed. But this is not all. The project inspired a flood of national books and articles with descriptions and analysis of legal professions across the world, and a great deal of empirical work was started. The stream of publications it unleashed remains incessant. In 1994 Avrom Sherr founded the *International Journal of the Legal Profession* which became a forum for comparative work. But the project’s significance is not only academic; it and its – let me call it consequences – have influenced the development and status of the legal professions in many countries around the world. My professional life would probably have taken a completely different direction if I hadn’t met Rick Abel. Our first encounter was in 1981 at the RCSL meeting in Oxford. I felt very unimportant in the group of eminent scholars, but Rick has the ability to inspire and encourage others. For me personally, it set me off on the path we had started in Bellagio (9), and I took over the “feminist side” of the project (10): I ‘mothered’ a group on Women/Gender in the Legal Profession. The work also resulted in three big volumes and many other publications worldwide (11). The last volume on *Gender and Careers in the Legal Academy* just appeared in March 2021.

Lawyers in 21st Century Societies – the new project
30 years after Bellagio at the Legal Profession Group Meeting in Frauenchiemsee, in 2014, Hilary Sommerlad, head of the sub-group “Legal Professional

Values and Identities” and one of the very best specialists in theoretical and methodological issues in the field, proposed that – in light of the dramatic transformations that had overtaken the legal profession (and the geo-political order) over the course of the last few decades – time was ripe for a new comparative project. She was clearly burning for it. The group endorsed her proposal. Ole Hammerslev, who also specialises in the legal profession, and I were asked to cooperate and together we decided the project should be a – revision of the Abel & Lewis project celebrating its 30 years anniversary (which is why the project in the group for some years was called 2018 project).



Hilary Sommerlad

We asked whether Rick would be available for the project and that was the wisest decision we could take. I do not think that we would be where we are today without Rick. He is particularly fast and concentrated in his work and has a very friendly - and firm grip on all of us.



Ulrike Schultz

We developed a kind of megalomania when we discussed which countries to include in vol. 1 and which subjects to cover in vol. 2. We wanted to produce comprehensive volumes with a balanced selection of countries, that, as far as possible, reflected the contemporary global order. The result was 76 authors writing about 46 countries. (12) This required us to write floods of e-mails. The story was even more difficult for vol. 2. Again megalomania: we wanted to cover all issues. Particularly with volume 2 we hunted for authors all around the world, and recruited a wide range of eminent scholars able to deal with the main

themes disclosed by the Volume 1's data. Let me stress how amazing it is that we could find all these authors, who did the work on top of what they have to do without any special external funding, not even an invitation to Bellagio, maybe just funding from their university for going to conferences. A big thank you here to all of them.



Ole Hammerslev

The first volume of 46 national reports was published in early 2020; we expect the second volume of 26 theoretical and comparative chapters to be published before our next Legal Profession Group Meeting in Jersey next July.

Richard L. Abel

You can check Rick Abel's CV on Wikipedia on the internet, although it provides only a very brief glimpse of what he really is. He has an amazing career, undergraduate in physics, law school, graduate in African Law and Legal Anthropology Studies, with fieldwork in Kenya, and then Law Professor. Wikipedia mentions that he has written and edited 27 books, has published about 120 articles and chapters in books, 20 book reviews, 8 special issues of journals. About the private side let me just mention his passion for his family, and an amazing detail: He still goes hiking in the Sierras with full equipment on his shoulders.

Rick describes his road to studying the legal profession as a series of accidents: "In 1970 Marc Galanter was a senior fellow in the Yale Law & M Program; he and Robert Stevens convened a seminar on the Legal Profession; I attended but wasn't interested: the primary courts in Kenya, the focus of my Ph.D. research, had legally untrained judges and excluded lawyers—which was their attraction for me. When I moved to UCLA in Los Angeles in 1974 (after being denied tenure) I was asked to teach professional responsibility: the American Bar association ABA had just required such instruction as its "cure" for the Watergate scandal, in which everyone from Nixon on down had been a lawyer. I saw this assignment as an opportunity to take a socio-legal approach: I had seen no way to do that for torts, which I had taught at Yale (although I did much later, influenced by the Oxford Sociolegal Centre's "misfortune" study). I discovered a

wealth of existing scholarship: ethnographic accounts of solo practitioners in Chicago, lawyers in a small mid-Western town, Wall Street lawyers, and statistical data collected and analyzed by the American Bar Foundation, which I used as teaching materials and later excerpted in "Lawyers: A Critical Reader". (13)

The Journal of Law and Society invited me to review Magali Sarfatti Larson, "The Rise of Professionalism." This was an aha/eureka moment. Then Phil Thomas, the JLS editor, also invited me to participate in a conference in London on the Royal Commission on Legal Services Report, a massive 4 volumes of 1600pp! (The Commission was a response to a populist movement against the high cost of conveyancing, in which solicitors in England and Wales had a monopoly and on which they relied for half their income.) I used Larson's Weberian theory to criticize the restrictive practices, which seemed bizarre to an outsider like me. ... Then Philip Lewis invited me to join the Working Group he had founded. That led to the first project... and I published book-length reports on the US and the UK. The latter led to my deep-throat: a barrister who had failed in practice (perhaps having alienated the clerks on whom he relied for briefs) and become house counsel (i.e., an employed barrister who lost his rights of audience); he saw me as his instrument of revenge and sent me large envelopes of clippings several times a week, always by registered mail at £10-20 apiece. That continued for years and prompted my second book, "English Lawyers between Market and State".

Veterans' reminiscences

At the virtual RC SL Conference from 20-22 September 2021 we asked some of the "veterans" of the Bellagio meeting of the first project to follow Rick and tell us: What the project has meant to them, why they have worked on the legal profession, and in what way they have carried on (or not).

We got contributions from:

Terence Halliday, Research Professor at the American Bar Foundation. (14) (He contributed to vol. 3 Comparative Theories the chapter: Legal Professions and Politics: Neocorporatist Variations on the Pluralist Theme of Liberal Democracies).

Lawrence Friedman from Stanford Law School who is well-known for his publications on legal history as social history. (Chapter on Lawyers in Cross-Cultural Perspective to the third volume of Lawyers in Society). (15)

Alan Paterson, a Professor of Law and Director of the Centre for Professional Legal Studies at Strathclyde University Law School, Scotland, chair of the International Legal Aid Group. He was critical of a Theory of the Professions with Market Control Theory and Production of Producers by the Legal Profession. The title of his contribution to the volume on the Common Law World shows his scepticism: The Legal Profession in Scotland – An Endangered Species or a Problem Case for Market Theory.

The civil law world was represented by *Benoît Bastard*, a Research Director of the CNRS, the French National Center for Scientific Research. (Chapter together with Laura Cardia Vonèche on Lawyers in Geneva: An analysis of change in the Legal Profession). (16)

Ann Boigeol, also a retired researcher at CNRS and RC SL President from 2006-2010 (Chapter on the French Bar. The Difficulties of Unifying a Divided Profession).

Rogelio Perez Perdomo from the Universidad Metropolitana in Caracas, Venezuela (Chapter on "The Venezuelan Legal Profession: Lawyers in an Inegalitarian Society").

Jon Johnson, retired Professor of the Institute for Sociology of Law at Oslo University (Chapter on "The Professionalisation of Legal Counseling in Norway").

I had written with Erhard Blankenburg for the volume on the civil law countries the chapter: "German Advocates: A Highly Regulated Profession".

The mentioned titles reveal the scope of subjects covered in the books and give an idea of the major differences between the professions at the time.

Terence Halliday and Benoît Bastard were two of the main proponents to make the work on the legal profession permanent and to found the Legal Profession Group as RC SL working group. Terry became its first chair in 1986 followed by Benoît. They chose venues in France which led to a kind of tacit agreement that we wanted – if possible – to meet in France, in places with good weather and good food – but often (very) basic accommodation. Since 1986 we have met biannually with unfading interest in issues of the legal profession: in a cloister in Aix-en-Provence, in Peyresque, a restored village high up in the Alps above Nice, in Berder, a colonie de vacances on a tiny island in the Morbihan in Brittany, in Gif-sur-Yvette outside Paris (I remember fantastic food being served by valets with white gloves), in Andorra and I made the group come to Germany twice, to Königswinter and Frauenchiemsee.

Avrom Sherr, emeritus professor of the Institute of Advanced Legal Studies at London University, a very close friend to us all and very important for our work as general editor of the International Journal of the Legal Profession, added amusing remarks from reviews on Rick Abel's books on the Legal Profession in England and Wales which show the differences in perception between English lawyers taking a navel-gazing approach, and an American looking at the English profession from the outside with a sober analytical eye. In our current project, "Lawyers in 21st-Century Societies," *Hilary Sommerlad*, Professor of Law and Social Justice, University of Leeds, England, and *Ole Hammerslev*, Professor in Sociology of Law at the University of Southern Denmark, co-editors of the new books, joined in. They have dealt with the project's theoretical and methodological framework in chapters to both books: 'Lawyers in a New Geopolitical Conjuncture: Continuity and Change' (Volume 1) and 'Studying Lawyers Comparatively in the 21st Century: Issues in Method and Methodology' (Volume 2) issues which the changes of the last 30 years have generated (from feminist to Bourdieusian theory).

Rick Abel describes the theoretical basis which has informed his approach to the project in the following terms: "Most of my own work and that of the working group has adopted an internal perspective on the sociology of lawyers, which combines a functionalist focus on self-regulation and governance, a Weberian approach to lawyers' relations to the market, and

critical perspectives on the profession's demography and access to justice",

Has the group come to an end with this work? Rick Abel has presented a research agenda in vol. 1 (and will do so in vol. 2). In his presentation for the session, he deals - in line with the conference theme - with the fundamental challenges our societies face globally and gives an outline which role lawyers should and should not play.

NOTES

(1) It later became part of the volume of the civil law world and was titled "German Advocates: A Highly Regulated Profession".

(2) His life and work have been acknowledged in our Newsletter 2 of 2019. Comp. also Sommerlad, Hilary (2021) *Lawyers in Society: A Celebration of the Work of Philip Lewis and his legacy*. International Journal of the Legal Profession 28(4), pp. 1-17.

(3) Carrie Menkel-Meadow later contributed a comprehensive ground-breaking, much cited chapter to vol. 3 of *Lawyers in Society*, titled "Feminization of the Legal Profession: The Comparative Sociology of Women Lawyers", pp. 196-255.

(4) I edited a book on Women's Rights – Women in the Law in 1990 (Battis, Ulrike and Ulrike Schultz (1990) *Frauen im Recht*. Heidelberg: C.F. Müller) with a chapter on „Wie männlich ist die Juristenschaft?“, pp. 319-159. Comp. also Schultz, Ulrike (1994) *Women in Law or the Masculinity of the Legal Profession in Germany*. In: Febbrajo, Alberto / Nelken, David (eds.): *European Yearbook in the Sociology of Law 1993*. Milano: Giuffrè 1994, pp. 229 – 238.

(5) In Germany we still do not have a higher proportion of women on chairs in law faculties.

(6) Berkeley and Los Angeles: University of California Press 1977.

(7) I was fascinated by what I learned, but when I talked about results of the project at our national Lawyers Meeting, the Deutsche Anwaltstag, I met a lot of resistance: What is she talking about, is it important and can we take seriously what a woman says (as a rule in the 1980s and early 1990s I was the only woman who was bold enough to raise her hand in the plenaries) and in discussions I usually was cut short after a couple of sentences.

(8) Abel, Richard L. and Philip S.C. Lewis eds. Berkeley and Los Angeles: University of California Press. In 1995 a paperback with a selection of articles from the original volumes followed. *Lawyers in Society. An Overview*. Also published by California Press. (The contribution on Germany was updated.) In 2005 William Felstiner edited a new collection titled *Reorganisation and Resistance. Legal Professions Confront a Changing World*. Oxford and Portland, Oregon: Hart. It contained 11 chapters. In both collections all continents were represented except for Africa. It was almost impossible at the time to recruit African colleagues for socio-legal work.

(9) Against enormous obstacles. In the 1980s and 1990s I often heard from the head of the institute in which I was working: The international work is your private fancy. But it was my passion. Today

internationalisation is an important criterion in the evaluation of universities.

(10) At the Legal Profession Group Meeting in Rouen in 1994 my colleagues asked me to head a Women/Gender in the Legal Profession Group with the aim of publishing international comparative research on the subject.

(11) Schultz, Ulrike and Gisela Shaw, eds. (2003) *Women in the World's Legal Professions*. Schultz, Ulrike and Gisela Shaw (2013) *Gender and Judging*. Schultz, Ulrike, Gisela Shaw, Margaret Thornton and Rosemary Auchmuty (2021) *Gender and Careers in the Legal Academy*. All Oxford: Hart. Also several special issues of the International Journal of the Legal Profession on: *Women in the Legal Profession* (2003), *Women in the Judiciary* (2008), *Gender and Judicial Education* (2014/2015), *Women and Judicial Appointment* (2020).

(12) For more details comp. Schultz, Ulrike: *Lawyers in 21st Century Societies*. RC SL Newsletter 1/2020, p. 14.

(13) The New Press 1997.

(14) Which provided travel funding for the Bellagio Conference in 1984.

(15) Comp. Abel, Richard: *On Lawrence Friedman's 90th Birthday*. RC SL Newsletter 1/2021, p. 3.

(16) Benoît and I haven't missed any of the Legal Profession Group Meetings since Bellagio.

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THE LEGAL PROFESSIONS - WHERE TO?

The world confronts several existential crises. I believe we need to make those the focus of future research. Although each has its distinct origin and calls for different responses, all three crises raise similar, and difficult, questions for lawyers. In no particular order, those crises are climate change, inequality, and the assault on liberal democracy.

Climate change

I came of age in the shadow of nuclear war. I shuddered when reading Nevil Shute's "On the Beach." When I visited the Dachau concentration camp outside Munich in 1961, I wrote in the visitors' book in response to the many anguished cries of "never again" that the immediate threat was nuclear war, not another Holocaust. I demonstrated outside the UN during the Cuban missile crisis, the closest the U.S. came to attacking Russia.

76 years after Hiroshima and Nagasaki, those threats have not materialized (though Iran and North Korea continue to generate concern). Climate change, however, is different. It is not something that may happen. Rather, it has been happening for over a century and will greatly and inexorably intensify if we do not take immediate action. The United Nations now predicts that greenhouse gases will increase by 16% by 2030, compared to 2010; science says they have to decrease by at least 25% during that period. Even if

they do so, average temperatures will rise 2.7 degrees Celsius by 2100. Each of you has experienced its effects: global warming, drought, fires, and catastrophic storms and flooding. Just to give one example of what that will mean: the World Bank predicts climate change will force internal migrations of 216 million people by 2050. That will lead to international migration at levels that dwarf what we have been experiencing in response to wars, poverty, and starvation in Central America, Asia, Africa, and the Middle East.

Lawyers are directly implicated. They represent fossil fuel companies. They oppose government regulation. They propagate lies about climate change. And their own activities contribute to global warming. (Davenport, "Senator has fossil fuel links, and a potent pen," NYT (9.20.21))

Inequality

For more than two centuries, people have condemned and struggled against multiple forms of inequality: class, race, gender, religion, sexual orientation, disability. Some have been ameliorated: slavery, de jure discrimination. But others have worsened, especially inequalities of income and wealth. These have contributed to, and been caused by, inequalities in human capital, especially education. That is one source of the populist movements I discuss below. Inequalities of wealth and income, in turn, reproduce themselves through unequal control of the media and especially of political power.

Lawyers are the tools of inequality. Heinz & Laumann demonstrated this in their conceptualization of the two hemispheres of the legal profession (1) — a concept they had to revise 20 years later because the spheres were no longer approximately "hemi" but increasingly unequal. (2) Between 1975 and 1995, the proportion of legal effort devoted to the corporate client sphere had grown from 53% to 64% and that devoted to the personal/small business sector had shrunk from 40% to 29%. In other words, the former is more than twice as large as the latter. Both of our current volumes document the extraordinary growth of global corporate law firms. Corporate lawyers draft legislation, litigate, negotiate, propagandize and create judicial precedents on behalf of their wealthy clients, increasing their wealth. (Drucker & Hakim, A revolving door keeps tax policy on clients' side," NYT (9.20.21).

Liberal Democracy

The heart of liberal democracy is under attack. Politicians question the legitimacy of elections in anticipation of losing and after they lose. They disenfranchise voters. They distort representative democracy through gerrymandering and other devices. They pack courts with cronies and limit the powers of an independent judiciary. That reinforces distrust of government and discourages the participation that is essential to democratic governance. I am currently working on a book about how this happened during the Trump years. But many other countries are experiencing similar assaults: Poland, Hungary, India, South Africa, Brazil, Venezuela, Philippines, Hong Kong—and more examples could be added. Lawyers

are the essential intermediaries in all these attacks on liberal democracy.

What is to be done?

Existential threats compel us to question fundamental assumptions. Lawyers justify their role as hired guns by invoking what my former colleague Murray Schwartz called "the principle of nonaccountability." (3) That rationale cannot withstand scrutiny. Lawyers must be morally accountable for their acts. Such accountability does not preclude zealous advocacy on behalf of criminal accused, no matter how heinous the crime charged; representation is essential to the integrity of the criminal justice system. (Indeed, there rarely is equality of arms: the state is almost always far better resourced than the defense.) But criminal defense cannot be the foundation of legal ethics. It is a very small part of what lawyers do—Heinz and Laumann found it was just 5% of what Chicago lawyers did with their time in 1975 and had shrunk to 3% in 1995. We need to construct an ethics for the other 97 percent, especially for transactional work. Here are some of the questions that follow.

- Should lawyers represent fossil fuel companies in exploiting new resources? In raising capital to do so? In opposing government and NGO efforts to counteract climate change? In disseminating the lies of those who deny climate change (which resemble the lies of the tobacco industry, manufacturers of toxic chemicals, etc.)? Researchers could be documenting such complicity. Law graduates might choose to boycott those firms. Just as investors (universities, pension funds) have been divesting from fossil fuel companies, firms could decline to represent them.

- Should lawyers contribute to the further concentration of wealth? Should they oppose tax reform? Should they devise and exploit tax loopholes and tax havens? Should they oppose antitrust laws and enforcement?

- Should lawyers subvert liberal democracy? Propagate lies about the integrity of elections? Contribute to the disenfranchisement of voters and unequal representation? Participate in a politicized judiciary? The U.S. lawyers who devised the legal framework and justification for the "war on terror" -- torture, secret prisons, indefinite detention in Guantanamo Bay, military commissions, the denial of habeas corpus, extraordinary rendition, and targeted killing -- have been shamed and shunned. The same could happen to lawyers who subvert liberal democracy.

Responding to these questions will force us to reconsider the lawyer's role. David Luban offered a devastating critique of the "adversary system excuse". (4) For years I taught his article in the first meeting of my legal profession course and asked students to describe a situation in which they, as a lawyer, would decline to serve a client for ethical reasons. My own hypothetical was representing a media operation (radio and television in the old days, social media today) that disseminated hate speech and sought my assistance in drafting contracts or raising capital.

Other professional domains have taken or are beginning to take greater responsibility for their

actions. Scientists insist on double blind tests of all new medical procedures and drugs. Scientific journals engage in rigorous peer review of prospective articles and withdraw those later found to contain falsehoods. Medical professional organizations expel members who advocate unscientific advice or engage in scientifically discredited practices. Social media are increasingly taking responsibility for what they disseminate, adding corrections or expelling those who repeatedly engage in lies. Civil servants and military officers refuse to engage in conduct that violates their values and legal and constitutional obligations, engaging in whistleblowing and sometimes resigning. More than four decades ago I published an article entitled: "Socializing the Legal Profession: Can Redistributing Lawyers' Services Achieve Social Justice?" (5) I answered that question by arguing that the legal system could not be just unless it not only provided legal services to the unrepresented but also denied them to those who sought to amplify unequal power and privilege. British solicitors who refuse to accept certain clients (e.g., landlords in eviction proceedings) have been criticized for not following the Bar's cab-rank rule; but there is a reason why US courts have declined to extend the constitutional right to counsel beyond criminal defense.

If we are beginning to acknowledge the need to break up or regulate other institutions that reproduce the gross inequalities of wealth and power — IT companies, banks, all those whom President Theodore Roosevelt identified a century ago as malefactors of great wealth — so too we must question whether they should receive the indispensable assistance of lawyers.

NOTES

(1) Heinz, John and Edward Laumann (1982) *Chicago Lawyers: The Social Structure of the Bar*, Russell Sage Foundation.

(2) Heinz, John, Robert Nelson, Rebecca Sandefur and Edward Laumann (2005) *Urban Lawyers. The New Social Structure of the Bar*. London and Chicago: The University of Chicago Press.

(3) *The Professionalism and Accountability of Lawyers*. *California Law Review*, Vol. 66, No. 4 (Jul., 1978), pp. 669-697.

(4) Luban, David (2007) *The adversary system excuse*. In *Legal Ethics and Human Dignity* (Cambridge Studies in Philosophy and Law, pp. 19-64). Cambridge: Cambridge University.

(5) *1 Law & Policy*, pp. 5-51 (1979).

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PUBLICATIONS

BOOKS

Jiří Příbáň (ed.) (2020) *Research Handbook on the Sociology of Law*, Cheltenham: Edward Elgar Publishing. ISBN 978-1-78990-517-5.
DOI: <https://doi.org/10.4337/9781789905182>

The *Research Handbook on the Sociology of Law* is organised in a way that maps the sociology of law as theoretically and conceptually rich and complex social science. It focuses on the relationship between the sociology of law and legal theory, jurisprudence, history, anthropology, ethnography, economy, science and societal regulation. Furthermore, it addresses sociological conceptualisations of the rule of law, living law and legal culture, legal system, legal consciousness, legal subjectivity, legal temporality, legal images and professions. Finally, it discusses the sociology of specific legal disciplines and different areas of positive law, such as constitutional law, contract law, property law, family law, law and religion, health law, criminal law, housing law, labour law, digital law and artificial intelligence, and transitional justice.

The Handbook connects the discipline's origins and genealogy with its current state and future ambitions. While avoiding artificial academic borders and distinctions between sociology of law, socio-legal, or law and society studies, it outlines both the sociology of law's uniqueness and commonalities with other social and legal sciences. Finally, it discusses its canonical knowledge and concepts as much as possible, and ways of moving beyond them.

Today, sociology of law prevails as both a general theory of law and a specific set of empirical methods and practical tools that examine societal operations of different legal systems, orders and regimes. The Handbook, therefore, focuses on the discipline in its historical, theoretical and methodological contexts, and as a complex social scientific research of positive law. It is composed as a set of inquiries into the current state of sociology of law as a unique academic discipline which, nevertheless, flourishes due to its strong capacity of interdisciplinary engagement and links to other scientific concepts, methodologies and research fields. It revisits the specific role of sociology of law, its disciplinary boundaries and its relationship to both legal and social sciences.

Individual chapters in the first part focus on the sociology of law's relationship with other academic disciplines, such as legal theory and jurisprudence, anthropology, ethnography, history, economics, or science. Joxerramon Bengoetxea explores close links between legal theory and sociology of law and different uses of sociological theories and knowledge by legal theorists. Roger Cotterrell revisits the concept of sociological jurisprudence and transforms its traditions into a new theoretical enterprise, reformulating the position of sociology of law and its relationship to both legal and social sciences. Chloë Kennedy then analyses another strong link, namely between the sociology of law and legal history and their respective methodologies. Similarly, Fernanda Pirie describes commonalities and similarities between sociology of law and legal anthropology. Close to anthropology, ethnographic studies of law have a long tradition and Anne Griffiths rethinks it in the context of sociological,

even philosophical, conceptualisations of power, discourse and knowledge. The first part of the Handbook subsequently continues with sociological inquiries into the relationship between law, power and hegemony constituted by other social systems. While Iagê Miola and Sol Picciotto deal with power and inequalities constituted by the economic system, Emilie Cloatre and Martyn Pickersgill explore different forms of communication and interaction between law and science. The opening part then ends with Bettina Lange's analysis of regulation studies and the role of sociology of law in this field of interdisciplinary research.

In the second part, the Handbook revisits key sociological inquiries into positive law concepts, such as the rule of law, living law, legal systems, legal culture, legal consciousness, subjectivity, temporality, legal images and professions. This framework demonstrates the indispensability of sociology of law and its methodology in legal science as much as the impossibility to reduce it to the set of empirical methods supporting either legal policies and jurisprudence, or their criticisms. Individual chapters create a complex fabric of both the general and specific sociological meaning of positive law, its structure, organisation and function. Jiří Přibáň taps into the rule of law traditionally dominated by legal and political theorists and philosophers to highlight sociological origins and contexts of legality and legitimacy. Marc Hertogh explores the legacy of Ehrlich's concept of living law as 'the other hemisphere of the legal world'. David Nelken revisits the concept of legal culture and its importance for sociological research of law. Richard Nobles and David Schiff use the social systems theoretical perspective to examine and reformulate the concept of legal system. Patricia Ewick and Susan Silbey examine the relationship between legal consciousness and hegemony, and thus link general issues outlined in the first part of the Handbook to the more specific problems of power and hegemony evolving in the system of positive law. Pierre Guibentif then formulates a powerful sociological theory of legal subjectivity, and Lyana Francott engages with the systemic conceptualisations of time in law and society. Drawing on the semantics of law, Linda Mulcahy's chapter is closely connected to Guibentif's and Francott's analysis of the legal constitution of subjectivity and temporality because it offers a sociological analysis of the constitution of different legal images. The second part of the Handbook is then completed by another internal construct of the legal system, namely legal professions examined by Lisa Webley.

Following these sociological explorations of the concept of law and legal system, the final part of the Handbook engages with sociological perspectives applicable to the specific legal disciplines and different areas of positive law. Contributors do not focus on particular jurisdictions and legal cultures and their comparisons. Instead, they outline general concepts, themes, problems and trends in their social and legal contexts. This part opens with two chapters dealing with the sociology of constitutional law. While Paul Blokker offers a detailed sociological assessment between the systems of law and politics, including the differences between legal and political science, Chris

Thornhill presents a rapidly expanding field of sociology of transnational constitutions and global constitutionalism.

In the following two chapters, Sarah E. Hamill offers an outline of sociological conceptualisations of contract and property law, and deals with current methodological problems as much as future challenges for this particular field of sociology of law, while Antonia Layard examines the concept of property in its socio-legal context and combines it with the perspective of post-colonial studies. These explorations of contract and property are followed by three chapters that focus on the closely connected institutions of family and religion and the integrity of human life. While Mavis Maclean reflects on the specific evolution of international collaborative networks of sociologists of family law, Russell Sandberg examines the historical and intellectual development of law and religion studies and its sociological dimension. Atina Krajewska's contribution is closely related to these chapters because it explores theoretical and ethical issues of another extremely dynamic and fast developing field, namely health law and its globalization.

The following three chapters engage with problems of social justice and injustices in the realm of criminal law, housing law and labour law. Sharyn Roach Anleu revisits the classic concepts of deviance and crime and comments on its theoretical, sociological and social injustice dimensions, including gender discrimination and the process of deviantisation. Dave Cowan and Sally Wheeler look at the history and sociology of housing law and interdisciplinarity of this area of research. Ralf Rogowski then contributes by sociologically assessing a branch of law historically evolving by societal and political regulation of contractual freedom, namely labour law, its institutional developments and globalisation.

The final two chapters of this volume deal with the most general and acute issues of legal regulation, namely artificial intelligence and transitional justice. These two areas of research may look very different, yet they illuminate the global dimension of contemporary law as much as the need to respond to its challenges, injustices and contingencies by innovative forms of sociological and interdisciplinary research. Håkan Hyden present a sophisticated analysis of artificial intelligence and digitalisation, and possible legal responses to these societal developments. Similarly, Stephan Parmentier and Camilo Eduardo Umaña Hernández address the 'eternal' problem of political crimes and injustices, yet their response also searches for innovative sociological explanations and clarifications in the context of our globalised social and political experiences.

The reader can see that the contributors to this Handbook represent a collective of scholars fairly balanced in terms of gender, age and academic position, bringing together young talents as well as leading scholars in sociology of law. Although the majority of the contributors are based at universities in the United Kingdom, there are scholars from other countries and continents participating in this project who illuminate the current state, rich history, intellectual traditions and innovative responses to the future challenges of sociology of law.

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Nausica Palazzo (2021) *Legal Recognition of Non-Conjugal Families: New Frontiers in Family Law in the US, Canada and Europe*, Oxford: Hart Publishing. (ISBN: 978-1-50993-995-4.

Relationships that do not fit the dominant notion of family are growing in number in the West. Several tags are used to identify them, such as non-traditional, non-normative, queer or merely new families. These familiar bonds, of course, are not new in the sense that they did not exist in the past, but merely in an epistemological sense. We nowadays have a much richer set of analytical instruments to 'see' them – as full-fledged *family* formations. For instance, researchers gave a name to (usually cohabiting) pairs of adult siblings or adult friends who decide to support each other materially and emotionally – instead of getting married with a sexual partner. Consider the example of Anna and Sophie, two cohabiting long-term friends: Anna is a lesbian in her 60s who has never wished to commit to her sexual partners and Sophie is a widow who, after losing her husband, lost her interest in conjugal relationships. Sophie and Anna decided to care for each other during old age, and, therefore, Sophie moved into Anna's place. They now share finances, eat and go on vacation together, and ultimately navigate bad and good days together. These pairings are now tagged non-conjugal families and are defined as interdependent, committed relationships which lack a sexual component.

But there are more ways in which individuals resist traditional family norms. Many nowadays eschew the paradigm of the nuclear family, with only 55 per cent of so-called millennials in the US living with a spouse, child or both, compared to 85 per cent of the 'Silent Generation' who got married in 1968 (1) Other families challenge the idea that shared domesticity is a must in family relationships. Reference is made to people living apart together (LATs), i.e., two intimate partners who do not live under the same roof. In several European countries, this type of relationship accounts for 10 per cent of all adult relationships. (2) Normative conceptions of family are also changing. In the last decades, the principles of autonomy and self-authorship have taken centre stage in personal matters. Individualization processes paralleled detraditionalization ones with family life being increasingly influenced by a logic of personal blossoming rather than by tradition or cognate moral drivers. The growing significance, alongside autonomy, of the principle of equality and the value of pluralism, according to which each person should be allowed to promote her conception of good life is also for all to see. (3)

The law's reaction to these phenomena is thus one of apathy and indifference. The book argues that the law's apathy in the face of changing conceptions of family is a (legal) problem that needs fixing. Law must recognize

the variety of family arrangement living outside of the model of the traditional marital family. The present book seeks to understand the kind of reasons states in the Euro-American context proffer to justify their attachment to the (archetypical) marital family. My key methodological choices are:

- Adopting a comparative method;
- Focusing on courtroom litigation;
- Focusing on a sub-set of non-traditional families: non-conjugal couples made up by two adult friends, siblings or relatives.

The book provides an analysis of the most compelling argumentative strategies that non-conjugal families can mobilise to pursue legal recognition in Canada and the United States, and within the systems of the European Convention of Human Rights and the European Union. The in-depth comparative analysis offers resources to understand the doctrinal obstacles which have been put between the legal recognition of new families and how potentially to overcome them; it also supplies some required conceptual tools to scrutinize family policies in the courtroom while understanding its stakes in depth.

By way of illustration, looking at same-sex and de facto couples' litigation, it emerges that Canada would frame the issue (of new family recognition) as a problem of 'equality'. At the constitutional level, this implies that claimants routinely invoke section 15 of the Canadian Charter of Rights and Freedoms, which prohibits discrimination on certain grounds. Amongst these grounds is 'marital status', which has acted as entry point for new families' claims in the legal domain in Canada. By contrast, under US constitutional doctrine, the problem would be framed as one engaging liberty, especially if relatives are involved. The Supreme Court of the US has always recognized unions of relatives as worthy of constitutional protection under the substantive due process clause (4), which offers substantive – not only procedural – guarantees against unfairness. The case law analysis also sheds light on a second important aspect: constitutional litigation is nearly a barred route for promoting the legal protection of new families in the US. The reason for this is the strong reluctance of liberal constitutionalism towards claims seeking to obtain affirmative entitlements. (5)

As to the EU and the system of the ECHR, they are not domestic jurisdictions but supra-national systems, which uphold respectively European Law and the Convention in the member states. In matters of social engineering, the two systems display a different degree of caution: on the one side is the European Court of Human Rights (ECtHR), which is extremely wary to act in such circumstances(6) on the other side, is the Court of Justice of the EU ('CJEU') which is more active when it comes to upholding EU law, even when a decision touches upon the financial interests of a state.(7) At the same time, however, both courts are demonstrating their willingness to protect same-sex couples despite states' resistances. The doctrinal tool adopted by the ECHR is the European consensus around the issue. If the parallel with same-sex couples holds true, then, once increasing consensus around the recognition of non-conjugal couples is reached the Court might be willing to protect such couples. At present, this

consensus is at best 'thin': only Belgium, and the Netherlands recognize non-conjugal couples, the former through a registration scheme, and the latter through a contractual scheme. Norway recognises networks of cohabitants for a specific purpose – the purchase of the common household residence or goods at the end of the relationship while Slovakia recognizes all 'close persons' mainly to confer inheritance rights and protection against domestic abuse.

The book was presented on June 9 at the University of Trento and Fondazione Bruno Kessler.

NOTES

(1) Pew Research Center, *As Millennials Near 40, They're Approaching Family Life Differently Than Previous Generations* (May 2020) https://www.pewsocialtrends.org/wp-content/uploads/sites/3/2020/05/PDST_05.27.20_millennial.families_fullreport.pdf

(2) Irene Levin, 'Living Apart Together: A New Family Form' (2004) 52 *Current Sociology* 223.

(3) Elizabeth S Scott and Robert E Scott, 'From Contract to Status: Collaboration and the Evolution of Novel Family Relationships' (2015) 115 *Columbia Law Review* 293, 297.

(4) *Moore v E Cleveland*, 431 US 494 (1977).

(5) *Jackson v City of Joliet*, 715 F.2d 1200, 1203 (7th Cir), cert denied, 465 US 1049 (1983).

(6) See, eg, *James and Others v UK* (1986) 8 EHRR 123 [46].

(7) The employment context best exemplifies this point. See Judgment of the Court (GC) of 1 April 2008, *Tadao Maruko v Versorgungsanstalt der deutschen Bühnen*, C-267/06, EU:C:2008:179; Judgment of the Court (GC) of 10 May 2011, *Jürgen Römer v Freie und Hansestadt Hamburg*, C-147/08, EU:C:2011:286; Judgment of the Court of 12 December 2013, *Frédéric Hay v Crédit agricole mutuel de Charente-Maritime et des Deux-Sèvres*, C-267/12, EU:C:2013:823.

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Leslie J Moran (2021) *Law, Judges and Visual Culture*, Abingdon: Routledge. ISBN 978-1-138-6186109.

Law, Judges and Visual Culture offers a new approach to thinking about and making sense of an important social institution; the judiciary. In an age in which visual images and celebrity play a key role in the way we produce, communicate and consume ideas about society and its key institutions, this book provides the first in depth study of visual images of judges in that context. It not only examines what appears within the frame of these images but it also explores the impact that the technologies and media industries that produce them have upon the way we engage with them and the experiences and meanings they generate. The book will heighten your awareness of the history and current practice of judicial image making, transform

your approach to looking at judicial images and change your experience of them. The book draws upon a wide range of scholarship including art history, film and television studies, social and cultural studies as well as legal scholarship. Interviews with a variety of practitioners, painters, photographers, television script writers and producers as well as court communication staff and judges who help to generate new and unique insights into making, managing and viewing pictures of judges. The book is made up of a series of case studies that explore different picture formats, from painted and photographic portraits to factual and fictional broadcasts made for the small screen.

The audience for *Law, Judges and Visual Culture* includes scholars, postgraduates and undergraduates from a variety of disciplines in the humanities and social sciences interested in the role of visual culture in the production of social justice and its institutions. It's a 'must read' for anyone interested in debates about the public profile of the judiciary, cameras in courts, the nature and role of judicial communications, the impact of celebrity culture on the judiciary or the relevance of popular cultural representations of judges, such as reality TV personality Judge Rinder and the fictional character Judge John Deed for making sense of the key legal institution, the judiciary.

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JOURNALS

Richard Abel and David Trubek (eds.) (2021) "About the History of an Early Law and Society Project: The Short Happy Life of the Yale Program in Law and Modernization: From the Cold War to Comparative Legal Sociology and Critical Legal Studies" Special issue of *Revista Estudos Institucionais/Journal of Institutional Studies*, v. 7, n. 2.

In 1969, the Yale Law School received a grant from the United States Agency for International Development for a Program in Law and Modernization. Yale promised to study legal impediments to modernization, assess legal needs of modernization projects, train lawyers for research and development work, and disseminate knowledge. The Program was conceived by David Trubek and William Felstiner, former USAID lawyer-administrators, who, along with Richard Abel, ran it.

Launched in the shadow of the Cold War, it started with the implicit promise of diffusing US liberal ideas about law and transplanting US legal institutions and culture, and was seemingly aligned with US foreign policy. Flush with USAID resources, the Program mounted innovative courses, brought Visiting Professors and Fellows with Third World expertise to Yale, supported scholars from the Third World and elsewhere seeking advanced degrees, funded research by Yale faculty, students, and Fellows, held workshops and conferences, and published Working Papers and articles. Linked with the nascent Law and Society Association, it sought to create a Comparative

Sociology of Law. There were vigorous debates ranging from the nature of law and social science to the role of the US in the Third World, all on a campus roiled by student protests over the War in Vietnam and racism in the US. Gradually, the Program became a locus for critique of liberal ideas about law and social science, a source of doubts about US foreign policy, and an incubator for critical studies in law and legal sociology. The Program helped spark the growth of the Law and Society Association and nurtured what became Critical Legal Studies.

By 1976, the founding directors were gone and the Program was soon closed. In 1997, nine law professors convened the first Critical Legal Studies conference: six had been involved with the Program while at Yale and the others had interacted with it.

In 2020, recognizing the importance of the Program in the history of legal studies in the US and elsewhere, the Law and Society Association organized a Roundtable that brought together participants in the Program with knowledgeable observers of the history of legal studies to reflect on the experience and its impact.

Two former Directors of the Program, David Trubek and Richard Abel, were joined by Duncan Kennedy and Boaventura de Sousa Santos, two well-known scholars who had participated as Yale Law students. They reflected on their experiences and were joined by Bryant Garth, an expert on the roles of lawyers around the world, and Afroditi Giovanopoulou, an expert on the role of law in US Cold War foreign policy as commentators.

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2021, A YEAR OF CONSOLIDATION FOR A MATURED OÑATI SOCIO-LEGAL SERIES

The present year is being one in which Oñati Socio-Legal Series, the flagship journal of the Oñati International Institute for the Sociology of Law, has cemented its reputation on the basis of consolidating some strategic changes and improvements enforced in the past few years. For the first time ever, the Oñati Socio-Legal Series has been included in Clarivate's Journal Citation Reports (JCR), in the 3rd quartile (Q3) of Law journals. It ranks 246th of 403 journals. For the first time, in the report published in June, JCR covers the full breadth of research covered in all the journals in the Web of Science Core Collection, including the Emerging Sources Citation Index (ESCI), which had not been fully covered in JCR until now. As Clarivate's Dr Nandita Quaderi states, "the journals covered in AHCI and ESCI have met the same rigorous quality criteria (...) for coverage as the publications covered in the Science Citation Index and the Social Sciences Citation Index. Therefore, AHCI and ESCI – and their content from trustworthy, Web of Science-selected journals – merit complete coverage in the JCR" [Source: <https://clarivate.com/blog/the-road-to-journal-citation-reports-2021-new-content-and-a-new->

[metric/?utm_campaign=EM_1_May_Newsletter_Research_Smarter_SAR_Global_2021_Librarians_1B&utm_medium=email&utm_source=Eloqua](https://clarivate.com/blog/the-road-to-journal-citation-reports-2021-new-content-and-a-new-metric/?utm_campaign=EM_1_May_Newsletter_Research_Smarter_SAR_Global_2021_Librarians_1B&utm_medium=email&utm_source=Eloqua)].

ESCI journals, as is OSLS's case, do not receive a Journal Impact Factor (JIF). OSLS's JCI (Journal Citation Indicator) is 0.42. This is the average Category Normalized Citation Impact (CNCI) of citable items published by a journal over a recent three-year period. The average JCI in a category is 1.

The report certifies OSLS as a Diamond Open Access journal, with all its citable contents being published in open access. The citable items constitute 91% of OSLS's output.

The journal is bimonthly, with one of its trademarks being the publication of monographic (special) issues and one issue with individual submissions by scholars coming from a wide array of geographical and cultural origins, and with an ever-increasing representation of scholars, universities, and topics pertaining to the Global South. In fact, Oñati Socio-legal Series aims to be a reference journal to academics from, and writing about, the Global South, bringing to the surface topics and voices of which we aim to be more inclusive, and putting a premium on diverse gender and age representation; all the while keeping the focus on topics that are being widely discussed and researched upon in law and society, as well.

Oñati Socio-Legal Series has published four issues so far this year:

Vol. 11 No. 1 (2021): Climate Justice in the Anthropocene (eds. Sam Adelman (Warwick University) and Louis Kotzé (NorthWest University/University of Lincoln); DOI: 10.35295/osls.iisl/0000-0000-0000-1170). The editors write: "The articles address specific issues such as corporate responsibility, the plight of farmers in India, climate displacement, and gender justice. In doing so, they reveal common themes such as the limitations and failings of business as usual and law as usual, the centrality of human rights and vulnerability theory in the pursuit of climate justice, the indivisibility of justice, and alternatives ways of achieving it". Contributors to the issue come from universities in the UK, South Africa, the United States, Spain, the Netherlands, and Canada.

Vol. 11 No. 2 (2021): "Too much litigation?": Facts, reasons, consequences, and solutions (eds. Eyal Katvan (Center of Law & Business, Ramat-Gan), Ulrike Schultz (FernUniversität, Hagen), Guy Seidman (Harry Radzyner School of Law, The Interdisciplinary Center (IDC) Herzliya), Avrom Sherr (Institute of Advanced Legal Studies, London) and Boaz Shnoor (Center of Law & Business, Ramat-Gan; DOI: 10.35295/osls.iisl/0000-0000-0000-1152). By dealing with and comparing different legal systems, this OSLS issue examines the numbers, the facts and the figures – or, in other words – how do we "count" litigants, files and cases? The strongest overall finding is that Too much/Not enough litigation, might endanger access to justice. Not enough litigation means less access to justice; too much litigation (if this exists) can cause less

high-quality litigation, pressure on court and litigants and then deterrence to litigants, which denies access to justice.

Vol. 11 No. 3 (2021): Investigations-Investigaciones-Ikerlanak (DOI: 10.35295/osls.iisl/0000-0000-0000-1189). This issue comprises twelve individual articles by academics from, or writing about socio-legal realities based in Argentina, Italy, Brazil, Spain, Mexico, Indonesia, and Colombia, covering topics such as women's access to justice, regulation (or the impossibility of it) of bodies by law, criminal regimes for minors and youth violence, the limits of legal anti-racist struggles, violence dynamics in public security, environmental issues and the COVID-19, criminal proceedings of gender violence, and other.

Vol. 11 No. 4 (2021): Minority families and the law: Interactions of ethnic, religious, and cultural minorities with law and state institutions (ed. Iris Sportel (Radboud University Nijmegen; DOI: 10.35295/osls.iisl/0000-0000-0000-1208). The issue comprises six contributions by a small but very diverse pool of authors, who analyze a very topical subject from a variety of angles and outlooks. According to Sportel, the issue "aims to investigate the interactions of minority families with law and state institutions from a socio-legal perspective, with a particular focus on issues relating to children". This special issue draws on case studies from different types of minorities, including migrant and post-colonial but also religious minorities, from a range of different countries, which will give further insights in intersections of ethnicity, culture, nationality, and religion. The contributions to this special issue come from different European countries, and focus on different minorities. This rich diversity enables this special issue to compare and analyse encounters of minority families with the state across different contexts. There are contributions on Finland, Belgium, the Netherlands, and Italy; on Muslims, ISIS-families, young forced migrants, Filipino mothers, and various religious, cultural, and ethnic minorities. The authors also approach the topic from different angles: public and political debates, Imams and religious centres, courts, and people getting into contact with these institutions.

OSLS will put out two more issues this year. For next year, the Institute intends to continue on the same path and to work on this successful premise, prioritizing thematic issues. Due, in part, to the COVID-19-related restrictions and worldwide changes, a new channel of collaboration between issue editors and the Institute's publications is strongly emerging: the proposal of special issues decoupled from the workshops hosted by the Institute, which, in the past two years, have occurred mostly by virtual means. Regardless of the global changes, we have detected a great interest and activity from groups of scholars who aim to publicize their findings and proposed answers to a global set of questions and concerns, and this is reflected in the rich and exciting set of special issues that we are currently working on and which will see the light next year. Scholars who wish to submit a proposal can consult the OSLS website

(<https://opo.iisj.net/index.php/osls/about>) to learn more about topics and perspectives prioritized by the Institute, or contact the IISL Publications officer with questions.

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Oñati Socio Legal Series website:

<http://opo.iisj.net/index.php/osls/index>

IISL Publications website:

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BRINGING BACK SORTUZ: OÑATI JOURNAL OF EMERGENT SOCIO-LEGAL STUDIES – A MESSAGE FROM THE NEW EDITORIAL TEAM

After a period of hiatus that served to rethink and redefine itself, the International Institute for the Sociology of Law (IISL)'s journal for junior scholars – *Sortuz: Oñati Journal of Emergent Socio-Legal Studies* – received a new editorial team for the 2020-2021 term. Our team is composed of three alumni from the IISL's Master Programme and its head of publications Leire Kortabarria. For the past few months, we have been focusing our work on strategies to relaunch the publication and bring it back to the academic spotlight. *Sortuz* was conceptualized to foster connections in the socio-legal community through the publication of quality research authored by its younger members, giving them an opportunity to start their academic careers and become known to their peers. In doing so, it complements the IISL's flagship journal, *Oñati Socio-Legal Series*, which publishes articles that make a significant contribution to the understanding and analysis of law. As its new editors, we hope to further promote *Sortuz* as a venue for debuting researchers to publish their articles and for scholars in general to update themselves on current trends, with the ultimate ambition of making the journal a reference in this sense.

As part of this effort, our team is excited to announce a special issue of *Sortuz*: 'Race, Gender, Violence and Violation of Rights: Intersections in the 21st Century' (details can be found at

<https://opo.iisj.net/index.php/sortuz/issue/view/114>).

The issue aims to gather contributions on a topic of intense relevance to contemporary debates: the impacts of discrimination on social inequality, and people's access to justice and exposition to violence. Although the focus of the journal is on publishing younger scholars, we are currently also looking to include pieces authored or co-authored by more well-known members of the socio-legal circuit. This is part of a researched strategy to help promote and bring attention to the special issue.

Therefore, we would like to kindly invite RC SL members and, most especially, those who are on the editorial board of *Sortuz*

(<https://opo.iisj.net/index.php/sortuz/about/editorialTeam>) to help us publicize the call for submissions and, if

convenient, to submit a text of their own for inclusion. We are welcoming articles, working papers, book reviews, translations and essays discussing minority rights and lawfare, gender and racial discrimination or violence, penal selectivity, feminist legal theory, critical race theory, decolonial approaches to law, and related topics.

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CALL FOR ABSTRACTS: SPECIAL ISSUE OF THE INTERNATIONAL JOURNAL OF LAW, CRIME AND JUSTICE (IJLCJ) "THE POLITICS OF (IN)FORMALITY IN CRIMINAL PROCEDURES"

Guest Editors: Kei Hannah Brodersen, Nadja Capus, Damian Rosset, University of Neuchâtel.

The tension between formality and informality is intrinsic to the implementation of criminal law. Criminal procedures in fact always happen on a continuum between formality and informality, where the different actors involved (police officers and other street-level bureaucrats, prosecutors, judges, experts, defense lawyers, etc.) continuously perform and negotiate (in)formality. In this special issue of IJLCJ, we aim to explore these "politics of (in)formality" in different criminal law settings and from different disciplinary perspectives.

On the one hand, formality is essential in ensuring due process and fulfilling the requirements of rules of procedures throughout prosecution, as well as to legitimize the institution of criminal justice, fostering legal certainty, transparency, the equality of arms, and the prevention of arbitrariness. On the other hand, criminal law in action, that is its concrete implementation, relies by nature on the informality of social interactions. The increasing number of procedural requirements for formalization is often considered a burden on procedural actors.

In this collection, we aim to explore processes of formalization and informalization at play in the implementation of criminal law from an empirical perspective. We are especially interested in how formality and informality are produced, negotiated and implemented in criminal proceedings by the miscellaneous actors, professional groups, and judicial institutions involved. We welcome contributions from all legal and social scientific disciplines based on a variety of empirical data: criminal case files, interviews, observation, etc. They could address – but are not limited to – the following questions:

- How is (in)formality performed in criminal proceedings? What examples of the formality-informality continuum exist? How do procedural actors manage the (in)formality of specific settings and interactions?

- What impact does (in)formality have on power asymmetries within criminal justice systems? How is (in)formality mobilized to reinforce or contest these power asymmetries?
- What are the mechanisms that regulate (in)formality in the implementation of criminal law? How is the formality-informality continuum controlled?
- What are the legitimizing functions of the production of (in)formality? What rationalities of justice and legitimacy are conveyed in processes of (in)formalization? What are the consequences of increasing informality (or formality) in the criminal process?
- How does studying (in)formalization shed light on how judicial institutions produce knowledge, both about their inner workings and the legal cases they process?

This is a shortened version of the call for abstract. See full version here:

<https://www.journals.elsevier.com/international-journal-of-law-crime-and-justice/call-for-papers/the-politics-of-in-formality-in-criminal-procedures>

Abstract submission deadline: 1 November 2021

Selection of abstracts: 12 November 2021

Article submission deadline: 31 March 2022

Please send your abstract (max. 300 words) to Damian Rosset (damian.rosset@unine.ch) and Kei Hannah Brodersen (hannah.brodersen@unine.ch) by Monday, 1 November 2021.

All submitted papers will undergo a blind peer-review process. The acceptance of an abstract does not guarantee the acceptance of the submitted manuscript. Do not hesitate to contact us should you have any questi

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RC SL MEMBERSHIP AND FEES RENEWAL

RC SL's members whose membership expired or expires can renew it by using the form under this link: http://rcsl.iscte.pt/rcsl_join.htm

Please send the completed form to our membership office:

Manttoni Kortabarria Madina (manttoni@iisj.es).

CALL FOR BOOK DONATIONS

The wonderful Library of the International Institute for the Sociology of Law is suffering. For the last ten years,

the institute's budget has been almost "frozen" and the library could hardly keep pace with new developments. It is still perhaps the world's most comprehensive library in our field. A most recent analysis of the acquisitions showed that, especially for the years 2015-2018, an insufficient number of books came to fill up the shelves there. This was especially true for four of the seven areas of the library, e.g. Legal Norms, Social Control, Conflict Resolution and Legal and Judicial Occupations. For other significant subjects, such as law & behavioral sciences and law and digital technologies, as well as for anthropology of law, gaps are particularly visible. Non-English publications, also, are far less available than in the early days of the Institute.

The RC SL invites its members to contribute by offering a free copy of their own recent publications as a donation to the IISL library. This gesture would be helpful for solving our problems and would of course be highly appreciated. You can easily check on-line whether your publications are already present there (<http://www.iisj.net/en/library/about-library>).

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