

# RCSL NEWSLETTER

INTERNATIONAL SOCIOLOGICAL ASSOCIATION  
RESEARCH COMMITTEE ON SOCIOLOGY OF LAW

<http://rcsl.iscte.pt/>

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## PRESIDENTIAL ADDRESS

Dear Colleagues,

The RCSL election for the next president and Board members with voting rights has been concluded and Ulrike Schultz has been elected to be the next president and Luigi Cominelli, Laura Lora, Manuel Calvo Garcia, Pierre Guibentif, Lucero Ibarra Rojas, Sharyn Roach Anleau and Swethaa S, Ballakrishnen have been elected for the next Board. Congratulations! The 2018-2022 term is from the 2018 ISA World Congress to 2022 ISA World Congress. I appreciate all the candidates who ran for the election and hope that all of you, successful or unsuccessful, will participate in activities of the RCSL. I also thank the RCSL Nominating Committee (Carlos Lista as Chair, Anne Boigeol, Rosemary Hunter, Rashmi Jain and Angelica Cuellar Vazquez) for their devoted work to manage the election process.

The Nominating Committee for the next Scientific Director at the International Institute for the Sociology of Law (Benoit Bastard as Chair, Lisa Webley and Pierre Guibentif) successfully managed the process of nomination and election, and Noe Cornago has been elected to be the next scientific director at the IISL. Congratulations! We all look forward to working with him for activities at the Institute. I am grateful to the Nominating Committee. This time as there were uncertainties with the future status of the Scientific Director, the Committee did not have much time to get nominations and run the election. The Committee did a wonderful job to manage the process successfully.

The Podgorecki Prize Committee is considering nominations. The Committee will announce the winner of the 2018 Podgorecki Prize at the RCSL annual meeting in Lisbon.

My term as president will end soon at the ISA World Congress in July. I would like to express my deep appreciation to all the Board members, the RCSL members of the IISL Board, the members of the

Editorial Committee, the members of the four Podgorecki Prize Committees, the members of the first Nominating Committee for the Scientific Director at the IISL as well as the members of the second Nominating Committee for the S.D. at the Institute and the members of the Nominating Committee for the president and Board Members, for their contributions to the RCSL. I am also grateful to the local organizing committee chairs and programme co-ordinators for the RCSL and ISA meetings. Last but not least I would like to thank former presidents and colleagues for their valuable advice with experience and wisdom. During my term, I tried not to push any particular research agenda or direction for research, as I believe that it is RCSL members who should decide through their activities what makes the RCSL what it is. But while working for the RCSL, I began to feel that the RCSL will have to solve the following problems: the limited space for paper presentations at the ISA World Congress and Forum which forced us to reject many paper proposals, our limited budget, and the lack of

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our journal. These problems have been more or less recognized but remained untackled for several reasons. To overcome the first and second difficulties, we decided to organize our annual meeting in Lisbon in addition to the ISA World Congress in Toronto in 2018. At the ISA World Congress or Forum, we received too many paper proposals to accept due to the limited space for sessions. By holding our own annual meeting, we can overcome this difficulty, though each annual meeting must be well planned. The way of organizing our annual meeting has been also changed by setting up a programme committee which consists of international members of the RCSL. As the Lisbon meeting is our first attempt, we still heavily rely on colleagues from Portugal. In future we hope that programme and logistics will be more clearly divided between a programme committee and a local organizing committee. The third problem, creating our own journal, is still there.

The international academic situation seems to become more fluid and it is getting more difficult to see the future. Yet I hope that the new president and Board members will navigate us through difficulties for the development of the RCSL.

The editorial committee has been working hard to publish the RCSL Newsletter for four years. I am grateful to the committee members, especially Stefan Machura for his skill and devotion and Mavis Maclean for her efforts to make our texts easier to read.

The preparation of the Lisbon meeting has been going well. I appreciate Pierre Guibentif and his colleagues for their commitment to the success of the meeting. The meeting will be one of the largest meetings in the history of the RCSL. I am looking forward to seeing you in Lisbon!

Best wishes,

Masayuki

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### DEVising A NEW PEDAGOGY FOR CONFLICT MANAGEMENT AND DISPUTE RESOLUTION

Mediation and non mainstream dispute resolution methods in general have been traditionally one object of interest in the socio-legal studies. Today it's still a relevant theme of research, as attested by one of the most active working groups of the RCSL, and one field where experiential and innovative teaching techniques are tested. Today mediation is seeing a revival in legal systems, worldwide, after having been virtually marginalized by the rule of law principle and by the construction of a contemporary judiciary power. A growing number of States recently introduced specific normative frameworks for various forms of mediation, and this revival requires of the lawyer and the teacher an effort of adaptation. Lawyers refer instinctively to a conflict theory based on the assumption of scarcity and competition. The reorientation that has followed in the social sciences — starting in the 1970s and the 1980s — shifted from

dualism to sharing, by exploring integrative bargaining, peace keeping, creative problem solving and social cooperation. The mediation revival has brought the process of training and professionalization of mediators and conflict resolution skills to center stage. The EU Directive of 2008 on civil and commercial mediation<sup>1</sup> has imposed the obligation to ensure the quality of mediation services. All member states have established measures to promote mediator training (more through regulation than with funding), but educational standards fluctuate greatly, with accreditation or certification programs varying from 30 to 300 hours. The most frequent choice is to provide a concentrated training program of 40 to 50 hours. By all accounts, such minimum training is not sufficient to form good mediators.

But what are these mediator skills? The point is that the mediator's professionalism is not easily pigeonholed in a set of disciplinary abilities. The mediation model that the European Union promotes and regulates (civil and commercial disputes) is highly legal. In most cases, disputants come in front of the mediator only once legal advice has been requested, and when positions have been already framed under legal rights. Legal expertise is useful in breaking the "wall of distrust" between the parties, and besides, mediation is a negotiation "in the shadow of the law". But the mediator's expertise is something different. The skills of a good mediator are not necessarily the ones needed to earn a degree in law and then pass the bar exam. Communication abilities, empathy and an understanding of psychological dynamics which have been defined as "emotional intelligence" are central. It is a complex mix of psychology, expressive arts, cognitive science and theology. It is quite difficult to find so many varied skills in one single individual. The "dispute resolution professional" is at the crossroads of different disciplines, and it's not a coincidence that the careers of several mediators are eclectic, each with its own style and idiosyncrasies. Mediation is a "sensitivity" about how to approach others and the world in general, an all-encompassing method that requires the mediator to plunge into a totalizing phenomenon such as conflict.

From my personal experience, law school students quickly grasp the appeal of mediated solutions. In recent years, most of the students who took part in the Italian Moot Mediation Competition, organized by the University of Milan and by the Chamber of Arbitration in Milan, were law students, although students in economics or cognitive sciences also joined in. However, the few tertiary degrees specifically dedicated to training mediators have stronger ties with psychology, peace studies and international relations, rather than with law. Conflict management skills may begin to form at a very young age, in the family and in school. The aim of secondary and tertiary education then, should be to strengthen some of these soft skills common to all professions, and eliminate dysfunctional tendencies (hypersensitivity, nervousness, insecurity). University education need not necessarily train mediators, but professionals who are aware of the skills needed in mediation, or who know enough about mediation to

direct their clients to mediation when the need arises. Among the negotiating/mediating techniques that are teachable and that can be developed in a university classroom, we can list prejudice detection, appreciating socio-cultural diversity, advanced communication techniques (oral or visual), investigating the interests of others, managing anger, dealing with collective problems and relating with more than one person at a time. Empirical research using a socio-psychological paradigm has shown, for example, that mediators are assessed as effective when they are able to create an atmosphere of trust in mediation meetings, of adapting flexibly to the situation, and transmitting energy, optimism and a non-judgmental attitude. Other qualities considered essential in successful mediators, besides legal expertise, are patience and persistence.

However, not everything can be taught to university students, especially in law schools. Teachers and instructors, who are not necessarily pedagogues after all, are not in the best position to pay enough attention to skills. Lawyers are trained in an adversarial attitude, which is useful primarily in the judicial defense of the client. Although disputes are often resolved on the basis of a reasonable interest-based negotiation, lawyers prepare for battle during most of their professional education. In fact, lawyers make their living through advice or expert opinion primarily when their clients start a dispute. Recent empirical research conducted by myself and a colleague on over 200 mediators in civil and commercial matters found that the persons most effective in bringing the parties to an extra-judicial settlement were not necessarily those who had legal training (Cominelli and Lucchiari 2017). In civil law jurisdictions, it is also believed that a pre-litigation settlement equates to decreasing revenues. But lawyers may not need to trigger conflict in legal forms to provide a remunerable service. On the contrary, the expert assistance of a negotiation professional in out-of-court settlement is likely to generate a greater number of cases and build client loyalty. Assuming a constant disputing rate, a higher number of less contentious disputes would emerge, and the lawyer's profitability would be safe. Lawyers might find new clients through cheaper legal advice and negotiation assistance model.

Though conflict resolution skills seem rather obvious and not really central to professional training, they are basic in the lawyer-client relationship, and can be exercised even by someone who is not naturally sociable. In law school education, the client as a person is a purely metaphysical concept, because academic excellence does not require interpersonal abilities of communication and negotiation. In order to prepare for the dispute and discern when to negotiate and when to fight, it becomes important to simulate conflict experientially, and to field-test what works in managing it. Simulating conflict using audio recordings, videos, and feedback reports allows to relive what happened: decisive moments, what could have been said differently or better, what should have not been said, posture, signs of nervousness, proxemics, all that which makes us feel more comfortable or uncomfortable in a situation. Sports psychology identi-

fies simulation and games as a means of improving performance. Negotiation is regarded as a natural gift that cannot be taught. This set of skills is beginning timidly to enter the curriculum of jurists. A lazy negotiator becomes a satisficer, i.e. someone who settles for a halfway compromise. The story of the Camp David peace agreements illustrates how a negotiation does not necessarily have to leave solutions on the table that might mutually satisfy all interests. These stories are impactful in the classroom, even when expressed in a purely scholarly way. Stories, examples and anecdotes catch our attention like few other methods can.

Reliving what happened in the conflict is a powerful tool: being scolded for a mistake is one thing, seeing oneself making that mistake has a completely different impact. According to evolutionary psychology, the essential reason why children play and love to be told stories is because it allows them to prepare for life, by mentally simulating what will or might happen. This practical training is helpful to repeat automatisms, especially to control oneself and not lose temper, when one finds oneself in situations of stress and fatigue, which happens regularly in such a cognitively strenuous event. In fact, like most people, professionals are not at ease in conflictual situations. Lawyers especially tend to cling to formalism to maintain a safe distance from conflict, hoping that things will resolve themselves. Professional mediators, above all, should avoid being overwhelmed by the conflict, but at the same time they should not be too detached, by maintaining involvement and empathy which reassures the client and keeps them involved in the resolution.

Some have criticized classroom simulations, claiming that they obtain only marginal benefits in terms of real skills. However, the important thing, even in the classroom, is to reproduce the tensions of the real situation. Professional life is certainly another matter, but the tension you feel in moot competitions for students is palpable, and it is quite similar to the real experience. While simulated cases cannot be as rich in details as real cases, the pressure is just as strong. Although simulations do not necessarily permit a deeper understanding of conflict dynamics, they do help students internalize the mechanisms needed to manage them.

The ability to learn mediation and negotiation techniques stems from the need to redefine the lawyer's tasks. It is becoming commonplace to complain that there are too many lawyers on the market, and this raises a question about their function. Adjudicative litigation is and will still be essential and prevalent. Besides disputes that should not be mediated, we must consider the psychological need that many clients have to delegate responsibility for the conflict, and to vent their anger through a lawyer in an adversarial setting. But the problem for a lawyer who is overly dependent on court litigation is the risk of becoming irrelevant or socially dysfunctional in the public perception, as in that of the business world, where the control of consumption and costs has become a priority. The niche that non-adjudicative methods occupy today, however, will hardly remain so

marginal. The signs are already there, as evidenced by the recent statistics of the Italian Ministry of Justice (2015). It is also a problem of sustainability. We must prepare young lawyers for the future that awaits them. Clients are demanding and will not settle for standard solutions. In the age of internet and “zero-cost” information, deference to any professional is in danger, and the client always has a say in every choice.

In certain fields, the non-lawyer may already have, or may easily acquire, the legal concepts he needs to be a good mediator in a dispute with legal implications. This is not because legal advice has to be provided. It is enough to know when specific and thorough legal advice from a lawyer will be needed. In mediation, the law is one of the facts of the dispute. After all, no one would argue that psychologists have a monopoly on relational skills.

It is rare that students in training are already interested in a job as mediator where employment opportunities are still limited. Students whose interest has blossomed during a course in mediation or negotiation should perhaps be advised to specialize and become first good engineers, sociologists, lawyers or accountants, and then cultivate their talent for resolving disputes on the side. This is a profession that gives enormous satisfaction, but for now, we have to treat it as a part-time profession, to be combined with an existing professional background.

#### Endnote

1 Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters, OJ L 136, 24.5.2008, 3–8.

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#### 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.

Discussions with the IISL administration and the Basque Government on how to proceed in the future are on the way currently. Since the RCSL plays an institutional role within the IISL, we would like to suggest that members of the RCSL 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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#### RCSL Conference in Lisbon

RCSL organizes its 2018 Annual Meeting in Lisbon, 10-13 September, in partnership with the Sociology of Law and Justice Section of the Portuguese Sociological Association, under the heading “Law and Citizenship beyond the States”.

The conference programme as well, as information about registration and participation, can be found at the following dedicated website:

<https://www.rctl-sdj-lisbon2018.com/>

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#### RCSL MEMBERSHIP AND FEES RENEWAL

RCSL’s members whose membership expired or expires can renew it by using the form under this link: [http://rctl.iscte.pt/rctl\\_join.htm](http://rctl.iscte.pt/rctl_join.htm)

Please send the completed form to our membership office:

Manttoni Kortabarria Madina ([manttoni@iisj.es](mailto:manttoni@iisj.es)).

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Erhard Blankenburg  
(Photo copyright: Marlène van den Camp)

### OBITUARY ERHARD BLANKENBURG

When Erhard Blankenburg died on March 28, 2018<sup>1</sup>, the immediate reaction of his friends and close colleagues was shock and a feeling of great loss. The first obituary by Klaus F. Röhl, author of the leading German textbook on sociology of law, includes the following characterization.

“Nobody more than Blankenburg has influenced the empirical-critical sociology of law in the last third of the 20ieth century“. And Röhl adds, as a personal tribute, that “for the coeval from jurisprudence, Erhard Blankenburg remained always the unsurpassable ‘true’ sociologist of law” (Röhl 2018, my translation).

In the same vein, Lawrence Friedman wrote earlier in 1998, in the context of a Festschrift to Blankenburg’s 60ieth birthday: “Blankenburg has given us an important body of work. It is work that is (and should be) extremely influential in the field; and no respectable sociologist of law can afford to ignore it. For this he deserves our thanks and our congratulation” (Friedman 1998, 386).

That may come as a surprise to some observers of the socio-legal scene, since Blankenburg never published a textbook in the field, never held high office in one of the major professional societies, national or international, never was director of the one and only International Institute for the Sociology of Law. He is not even mentioned in the index of major English-language textbooks (e.g. Cotterrell 2003, Deflem 2003, Milovanovic 2003, Trevino 2008).

What then is the basis for this high appreciation? To account for it, a number of different achievements and qualities have to be mentioned:

- In his native Germany, he was among those young scholars (like Wolfgang Kaupen and Volkmar Gessner) who managed to revive the sociology of law after the Nazi regime.
- There he coordinated a string of conferences on such important topics as “Legal needs and legal aid” (1978); “Alternative forms of law and alternatives to law” (1979); “Organizational conditions of legislative success” (1981); “Social definition of legal problems through counselling offers” (1982); “Implementation of court decisions” (1987, all in German).
- He had a special interest and gift in reaching out to progressive practitioners, with whom he collaborated in ground-breaking projects of *Rechtstat-sachenforschung* (fact research in law in the tradition of Alfred Nussbaum).
- On the evolving international scene, he was from the beginning active in the Research Committee on Sociology of Law, where he represented a younger generation, alongside older figures like Adam Podgorecki, Renato Treves and Jean Carbonnier.
- His linguistic abilities, acquired during his studies in the United States, made him an important actor in what was then called “transatlantic law and society networking” and also led to his becoming a professor for sociology of law at the *Vrije Universiteit Amsterdam*.
- It is therefore not by chance that he co-ordinated, together with Bill Felstiner, in Amsterdam (1985) the first joint congress of the European RCSL and the American Law and Society Association.
- He was (with André-Jean Arnaud, Vincenzo Ferrari and Volkmar Gessner) among the founders of the International Institute for the Sociology of Law and participated actively in its formative first years by organizing workshops and teaching in the Master Programme.
- He became one of the leading researchers on legal cultures. Starting with highly illuminating comparisons between Germany and The Netherlands, he ended up comparing cultures of the German and the US constitutional courts, i.e. the *Bundesverfassungsgericht* and the US Supreme Court.
- He never attempted to found a “school”. He preferred to work in changing teams with changing participants, many of them legal practitioners. “Like no other, he was able to organize conferences, win competent speakers and monitor the discussions

with authority and at the same time in a casual manner" (Rasehorn<sup>2</sup> 1998, 23, my translation).

Blankenburg stayed away from grand theorizing and preferred the use of empirically grounded middle-range ones. The thinking of major theorists like Luhmann and Teubner was to him anathema. His contribution to sociological thinking about law is contained in a small book called "Mobilisierung des Rechts" (1995), unfortunately never translated into English. There, he distinguishes between the internal (juridical) and the external (sociological) approaches to law. Drawing on Theodor Geiger, he advocates a definition of law that allows for direct observation of its properties and enables strictly empirical research. Law, according to Blankenburg (1995), is a "graduated concept", a matter of more or less. Sociologists of law are to "use primarily their eyes in order to see how the jurists fix their norms" (ibid). For the rest of this booklet, Blankenburg goes on to exemplify this approach by demonstrating the mobilization of law in different legal fields (from criminal law, private law to constitutional law). At the centre of his empirical studies is the constant search for the social selectivity of the legal processes.

One of his former Dutch collaborators, Pieter Ippel, has searched for the morality in this self-acknowledged empiricism. His conclusion is as follows: "Sociology of law becomes interesting when the cool head is accompanied by the inspiration of the heart. In my opinion Blankenburg wrote many interesting articles and books. This can only be explained by his unacknowledged inspiration and passion of the heart: his loyalty to the real outsiders, those experiencing difficulties with the harsh machinery of the law" (Ippel 1998, 87).

The ambivalence of his standing in the socio-legal world is aptly mirrored in the brief obituary in the IISL Newsletter, written by its present director: "He was a discreet man, who seemed to distance himself from centre stage. Still, the community of legal scholars was well aware of his scholarly merits and acknowledged them openly on many occasions, among them, symbolically, the Podgórecki Prize he received in 2005 during the RC SL Annual Conference in Paris" (Ferrari 2018).

#### Endnotes

- 1 For further information on his education, career and publications see: Wikipedia "Erhard Blankenburg" (English and German).
- 2 Theo Rasehorn was a German High Court judge, who became a fierce critic of the German judiciary and later turned socio-legal scholar.

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## RIGHTS CONSCIOUSNESS IN THE LEGAL CULTURES OF CENTRAL-EUROPE AND THE BALKANS

On 25 April 2018, the Hungarian Academy of Sciences Centre for Social Sciences, Institute for Legal Studies hosted a workshop entitled "Rights Consciousness and Legal Cultures: Theoretical Perspectives". The workshop was the opening event of a government funded (National Research, Development and Innovation Office) research project (NFKFIH-FK125520) targeting the measurement of mass attitudes towards rights in a comparative perspective ("Lack of Rights Consciousness in the Legal Cultures of Central-Europe and the Balkans. Myth or Reality?") The general aim of the workshop was to discuss the definitions and different uses of the concept of legal culture in the various fields of legal studies.

The event was opened by Balázs Fekete, head of project and fellow of the Institute. He welcomed the participants and emphasized the relevance of the research. The first speaker, Professor David Nelken, King's College London, delivered a keynote speech on the various approaches to legal culture. Nelken presented a thought-provoking paper on the definitions, concepts and dilemmas of legal culture. In his speech – entitled "Legal culture and culture of legality" – he raised many meaningful questions. What benefit can we gain from the theoretical construction of legal culture? What does the culture of rights consciousness mean? What is law after all? He gave an overview of the idea of legal culture: first he separated the definitions of law and culture then he discussed the concept of legal culture. Both notions have already been studied in a variety of books and articles but no consensus has emerged so far.

It is quite difficult to define the term of legal culture. Nelken argued that the idea has emerged to replace the concept of 'legal family' in comparative law, but it can also be defined as legal ideology, legal discourse or legal system. The most familiar and the most

widely used definition was created by Lawrence M. Friedman. In his view legal culture is a set of values, expectations and attitudes towards law and legal institutions. Furthermore, Friedman made a well-known distinction between two qualitatively different types of legal culture. On the one hand, internal legal culture means the attitudes of professionals, e.g. judges and lawyers. On the other, external legal culture is about the attitudes of the society or population at large with regard to law as such. Nelken's intention is to use a more precise concept approaching the issue from other aspects. In sum, he does not want to constrict the notion, therefore, he claimed: "Like culture itself, legal culture is about who we are not just what we do".

Furthermore, Nelken also provided an in-depth analysis of the notions of law and culture. The term 'legal CULTURE' is focused on to the various cultural patterns that appear in law. This concept also raises several dilemmas as the term 'culture' is too broad, with meaning which are too far-reaching meanings. On the contrary, the term 'LEGAL culture' puts emphasis on the construction of the culture of rights consciousness. This idea may be able to bring up issues connected to the concept of rule of law. Nelken illustrated this problem with a question: "Which is the better and for whom: the rule of law or rule by law?"

Nelken stressed other central dilemmas, too. Is it possible to find a universal and general idea about the function of law? Is it possible to create a definition of legal culture independent of every cultural aspect? Or could it be true that the law was formed by those who have more to lose?

At the end of his speech Nelken discussed empirical research. He stressed that besides its methodological grounding this research approach has to pay attention to the need for a strong theoretical background. He argued that the former concept of legal culture, because of its vagueness, did not support empirical research. Moreover, the concept of legal culture covers a broad spectrum of issues, with more and more subtopics. Nelken emphasized that these subtopics should not be treated separately because of the necessary correlation between them. The methods of comparative law are therefore adequate for an empirical research into the elements and subjects of legal culture. In addition, conceptualization and operationalization are key elements of the research also.

In the morning session, following professor Nelken's impressive keynote speech, three presentations were delivered about some diverging understandings of legal culture.

The first presentation ("Human rights as counter-culture: Troubles with defending counter-majoritarian claims in the age of populism") was given by Renáta Uitz (professor, Central European University). She provided an overview of the future of human rights with special regards to the challenges of populism. In general, she rejected the criticism of human rights which has been amplified by recent political rhetoric. Many of these attacks challenge the practical usefulness of human rights and the critics argue that human rights are to be regarded as discursive elements in the vocabulary of qualified elites. However, Uitz

disagreed with these critics as she is not convinced that the global increase in populism denotes the end of human rights. She illustrated her point by demonstrating the success of regional human rights institutions like the European Convention of Human Rights. She argued that the international human rights covenants, especially the Universal Declaration of Human Rights, have already become part of the traditional liberal constitutional discourse. However, some fundamental arguments for the universalism of human rights need to be rethought in order to adequately answer the recent challenges, including the recent state of European legal cultures.

The next presentation ("The cultural paradoxes of anti-corruption laws") was given by Petra Burai (legal advisor, European Center for Not-for-Profit Law and researcher, Max Planck Institute for Social Anthropology). This presentation emphasized the cultural paradoxes of anti-corruption laws and the existing correlation between legal culture and corruption. One of the most interesting points in Burai's argument was the reference to Ernő Tárkány-Szűcs, a well-known Hungarian legal anthropologist. Tárkány-Szűcs, already in 1981, made many perceptive observations on the distance between law and people – using a later term: legal alienation – and how this distance would be growing, if the powerful elites did not pay attention to the situation of the underdog groups of a society. This argument, when used in connection with corruption, may provide a fundamental improvement. The speaker argued, that corruption is an integral part of society; individuals consider pros-and-cons always while complying with norms, morals, and social conventions serving their best interests. She emphasized that power has a great influence on corruption, e.g. in anti-corruption regulation. Because of the protected interests of a powerful elite international pressure has not had the expected effects or outcomes on more than one occasion. In sum, the anti-corruption solutions in some cases do not serve the proper aim, because there are no integrated terms and the ways of implementations vary too much. Thus, the actual power structure of a legal culture certainly has an impact on the realization of anti-corruption measures.

The session's last presentation ("Attitudes towards the rule of law in contemporary Serbia: A coherent legal culture?") was delivered by Danilo Vuković (associate professor, University of Belgrade). Vuković's lecture was about the interpretation of empirical research carried out in Serbia. This research focused on the attitude and support of the rule of law by the Serbian population. As a preliminary point, Vuković provided an overview of those former researches which served as a ground for his analysis, for example the well-known study, "The legal cultures of Europe" by Gibson and Caldeira (1996). The Serbian data shows that the country is positioned between the two major groups of European countries for attitudes toward the rule of law (with reference to the results of Gibson and Caldeira making a distinction between countries where the population supports individual liberty and rule of law relatively strongly and other countries where the mass attitudes are characterized by rather

widespread legal alienation). In general, the Serbian population accept rule of law only moderately. However, those, who have a stronger trust in political institutions, support the rule of law more enthusiastically. The more traditional and patriarchal the respondent is, the less true the latter statement is. He stressed an interesting result that age and education do not have a significant effect on the trust in rule of law, but general well-being correlates with the acceptance of rule of law. In addition, he emphasized that the data might have been affected by the campaign of national elections which was held in the year of the survey.

The afternoon session was composed of four presentations. The first one ("Conceptualization of legal culture within structural functionalism") was delivered by Mateja Čehulić (assistant lecturer, University of Zagreb). At the beginning of her presentation Čehulić agreed with the general criticism of Friedman's concept. Her aim was to develop a critical approach to legal culture and to create a new theoretical framework for a better understanding. The future conceptualizations of legal culture, in her opinion, could be based on structural and functional approaches. Her theoretical framework is based on Parsons' AGIL paradigm which was created to give an answer to the relations between social subsystems. Parsons' scheme argues that societal systems have to serve four certain functions. These functions are divided into four subsystems which include law and culture. According to the AGIL paradigm, these systems are permanently divided into sub-paradigms. When closing her presentation Čehulić expressed her hope that the ongoing research can be understood as a discussion on the usefulness of the concept of legal culture.

The next presentation ("From court to television: Legal mobilization and the 'shadow' of the European Court of Human Rights in the Romanian public sphere") delivered by Ioan-Mihai Popa (research fellow, Max Planck Institute for Social Anthropology), purported to measure the effect which the decisions of the European Court of Human Rights had on Romanian culture. Here, the speaker presented the first results of an ongoing research about Romanian legal culture. The aim of this research was to find out how the decisions of the Court reach society and how they become a part of the public discourse. Popa discussed two secularization cases of the ECHR: about orthodox religious symbols in Romanian secondary schools and the conditions of enrollment to ecclesiastical schools. The researchers described how the relevant court decisions defined the role of religion in (Romanian) public education. Interestingly, both parties – ecclesiastical and secularized groups – used the same decisions of the ECHR to support their public policy strategies and goals while trying to mobilize society.

The following presentation ("Developing legal consciousness in legal education: Using Bourdieu's concept of habitus and theory of the juridical field") was made by Tilen Štajnpihler Božič (associate professor, Faculty of Law in Ljubljana) and Mojca M. Plesničar (research associate, Institute of Criminology at the

Faculty of Law in Ljubljana). They introduced the audience to their ongoing research project by focusing on its hypothesis, methodology and the expected result. This project is based on Bourdieu's theory of field and habitus. The main assumption is that legal education has an effect on the function of legal systems and legal cultures. To prove their hypothesis they analyze the attitudes of law students and other university students toward legal issues in their first and senior years. The research is not intended to test the students' material legal knowledge but focuses on their attitudes to the topics of discrimination and punishments. While selecting these issues the main point was that these are such relevant legal questions about which everybody may have a clear opinion. The expected results may be: freshmen have more diverse answers than senior law students, and law students have a qualitatively different opinion about these two topics than students with other backgrounds (and lesson schedules).

The last presentation ("Legal Field as a Site of Value Contestation: Contesting Parental Religious Freedom to the Right to [Secular] Education") was given by Antonija Petričušić (senior lecturer, University of Zagreb) and Dario Čepo (senior lecturer, University of Zagreb). The central point of this talk was the socio-legal analysis of the politico-legal activities of the Croatian conservative movement. This movement aims at bringing conservative (religious) values into prominence in public life. One of its most spectacular steps was a referendum initiative in which the movement wanted the Croatian population to be asked to decide about the constitutional meaning of marriage. The movement's opinion was that marriage is a sacred union between a man and a woman and only between a man and a woman. Moreover, this movement claimed that conservative values should have appeared in state schools about sex education and abortion. They argued that sex educational classes could be in contrast with the parents' essential values and they wanted these classes to be held only if it was the explicit choice of parents. All in all, the impact of the conservative movement is to be considered quite strong as its central themes have appeared in legislation and public discourse.

In general, the presentations and the follow-up discussion shed light on the prominent relevance of studying legal cultures in Central-Europe and the Balkans. It is well known that some recent regional political developments – representing the "surface" of these cultures – can be regarded as obviously unfavorable from a general Western perspective. However, the deep-structures of these societies should still be thoroughly studied if one wants to have a comprehensive scholarly assessment of the recent state-of-affairs. Moreover, the study of these legal cultures should play a key role in this enterprise, as it may reveal relevant results on the attitudes towards law as such, thereby informing us about these societies' outlook on such basic Western values as rule of law and non-discrimination.





### Interview with Maite Elorza, IISL Administrative Director – IISJ

Are you from the Onati area?

I was born in Oñati but I studied in Pamplona and Barcelona, and worked in Düsseldorf and San Sebastian. I came back to Oñati recently.

How much is IISL part of life in Onati, in your view?

IISL is part of the town. Master students, visitors, teachers and everyone who is part of the IISL has a connection with the town. The institute and the residence are in the old town so living in the middle of the activities helps to integrate in the cultural and social life. Oñati is a really active town and plenty of our activities are open to the citizens.

Where have you worked before?

I have a project manager background in international advertising agencies.

Do you have a connection to the world of law?

Coming from social sciences field, until now advertising law, image rights/royalties, digitalization and data protection has been my connection to law.

What is your favourite law-related TV series or film?

TV series: "The Good Wife"

Film: "Le brio".

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### RC SL Election 2018 – Final Report

The RC SL Statute required a new election for the posts of President and seven members of the Board for the period July 2018-July 2022. With this aim the RC SL president Masayuki Murayama appointed a Nomination Committee (NC) of five members which were approved by the RC SL Board.

The NC was composed of Angélica Cuellar Vázquez (México), Anne Boigeol (France), Rosemary Hunter

(UK), Rashmi Jain (India) and Carlos Lista (Argentina) (Chair).

All individual members of the RC SL in good standing were eligible for election to the Board. They were also eligible to stand for election as President of the RC SL. Members of the Board who are currently in their first term of office were entitled to stand for re-election (RC SL Statute 5.9).

The election process was divided in two main steps: nomination of candidates and voting process.

*Nomination: schedule, procedure and results (January 7 – March 10, 2018)*

- December 19, 2017 – The NC issued the Call for Nomination which was sent to all the RC SL members by e-mail. Manttoni Kortabarria, staff member of the IISL, was in charge of this process.

A short CV, a brief statement of candidacy and a statement by the candidate agreeing to be nominated and to remain a regular member of the RC SL for the duration of their time in office were required. The nominating period ran between January 7 and March 10, 2018.

The Call was also made public by the IISL and RC SL newsletters as well as by other web pages and blogs related to Sociology of Law.

- January 2 and 19, 2018 – Reminders were sent to all the RC SL members.

- March 10, 2018 – For the post of RC SL president were nominated Ulrike Schultz and Håkan Hydén and for the posts of members Swethaa S. Ballakrishnen, Manuel Calvo García, Susan Carle, Luigi Cominelli, Pierre Guibentif, Kiyoshi Hasegawa, Bernard Hubeau, Lucero Ibarra Rojas, Lucas Konzen, Laura Lora, Stefan Machura, Gabriele Plickert, Valerio Pocar, Sharyn Roach Anleau, Ralf Rogowski and Ulrike Schultz.

The list of candidates reflects the diversity of the RC SL constituency: 14 countries, 10 men and 7 women (with one double nomination), different ages and old and new membership.

*Vote: schedule, procedure and results (March 28 – April 30 2018)*

An online election system (Electionbuddy) was used to tabulate votes. This process was set up by Germano Schwartz, the current RC SL Secretary. A unique access key was assigned to each voter which could only be used once. Voting choices remained anonymous. Members in good standing on March 28, 2018 were eligible to vote.

- March 28 – Candidates' names and the respective information were made public and sent out by the RC SL Secretary to the RC SL members (248) who were invited to vote and received instruction about how to proceed.

- April 16 and 28 – Reminders were sent by e-mail to all eligible voters.

- April 30 – Voting deadline: 126 votes were

received (51,01% of the constituency).

#### Results

Ulrike Schultz was elected president. Luigi Cominelli, Manuel Calvo Garcia, Laura Lora, Pierre Guibentif, Lucero Ibarra Rojas, Sharyn Roach Anleau and Swethaa S. Ballakrishnen were elected as Board members.

Ulrike Schultz had a double candidacy (Board president and member). As she was elected as president and as a member, she immediately resigned from this post and Swethaa S. Ballakrishnen became a Board member.

The process was open and democratic. There was a significant number of candidates and the results are encouraging: 51% of the members voted and the composition of the new Board expresses an attractive diversity in terms of gender, age and experience. In addition, all of them are from different countries.

Newly elected members will formally take office in 2018 in order to fit with the calendar of the International Sociological Association (ISA). The new President is expected to attend the ISA World Congress (Toronto, Canada, July 15 – 21, 2018) and represent the RCSL at ISA administrative meetings to be held during that event.

On behalf of the Nomination Committee I want to thank RCSL president Masayuki Murayama for his trust and support and Manttoni Kortabarria and Germano Schwartz for their efficient collaboration. All the candidates should be recognised for their participation in the election process and for their willingness to contribute to the RCSL and to the Sociology of Law community at large. Those members who nominated them as candidates and the RCSL constituency for their participation as voters should be also acknowledged. All of them made possible that the election process was a success.

Congratulations to the newly elected president and Board members. You have the significant responsibility to shape the RCSL present and direct it towards a bright future. Good luck!

Carlos A. Lista  
Nomination Committee Chair  
clista.argentina@gmail.com

#### CALL FOR INTEREST

Working Group (WG) Proposal: Globalization, Law and Development of Citizenship Policies

#### Background

The aim of this WG proposal is focused on globalization processes, their interdependence and their global consequences, more in details, the triple helix among globalization, development and citizenship evolution policies. The definition processes of citizenship are more and more dependent on models, relationships and situations that occur and spread in different, distant places.

Current global citizenships tend to fade the various types of borders among peoples and lastly global citizenship seems to design the future towards the existence of a systemic planetary society, while, particularisms, secessionisms, bloody tribal strives, ethnic, racial, and religious intolerance abound as resonant reactions for the outer environment noise.

The common result of these opposing trends (expanding globalization and local reaction) is an increasing identity recombination which leads towards common heritage of values, customs, ideals and commitments. As shown for example by the UNESCO 2003 Convention about intangible cultural heritage.

#### Requirements for joining the Working Group

We are looking for motivated and proactive RCSL members interested in this research topic.

#### Timeline

The working group will hopefully take shape in September 2018. To be involved in it, please send me a declaration of interest email until August 26<sup>th</sup>, 2018.

For further information, please contact:  
Sara Petroccia: sarapetroccia@gmail.com

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#### RCSL GOVERNING BOARD August 2014 - July 2018

**President:** Masayuki Murayama  
**Immediate Past President:** Vittorio Olgiati  
**Vice-Presidents:** Arvind Agrawal  
Håkan Hydén  
**Secretary:** Germano Schwartz  
**Elected Board Members except Vice-Presidents and Secretary:** Adam Czarnota  
Rashmi Jain  
Stefan Machura  
Ralf Rogowski  
**Co-opted Board Members:** Pierre Guibentif  
Kiyoshi Hasegawa  
Susan Sterett  
Rachel Vanneuville

Working Group Chairs are also Board members.

**FOUNDING MEMBERS:** Adam Podgórecki and William M. Evan (in memoriam †)

**Podgorecki Young Scholar Prize Winner:** Leonidas Cheliotis

**Podgorecki Prize Winner:** Lawrence M. Friedman

**RCSL website:** Pierre Guibentif

**RCSL newsletter editorial committee:** Stefan Machura (Chair), Rashmi Jain, Mavis Maclean, Takayuki Ii, Verda İrtiş, and Nazim Ziyadov.

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United Kingdom  
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**RCSL WORKING GROUPS & CHAIRS:**

**Civil Justice and Dispute Resolution:** Luigi Cominelli  
**Comparative Legal Culture:** Marina Kurkchyan  
**Comparative Studies of Legal Professions:** Rosemary Auchmuty  
**Gender:** Alexandrine Guyard-Nedelec and Barbara Giovanna Bello  
**Human Rights:** Dani Rudnicki  
**Law and Development:** Pedro Fortes and David Restrepo-Amariles  
**Law and Migrations:** Rashmi Jain  
**Law and Politics:** Angélica Cuéllar Vázquez  
**Law and Popular Culture:** Stefan Machura  
**Law and Urban Space:** Marius Pieterse and Thomas Coggin  
**Social and Legal Systems:** Lucas Konzen and Germano Schwartz  
**Sociology of Constitutions:** Alberto Febbrajo.

**Former Presidents:**

Renato Treves (1962-1974)  
Jan Glastra Van Loon (1974-1980)  
Jean Van Houtte (1980-1990)  
Vincenzo Ferrari (1990-1994)  
Mavis Maclean (1994-1997)  
Rogelio Perez Perdomo (1997-2000)  
Johannes Feest (2000-2003)  
Lawrence Friedman (2003-2006)  
Anne Boigeol (2006-2010)  
Vittorio Olgiati (2010-2014)

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