RCSL NEWSLETTER

INTERNATIONAL SOCIOLOGICAL ASSOCIATION

RESEARCH COMMITTEE ON SOCIOLOGY OF LAW

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Our Greatest Asset

The Research Committee on Sociology of Law (RCSL) was established by William Evan (USA) and Adam Podgorecki (Poland) in 1962 as the international network of law and society scholars. The RCSL was one of the Research Committees which emerged out of the International Sociological Association (ISA). However, the interdisciplinary character of the sociology of law soon attracted not only sociologists interested in the study of law, but also other academics and researchers from a wide range of disciplines including social policy, political science, social anthropology, criminology, psychology, legal studies and jurisprudence.

Unlike other socio-legal or law and society associations, which were formed to serve a local network of researchers, the RCSL was created to establish contacts and promote collaboration among socio-legal scholars throughout the world. Also, the RCSL was from inception organised by scholars from many different countries, which kept it from being associated with any one country, ethnic or linguistic group, or legal and political culture.

The international foundations of the RCSL remain its greatest asset, an asset which should be valued highly in a world torn apart by war, religious bigotry and cultural racism. This asset enables the RCSL to offer the law and society researchers from different countries a forum, limited in scope and objectives as this forum might be, to meet beyond the politics of fear. Plans to expand the scope of the RCSL's international network will be high on the agenda of the new RCSL Board. Anne Boigeol, the new President of the RCSL, proposed at the business and general meeting of the RCSL in Durban, South Africa, to enhance the RCSL's contacts with local law and society organisations in various countries and encourage them to participate in the activities of the RCSL.

The RCSL has, admittedly, a long way to go before it comes anywhere close to realising its full potential as an international association of law and society scholars. Moreover, the way ahead is full of local "distractions" which can lure us away from pursuing the RCSL's international objectives. To avoid such "distractions" the RCSL needs to strengthen its organisational identity and clarify its short and long term objectives. One way to start re-thinking the RCSL's identity is by discussing and clarifying the aims of our association and by amending our procedures in order to bring about a more open and effective running of the RCSL.

In this issue we find proposals to amend the Statute, which have been submitted to the Board. The RCSL needs to reconsider how many Board members it needs, the length of their mandates, their duties, the composition of the Board and most importantly, the manner of election of Board members and the President in such a way as to ensure the full and free participation of all RCSL members in future elections.

We have also four articles in this issue. The first, by Max Travers, is on debate and diversity of views in socio-legal research. The second, by John Flood, is on globalisation of law firms. The last two articles are by Ulrike Müller and Ivonne Ortuño, both Masters students at the Oñati IISL. Ulrike asks why the EU treats the immigration of Africans to EU as a threat which needs to be met using military measures. Ivonne draws attention to the murder of hundreds of women in the boarder region of Mexico (south of the US boarder) and asks why measures are not taken to find the culprits or to protect the women who are forced to continue to live and work in this region.

Reza Banakar

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RCSL Election Results

The new President elect: Anne Boigeol (74 votes)

The new Board members for 2006-2009:

1. Volkmar Gessner (56 votes)
2. Benoit Bastard (51 votes)
3. Ulrika Schultz (39 votes)
4. Tresa Piconto Novales (39 votes)
5. Margorzata Fuszara (32 votes)

Only five new members were to be elected to the Board. The other candidates whose names appeared on the ballot, but are not elected to the board, have received less than 32 votes each.

At the business meeting of the RCSL the following were nominated by Anne Boigeol as the Executive Officers:

Secretary and Treasurer: Reza Banakar

Vice Presidents: 1. Volkmar Gessner
2. Benoit Bastard

Also the following were nominated as observers (i.e. co-opted Board members without the right to vote).

1. Carlos Lista (Argentina)
2. Masayuki Murayama (Japan)
3. Devanayk Sundaram (India)

Nominations were approved by the Board.

Proposals to Amend the RCSL Statute

Robert van Krieken has submitted a proposal to the Board to amend the RCSL Statute. This proposal will be circulated among the Board members for discussion.

Other matters concerning the membership and the length of the mandate of the Board members have also been brought to the attention of the Board. These too call for a reconsideration of the Statute and the clarification of the rules concerning election and membership of the RCSL Board,

The number of Board members and executive officers, their duties and rights while serving on the Board, the length of their mandates, the composition and manner of election of the president and Board members need to be reconsidered and clarified in the Statute.

Reza Banakar has proposed to the Board to extend the length of the mandate of the current President and Board members to four years in order to bring the RCSL's elections in line with those of the ISA's. The If this proposal adopted, the RCSL elections wil take place once every four years and ahead of the ISA World Congress.

In accordance with Section Eight of the RCSL Statute, a proposal to amend the Statute will be circulated among the Board members for discussion. Once the Board has discussed the proposal internally and agreed on whether to support the amendments, the proposed amendments will be put to vote among the members through postal ballot.

The proposal which will be circulated among the Board members for discussion in September will in addition to issues related to election procedures and the compositions of the Board, recommend four amendments to the RCSL Statutes. These are aimed at bringing the organisational practices of the RCSL in line with the existing rules of the ISA and the practices of other Research Committees:

1) the RCSL's elections will take place once every four years and ahead of the ISA's World Congress (see the Article Ten in Statutes of the ISA),
2) the RCSL Board members and the President shall be elected for a period of four years,
3) the length of the mandate of the current Board members and the President, who are elected for 2006-2009, will be extended to four years, i.e from 2006 to 2010. This will enable the RCSL to hold its next elections in four years time and ahead of the next ISA World Congress in Göteborg in Sweden, finally
4) a new section should be added to the Statute on "The responsibilities and rights of the Board Members and Executive officers".

The RCSL Joint Meeting in Berlin, 25-28 July 2007

July 2007 Joint Annual Meeting of the Law and Society Association (LSA) and the Research Committee on Sociology of Law (RCSL) in Berlin
Theme: Law and Society in the 21st Century: Transformations, Resistances, Futures

The Law and Society Association and the Research Committee on Sociology of Law (RCSL) will hold their next joint annual meeting at Humboldt University in Berlin from July 25 to July 28, 2007. Berlin 2007 is the latest in a series of joint annual meetings that began in Amsterdam in 1991and included Glasgow (1996) and Budapest (2001)

1) Co-sponsored by four other socio-legal associations

For the first time, LSA and RCSL will be joined by four other socio-legal associations. Other sponsors of Berlin 2007 are the Socio-Legal Studies Association of the UK (SLSA), the Japanese Association of

Sociology of Law (JASL), the *Vereinigung fur Rechtssoziologie (VfR)*, and the Sociology of Law Section of the German Sociological Association. An International Planning Committee, made up of representatives from the six sponsoring organizations, met in 2005 and agreed on goals, dates, procedures and other basic parameters for the Berlin event.

2) Covering all socio-legal studies topics and open to all scholars

The Berlin meeting will serve the needs of the members of LSA, RCSL and the other sponsors but will be open to scholars from all over the world. Scholars are encouraged to submit individual papers and organize panels and roundtables. In addition to panels, roundtables and other sessions on all socio-legal studies topics, there will be special theme events designed to identify common issues, take account of comparative work, foster studies of transnational phenomena, and promote future international cooperation. A detailed call for papers with instructions on how to make submissions will be issued in October 2006 with a deadline of January 12, 2007.

3) Participation by Working Groups, Collaborative Research Networks, and International Research Collaboratives

In addition to welcoming all socio-legal topics and individual scholars, the conference will be open to standing research networks including RCSL Working Groups, LSA Collaborative Research Networks and International Research Collaboratives (IRCs). IRCs, created in connection with Berlin 2007, convened this summer at the 2006 LSA meeting in Baltimore, Maryland and will present work at the Berlin conference.

4) Organized by a Joint Program Committee

The international Program Committee (PC 2007) is co-chaired by Anne Boigeol (RCSL) and David M. Trubek (LSA) and includes representatives of the sponsoring organizations and other scholars from eleven countries. The Program Committee is responsible for selecting the theme, preparing the call for papers, commissioning all special events, developing panels and roundtables, and organizing submissions.

5) Held in an exciting city

The site for the 2007 meeting is the "new Berlin", a city that has been rebuilt since the fall of the Berlin Wall and has become one of the most exciting spots in Europe for visitors. A group of scholars drawn from Humboldt University and other institutions in and around Berlin serve as the Local Organizing Committee and have promised to make everyone's visit to their city truly memorable.

6) For further information contact Program Chairs

Questions and suggestions and can be directed to Anne Boigeol -- boigeol@ihtp.cnrs.fr or David Trubek – dmtrubek@wisc.edu.

Why We Should Agree to Disagree

By Max Travers
School of Sociology and Social Work,
University of Tasmania

Law and society studies aspires to bring together different disciplines with a shared interest in law. This is potentially exciting because it brings us into contact with research traditions that have different assumptions, problems and questions. It can, however, be challenging because even those working in the same discipline may not understand each other, or have deep disagreements of a methodological, political or philosophical character.

I recently had the opportunity to write a review article (Travers 2006) for the journal *Law and Social Inquiry* which illustrates the value of intellectual exchange between disciplines, and different traditions within disciplines, but also why this is more difficult than is sometimes suggested by enthusiasts for inter-disciplinarity. The reviews editor thought that it might be interesting to invite a specialist working in the field of law and language to write a review of Doug Maynard's (2003) conversation analytic study about the delivery of diagnoses in children's clinics, and explain its relevance to law and society readers.

My article contrasts three traditions. The first is what might be called the language and power school, which has made a considerable impact on the law and society movement, and even resulted in a textbook *Just Words* (Conley and O'Barr 2005), now in its second edition. The key figures in this tradition are anthropologists who understand language as reflecting and maintaining relationships of power. The second tradition, conversation analysis, grew out of the interpretive sociological tradition, ethnomethodology, and is taught in departments of sociology and linguistics. It focuses on what happens in everyday and institutional conversation and argues that the analyst should only make claims that can be demonstrated through studying tape-recordings. The third is the tradition of interpretive ethnography pursued by symbolic interactionists and ethnomethodologists that investigates the nature of work in different social settings. This is interested in addressing social context using ethnographic methods, but attempts to address how social actors understand their own activities, rather than making an ironic contrast with what the analyst knows about power arrangements or inequality.

Anyone familiar with these traditions will know that the issues at stake are rather more complex than this, and it is potentially misleading to summarise the objectives or assumptions of any approach in a sentence. Because of this, the review article will be

published with replies by John Conley, the critical anthropologist, and Maynard who disagree with how particular studies and traditions are characterised.

Given that some commentators portray inter-disciplinarity as involving the breaking down of barriers, it is interesting to consider what exchange and dialogue between researchers with different assumptions and objectives actually involves. In this case, the exchanges did not take place directly, but through the good offices of the reviews editor as a neutral third party, engaging in a kind of shuttle diplomacy between traditions that are normally hostile or indifferent to work informed by different epistemological or political assumptions, or wish to absorb this into their own theoretical framework.

Some people may regard this level of disagreement as a sign of immaturity in an academic field, and would like to dismantle disciplinary or theoretical barriers of this kind. Another view is that disagreement and debate about foundational issues is unavoidable in social science. I would argue that we need to encourage and respect diversity in law and society studies, which requires recognising that researchers do not always share the same assumptions, and may disagree fundamentally over how, for example, to interpret a tape-recording of a conversation in a legal setting. This is what makes the field of law and language, and more generally law and society studies, an interesting and intellectually demanding subject.

Conley, J. and O'Barr, W. 2005 *Just Words: Law, Language and Power*. Chicago University Press, Chicago.

Maynard, D. 2003 *Bad News, Good News: Conversational Order in Everyday Talk and Clinical Settings*. Chicago University Press, Chicago.

Travers, M. 2006 (forthcoming) "Understanding Talk in Legal Settings: What Law and Society Studies Can Learn from a Conversation Analyst". *Law and Social Inquiry* (with replies from John Conley and Doug Maynard).

Law Firms, Globalization, and Partnership

By John Flood
University of Westminster, London
www.johnflood.com

Since Clifford Chance (CC) became the biggest law firm, now over 3,000 lawyers, in the UK by merging in the late 1980s, merger mania set in. In doing this law firms have aped the big accounting firms. Indeed, one of the aims of the original CC merger was for the law firm to merge with a big accounting firm—foolish, considering that the big four are about 20 times as big.

Two firms have truly adopted globalization as their mantra, Baker & McKenzie (BM) and CC. BM (>3,000) went global early and although it has offices everywhere, it's more of a franchise than a true law firm. Its main expansion method has been to grow local firms in each jurisdiction. CC differed by simultaneously merging with American and German law firms and opening offices in all major jurisdictions.

Although globalization is high on the agenda, some firms decided to pursue the reverse policy. They would remain resolutely local, but nonetheless would aspire to having global reach. These are the types of elite firms that appear to have unassailable reputations in their own markets. Wachtell Lipton has taken it further and remained small (250) while other firms such as Slaughter & May 750 and Cravath (450) have stayed relatively small with only a few small satellite offices. These firms consider themselves *primus inter pares,* and this enables them to develop networks in other jurisdictions by using a range of "best friends". A key difference with the globalizers is that they don't have to undertake intensive capital investment in overseas offices with all the risks that carries, which creates the potential for higher earnings, eg, Wachtell has the highest average RPP of any law firm in the world at over $3m.

Connected to this is that law firms have essentially two choices. They can either become full-service global firms like CC and BM and try to dominate the world. Or they can be champions in their homes, niche players, able to call on external resources as they need them like Cravath and Wachtell. Those in between, eg, Davis Polk, Freshfields, White & Case, Allen & Overy, want to be both global and local, but don't really succeed in either.

The ideal of partnership will probably fail under these pressures. Emmanuel Lazega's, *The Collegial Phenomenon*, showed partnerships as a collection of interdependent resource networks within firms. By competing for resources—associates, status, money—partnerships held together rather than split.

When we look more carefully at firms such as BM and CC, the concept of partnership, enmeshed in the ideals above, is scant. They have the appearance of partnerships with the characteristics of bureaucracies. Today partners can be sacked as easily as associates and firms "de-equitize" partners regularly. Committees of seniors and rainmakers run the firm like a corporate board of management, not as Athenian democracies.

More and many law firms have introduced two-tier partnerships which extend probation by some years. Yet it doesn't tackle the problem that partnership is an expected prize, although more associates are stepping off the track.

Partnership has value for lawyers and clients, but for how long? There are clients who expect to deal with

partners, not associates. Thus not all partners will be rainmakers but will spend most time as minders. If they don't generate business—although they may be cross-selling services—they become liabilities, doing associates' work but receive partners' rewards.

Perhaps there is an answer. The "local" law firms are trying to retain ideals of partnership and professionalism. Wachtell is succeeding, but Slaughters is not. Though local, it's big and it suffers the twin problems of trying to retain associates and partners. Probably partnership will become more elusive than before. The title, denuded of content, will remain for clients' sakes. It will be impossible to long retain lawyers as senior associates because of client demands, but they can't all become partners. Law firms will have to take on more hierarchical features. Senior associates can become third or fourth tier partners to satisfy clients, but never achieve equity.

There is something circular about this. Law firm histories show they used to have small cadres of partners, two or three, and legions of clerks. Leverage ratios ran between 1:20 to 1:100! Something analogous to this could emerge again. The signs are appearing.

Gender Violence on the Border: The Case of Ciudad Juárez

By Ivonne Ortuño
IISL, Oñati

Since 1993, more than 379 women have been murdered[1] and 270 reported missing in Ciudad Juárez, Mexico. It is only recently that this large scale violence against women has been brought to the attention of the international community. The official statistics shows that in at least 92 cases the victims were raped, bitten, tortured, mutilated, and then stabbed or strangulated to death. Their bodies had been thrown out into the desert or into the poorest neighbourhoods of the city. The victims share some particular features: most were either students or workers in the *maquiladoras* (assembling factories), they were poor and young, between 15 to 25 years old, some cases even involving little girls. The common features of the crimes have produced several hypotheses related with serial killers, organized bands of drug traffickers, networks of prostitution and snuff videos, or even satanic sects. None of these has been confirmed until now. Thirteen years have passed since the first case, but women continue to be murdered.

Reports of international institutions indicate that the situation in Ciudad Juárez is the responsibility of the government at three levels of federal, state and local. The federal government has argued that it is unable to do much about these murders because they fall outside its jurisdiction, prosecution of homicide being a local and not federal issue.[2] The state government has had an ambiguous position: it has created special offices and programmes to tackle this issue. But these objectives are not implemented and programmes have not been carried out. Finally, the local authorities of Ciudad Juárez declare that the absence of financial resources and technical training for the people who are in charge of the cases are the obstacle to their resolving these murders. The interplay between the three levels of government has been a decisive factor in perpetuating this problem.

Recently, a group of women parliamentarians proposed an amendment in the in the Mexican penal system which added *femicide* as a federal offence. The idea is to force the federal authorities to prosecute and punish all the cases, not only in Juárez, but also in the country as a whole. The proposal suggests more severity sentences than those ordinarily meted out in murder cases to those convicted of *femicide*. However, could this be the solution to solve the problem? Is there any causal relationship between the more sever sentencing and the reduction in the rate of criminal offences? Should not the murder of women in Ciudad Juárez be approached using a holistic view which considers its underpinning legal, social, economic, geographic, demographic, and cultural factors, in addition to its gender characteristic? Introducing a new legal category in the vocabulary of Mexican criminal law cannot bring much relief to all those women who were brutally murdered and provides no actual protection for those women who are forced to remain and work in the boarder region.

The Price of European integration?

Ulrike A.C. Müller
IISL, Oñati

The protection of the European Union's external borders shows a growing degree of militarisation; the recent case of migrants being shot during their attempt to enter Melilla is but one striking proof of this development. That phenomenon can be explained by framing the development of the EU in terms of a dialectical process of openness and closure, expanding the freedom of movement for some while depriving the others from enjoying the same right, and in this way furthering an exclusive form of social integration through spatial segregation.

In October 2005, 14 African migrants died during mass attempts to enter Melilla and Ceuta, Spanish exclaves from Morocco. Some of them were trampled,

[1] Official report of the Special Office to attended the cases of Women in Ciudad Juárez, February 2006, http://www.pgr.gob.mx/index.asp, last visit July, 2006.

[2] However, the federal authority can intervene in those cases presumably linked whit a federal crime, as traffic of drugs, for example.

others were shot by the Moroccan or the Spanish border guards. Several violations of the Geneva Refugees Conventions are to be noted, e.g. the use of military force at the border and the failure to notify the migrants of their rights to claim asylum. Furthermore, Morocco deported migrants to the Sahara Desert without providing them with water or food. Despite these grave violations of human rights, the Spanish and the Moroccan institutions continue to work closely together. Members of the European Parliament tried to pass an official declaration demanding Spain to reconsider its cooperation with Morocco, but the majority of the Parliament's Committee on Foreign Affairs considered such a declaration too radical and ideological.[3]

This recent case highlights the long-time development of the EU's borders. Since 1993, the Dutch-based NGO United for Intercultural Action has documented more than 6,300 deaths of migrants resulting from border protection and migration laws, the vast majority from drowning in the Mediterranean Sea.[4] Numbers of unaccounted deaths in the Mediterranean Sea raise to 17,000 according to the estimate of the Arab League of Nations.[5] As this case illustrates, with its ever-present gunboats the Mediterranean Sea has begun to resemble a battleground and a graveyard. For the consolidation of its borders, the EU provides fast financial means to member states on its periphery.

This high degree of coercion must be explained in terms of the price paid for achieving European integration. To form a deeper understanding of the forces behind it, one should also consider the internal social effects of territorial conflicts. The massive defence of the EU boarders has an integrative effect on the EU as it draws attention to a perceived threat directed towards the Member States from the outside. It is the symbol of extreme economic privileges which is safeguarded by the EU. Thus, these battles also create a distraction from the internal conflicts and inequalities, thereby furthering the idea of internal unity and homogeneity.

The analysis of the development of the EU has not paid sufficient attention to the relations of power, domination and economic inequality. It can, therefore, benefit from a framework that considers the dialectical mechanisms between inclusion and exclusion and between legal and social concepts of territory.

The Next Issue

The Autumn/Winter issue of the newsletter will be published in October. You are welcome to submit any material that is related to socio-legal research and which might be of interest to for our members. The next issue will include, shorter items (between 400 and 500 words), information about conferences, seminars and workshops, brief presentations of collaborative research projects, debate on issues related to teaching, information about courses, recent or forthcoming publications, notices on research funds, prizes and awards.

The deadline for the Autumn/Winter Issue will be Saturday 30 September

The RCSL Board

RCSL Executive Officers

President: Anne Boigeol (IHTP-CNRS, Paris, France)
Secretary and Treasurer: Reza Banakar (Westminster University, UK)
Vice Presidents: Volkmar Gessner (Bremen, Germany) and Benoit Bastard (Paris, France)

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Founding Members:
William Evan and Adam Podgorecki (†)

[3] http://tobiaspflueger.twoday.net/stories/1052358/
[4] http://www.united.non-profit.nl/pdfs/deathlist2005.pdf
[5] http://www.un.org/esa/population/publications/thirdcoord2004/P15_Arab-League.pdf

RCSL Working Groups

1. WG Gender
   Chair: Rosemary Hunter, Griffith University, Australia
2. WG Socio-Legal Methodology
   Chair: Reza Banakar, University of Oxford, UK
3. WG Legal Professions
   Chair: Emmanuel Lazega, Paris, France
4. WG Comparative Legal Cultures
   Chair: David Nelken, Italy; Co-ordinator and co-chair: Marina Kurkchyian, Oxford, UK.
5. WG Human Rights
   Chair: Stefan Parmentier, Catholic University of Leuven, Belgium
6. WG Law and Politics
   Chair: Maria Angélica Cuellar, UNAM, México
7. WG Urban Problems
   Chair: Edesio Fernandes, UK
8. WG Social and Legal Systems
   Chair: Vittorio Olgiati, Urbino University, Italy
9. WG Law and Popular Culture
   Chair Guy Osborn, Westminster, UK
10. WG European Integration
    Chair: Francis Snyder, Université d'Aix-Marseille III, Aix-en-Provence, France.