

# RCSL NEWSLETTER

INTERNATIONAL SOCIOLOGICAL ASSOCIATION  
RESEARCH COMMITTEE ON SOCIOLOGY OF LAW

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

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2014**

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## PRESIDENTIAL ADDRESS

Dear Colleagues,

The RCSL held its annual meeting as a part of the ISA World Congress in Yokohama in July 2014. This was the third RCSL annual meeting held in Japan: the first in Hakone in 1975 and the second in Tokyo in 1995. The RCSL was established in 1962 and, when the Hakone conference was held, it was still rather a small group of scholars in the field of the sociology of law. But it has now grown to have more than 250 members from 41 countries all over the world, while our annual meetings and Working Group conferences attract a much larger number of attendees, indicating that the RCSL community has an extensive group of scholars in diverse fields of law, social sciences and the humanities.

Although the RCSL has grown to be a large worldwide organization, we have kept the original spirit of a multi-cultural academic association where we develop various different research questions which are significant for members' societies and engage in cooperative collaboration with respect to each other. I am honoured to be given the opportunity to carry on this tradition. Yet keeping tradition should not mean being passive. I would like to advance the internationalization of the RCSL and reach out to young and senior scholars in every corner of the world. How to achieve this is a big challenge for us, and I would like to listen to the voices of all RCSL members, while working closely with the RCSL Board members.

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2015 RCSL-ABRASD CONGRESS, PORTO ALEGRE (5-8, May)

The World Congress of Sociology of Law will be in Brazil from May 5th to 8th, 2015, for the first time in this country. The host is the Centro Universitário Unilasalle, located in the city of Canoas, Rio Grande do Sul State, Brazil. The conference is co-organized by RCSL and the Associação Brasileira de Sociologia do Direito (ABRASD). The theme of the event involves the function of sociology of law in contemporary society, specifically featuring contributions from Latin America. The official languages of the event will be English, Portuguese, French and Spanish. The plenary sessions will take place in the morning and will all have simultaneous translations. Workshops will be in the afternoon.

The program of the Congress is inspired, for instance, by the following questions: What is the function and place of law today? How are issues of sociology of law understood in peripheral countries? What is state of the art in sociology of law today? And what can be expected of a future that we cannot control? Important aspects of this transformation will be dealt with in plenary sessions with internationally known researchers, while the workshops attempt to illustrate and represent the many different approaches to the relationship between law, justice and society. The conference offers a unique opportunity to exchange experiences, to establish contact and start a dialogue with participants from many different countries and especially with Brazilian colleagues.

More details and the registration form can be found on the conference website:  
[www.sociologyoflaw2015.com.br/english](http://www.sociologyoflaw2015.com.br/english).

Germano Schwartz

(Presidential Address continued:) As the RCSL Statutes were changed at the Toulouse meeting in 2013, the shape of the RCSL Board has changed significantly in terms of voting Board members. The number of elected Board members has increased from four to seven. The new Board members were elected in May: Arvind Agrawal (India), Adam Czarnota (Poland/Australia), Hakan Hyden (Sweden), Rashmi Jain (India), Stefan Machura (Germany/U.K.), Ralf Rogowski (U.K.), and Germano Schwartz (Brazil).

Another significant change for the Board is that a WG Chair now has the right to vote, and is no longer just an observer. The Working Groups are at the core of the academic activities of the RCSL and now are more deeply involved in every aspect of activities of the RCSL.

A winner of the Podgorecki Young Scholar Prize now sits on the RCSL Board as an observer. The 2014 winner is Iker Barbero (Spain), a graduate of the Master's Program at the International Institute for the Sociology of Law (IISL). He will bring a new perspective to the RCSL Board.

After the ISA World Congress in Yokohama, the new Board approved a new governing body for the RCSL (this Governing Body consists of the President, two Vice Presidents, the Secretary, the Executive Committee, the Editorial Committee and the Board. The Board decides and the Executive Committee implements decisions): Hakan Hyden and Arvind Agrawal are the Vice-Presidents; Germano Schwartz is Secretary; Pierre Guibentif (Portugal), Kiyoshi Hasegawa (Japan), Susan Sterett (U.S.A.) and Rachel Vanneville (France) are Co-opted Board Members. And President, Vice-Presidents, Secretary and three Board members, Pierre Guibentif (in charge with the website), Stefan Machura (in charge with the Newsletter) and Adam Czarnota (Scientific Director of the IISL), work as the members of the Executive Committee.

We have set up an Editorial Committee, chaired by Stefan Machura, to expand the scope of the RCSL Newsletter. The Editorial Committee would like to ask RCSL members to serve as a national correspondent and report on academic activities of her/his country. But members are also welcome to contribute on a one-off basis. The RCSL is the only international organization for the sociology of law and we will take full advantage of our international character to develop global communications.

We also plan to expand the coverage of the RCSL website, on which Pierre Guibentif has been working. You will find a photo history of the RCSL and more links with the IISL in Onati and the World Consortium of Law and Society (WCLS). Pierre has been trying to see how the WCLS website could be integrated with the RCSL website. The WCLS will be utilized not only for activities of the RCSL, but as a forum to connect national associations and research centers with the RCSL.

The RCSL and IISL have kept a close reciprocal relationship: The RCSL helps the IISL to organize the Master's Program, while the IISL provides secretarial service for the RCSL and also facilities for Work

shops. Despite this significant relationship, information on activities of the IISL has not been widely disseminated. As the RCSL and IISL often collaborate, we would like to share information of IISL activities with RCSL members. The IISL holds its Board meeting twice a year and the first one for the 2014-15 term just ended on September 26, 2014. We found the financial situation of the IISL to be stable, though the IISL is still in a difficult situation financially. In the next issue of the Newsletter you will find a report from the Scientific Director of the IISL, Adam Czarnota, who explains who sits on the IISL Board and reports on the activities of the IISL Board.

In 2015 we will hold the RCSL annual meeting in Canoas, near Porto Alegre, Brazil, May 5<sup>th</sup> to 8th. This will be the first RCSL annual meeting in Brazil. The theme of the meeting is "Sociology of Law on the Move: Perspectives from Latin America" which clearly indicates the intention of the organizers in Brazil. The RCSL has an original policy that we hold an annual meeting to help the sociology of law develop further in a country. Thanks to the Brazilian organizers, particularly RCSL Secretary Germano Schwartz, the website has already been set up and is ready for registrations and paper submission

(<http://www.sociologyoflaw2015.com.br/english>). The RCSL annual meeting is co-sponsored by the Brazilian Association of Researchers in the Sociology of Law. The meeting will be a great opportunity to learn about concerns and questions among Brazilian and more broadly Latin American colleagues and to advance international collaboration among RCSL members. I hope that many RCSL members will participate in the Brazilian meeting in May, 2015!

Masayuki Murayama

### THE DESIGNS OF THE PROPOSED TAIWANESE LAY PARTICIPATION SYSTEM AND THE ISSUES FACING IT

Mong-Hwa Chin  
Duke University Law School, USA

The Taiwanese judicial system has always had an issue with lack of legitimacy. There are many reasons for this. Politically speaking, many Taiwanese believe that the judicial system is in the hands of those in power. The roots of this problem can be traced in the brief history of Taiwan. After losing the Chinese Civil War to the Communists, the ruling party of China, Kuomintang (KMT), retreated to Taiwan in 1949, and martial law was subsequently declared. The martial law period lasted for more than 38 years: it was not abolished until 1987. During those 38 years, Taiwan was ruled as authoritarian state. Judicial power was not only used to suppress and punish political dissenters, but also to protect supporters of the KMT. Many Taiwanese people were sentenced to prison or even executed for political reasons. It was known as the "White Terror" era. Although Taiwan was gradually

transformed into a democratic country in recent years, the image of the judicial system has not yet fully recovered.

In addition to political reasons, the Taiwanese judicial system is also haunted by integrity issues. In the past, claims about judges taking bribes from the defendant were more than rumours. It was not unusual for judges to receive benefits from the parties outside the courtroom. This problem has now almost disappeared, but again, many people still retain the idea that justice can be bought.

More recently, judges were criticised for their disassociation from with the public, their lack of common sense, and their outdated opinions. One case that resulted in public outcry was a child sexual assault case. Five judges in the Taiwan Supreme Court ruled that there was no evidence showing that the sexual conduct was against the will of the victim and, therefore, the acts of the accused constituted only statutory rape. However, the victim was only 3 years old when the crime happened. The public quickly began to question this decision after it was picked up by the media. The media labeled these judges as "dinosaur judges" or "fossil judges." Protests were held on the streets requesting reform of the judicial system.

It was against this background that the Judicial Yuan, the highest judicial authority in Taiwan, decided to propose and implement the Bill of the Advisory Assessor System. The goal of this new system is straightforward: to increase the perceived legitimacy of the judicial system. The Taiwanese Advisory Assessor System will apply only to criminal cases at the trial court level. A mixed court will consist of three professional judges and five lay participants which will hear both the facts and then decide the sentence together. The presumption is that as long as citizens have a chance to personally participate in criminal trials, they will realize that the vast majority of judges are diligent and professional, and eventually, they will have more faith in the judicial system.

The most widely debated issue on the Advisory Assessor System is whether the opinions of lay participants will be binding on the professional judges. As the name of the bill proposed by the Judicial Yuan indicates, the official position is that lay participants will have only an advisory function. Judges are mandated to respect the decision of lay participants, but they need not be bound by their opinions. When the judges' decision is different from the majority opinion of the lay participants, the judges will have to provide the reasons for not adopting the opinion in the written verdict.

This position is supported by two rationales. First, there may be constitutionality concerns in allowing judicial authority to be shared by lay participants. Article 80 of the Taiwan Constitution provides that "Judges shall (...) hold trials independently, free from any interference." A conservative interpretation of this article would mean that trials should only be held by professional judges. The second rationale is that according to surveys conducted by the Judicial Yuan, the Taiwanese people are not yet ready to decide criminal cases. In the surveys, people expressed

concern that laypersons do not have the ability to decide criminal cases, and that they are not ready to take over the burden of responsibility. Some people worried that they could be harassed by the defendant. Therefore, the ideal form of lay participation is thought to be advisory.

The Taiwanese Bar Association, the Judicial Reform Foundation, and some scholars oppose the advisory nature of the new system. These dissenters argue that the official position is not responsive to public outcry: the advisory nature seems to suggest that public dissatisfaction with the judicial system is only based on a misunderstanding and that as long as members of the public have the opportunity to witness how judicial decisions are made, they will have more faith in the legal system. Furthermore, dissenters also argue that the Constitution should not be interpreted to exclude lay participants because the language used does not specify what constitutes a "judge." Also, there is criticism of the methodology of the surveys conducted by the Judicial Yuan. It is argued that the questions in those surveys were both oversimplified and suggestive. The critics favour the American style jury system where the jury is the sole decider of guilt. They believe that adopting a jury system is the most effective way to decrease the distance between the judicial system and the people.

The second most contentious issue is how to prevent professional judges from interfering with and manipulating lay participants during the decision-making process. Following the traditions of continental Europe, until 2002, criminal trials in Taiwan were always dominated by professional judges. However, after 2002, the Code of Criminal Procedure was gradually incorporated with features of the adversarial system. For example, the new Code adopted rules of cross-examination, and also explicitly requires prosecutors to bear the burden of proof. More importantly, the Code mandates that judges should exercise their investigative power only as a supplement to the cross-examination by the parties. The reformers hoped that these rules could transform the criminal trial into an adversarial process.

However, more than ten years has gone by, and it is still unclear whether the goal of the reform has been realized. Judges have different standards concerning when to exercise their supplementary power and to interfere with the presentation and investigation of evidence. Some judges remain inclined to be inquisitorial under a substantially adversarial procedure; that is, regardless of the cross-examination, judges still play the main role during trials. Therefore, commentators argue that if judges fail to change their inquisitorial mindset, it is highly possible that the new lay participation system will still be dominated by judges, and that lay participants will be highly influenced or even manipulated by judges.

This issue has already surfaced in the advisory assessor moot trials conducted by the Judicial Yuan. According to the Bill, in order to accommodate lay participants, the court should appoint a commissioned judge to prepare a "trial plan" at the preparation stage. The most important function of the trial plan is to formulate the major issues in the case and evidence

to ensure that the trial will not be too complicated for lay participants to understand. However, during one of the mock trials, the defence attorney complained that the judge was trying to manipulate the outcome by controlling the trial plan.

The case used for the mock trial was a real case. The accused was charged with attempted murder. The weapon used by the accused was a fruit knife. The defence planned to argue that the accused lacked motive to murder the victim. Moreover, considering the victim's wound and the interaction of the accused and the victim after the incident, it is more likely that the accused was merely trying to intimidate the victim; therefore the wound was due to an accident. From the perspective of the defence attorney, whether the accused intended to kill, to merely assault, or instead whether the incident was an accident should be left for the lay participants to decide, and hence the defence should be given the chance to present this alternative theory. However, the court refused to put negligence as an option in the trial plan, and, therefore, the lay participants never had the chance to consider whether it is possible that this incident was an accident. In fact, the record shows that one of the lay participants actually proposed to other observers that perhaps there is a possibility that the injury was simply caused by negligence. But the foreman replied that they should follow the agenda provided by the judge. Thus, the alternative explanation was soon ignored by the other observers.

The third major issue bearing on implementation is that a considerable proportion of trial judges do not necessarily support the new lay participation system. Unlike the U.S where the vast majority of cases are solved by plea bargains, in Taiwan most criminal cases go to trial. As a result, most Taiwanese criminal court trial judges suffer from a large backlog of cases. Passing the new bill, these judges argue, would mean that judges will have to spend more time in the courtroom conducting trials. For instance if the advisory system is adopted, a number of steps will have to be implemented: when advisory assessors are summoned to court, judges will have to prepare a trial plan; then, the court will have to spend time selecting the lay participants; before the trial, the judges will have to educate their lay colleagues in the basic principles of law; during the trial, they will have to conduct interim meetings to answer questions from the lay participants; during deliberation, they will have to discuss the case with lay participants. After deliberation, if lay participants have different opinions, judges will have to provide explanations in the written verdict. All of these procedures mentioned above are not required under the current Code of Criminal Procedure. Indeed, every step will slow down the decision-making process of professional judges.

On the other hand, these extra procedures are extremely important in a lay participant system. In order for advisory assessors to contribute meaningfully to the process, these additional procedures must be carried out carefully by judges. This requires judges to appreciate the potential benefits of allowing lay people to participate, and yet to be continually aware of the sources that could contaminate the lay

participants. For the Advisory Assessors system to succeed, the Judicial Yuan has to provide more motivation for the ground level trial court judges to follow the new rules.

This is not the first time Taiwan has attempted to adopt a lay participation system. Two previous attempts failed, mostly because the designers of the new systems could not find a middle ground to compromise with the practitioners. The Judicial Yuan deserves praise for its third attempt at implementing a lay participant system. However, the issues illustrated above again reflect the conflict between the designers of the new system and many of the practitioners in the Taiwanese judicial system. If these issues cannot be resolved, it is still uncertain when the Bill for the new system of lay participants will be passed into law.

#### EUGEN EHRLICH – A GENERAL THEORY OF LAW

Klaus A. Ziegert  
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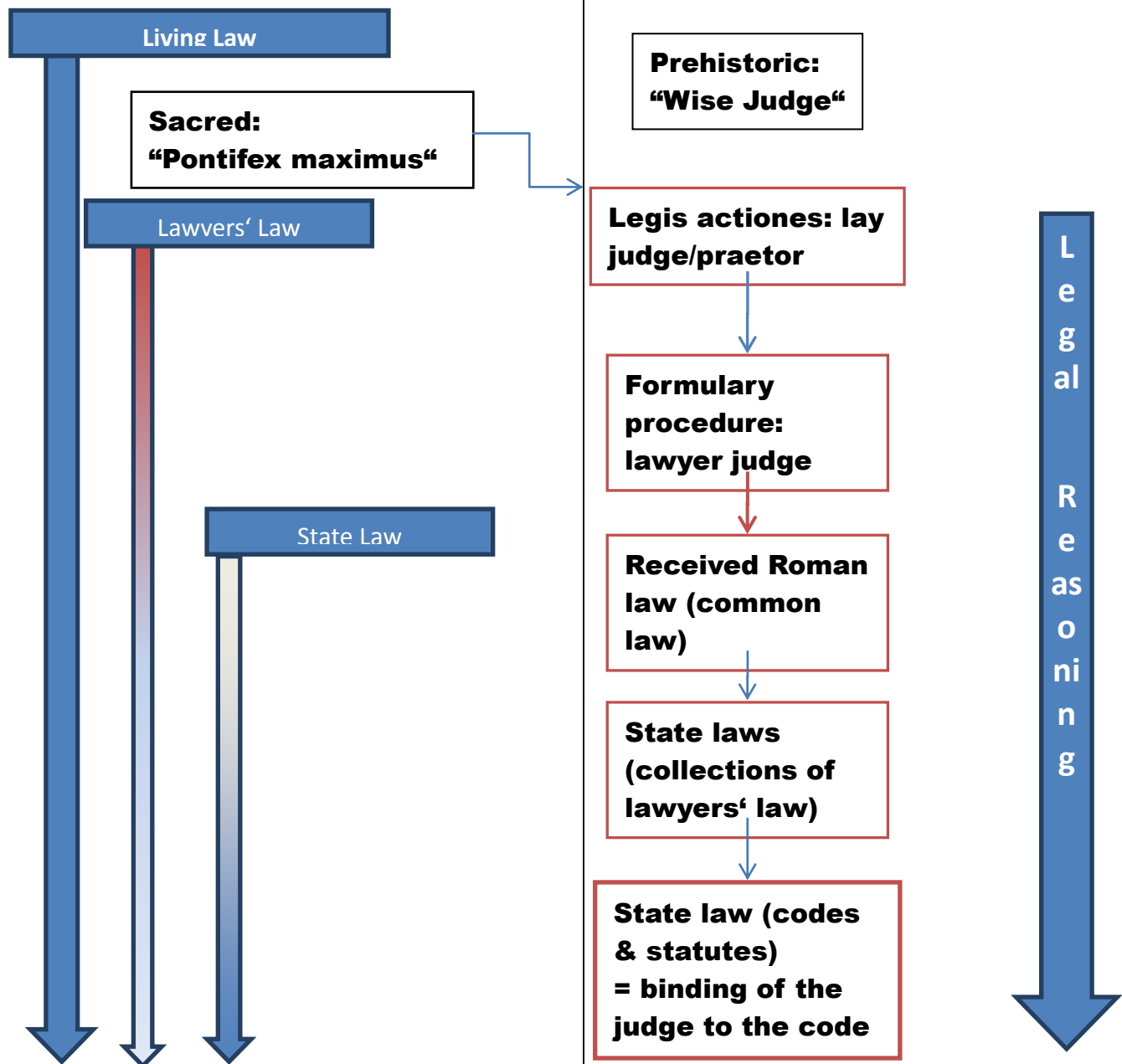
##### *Editorial introduction:*

*The RCSL newsletter will present a series of excerpts from recent book publications. The passage which follows is taken from Klaus A. Ziegert's chapter "Beyond 'Living Law': Eugen Ehrlich's General Theory of Law" in "Eugen Ehrlich's Sociology of Law", edited by Knut Papendorf, Stefan Machura and Anne Hellum, Zurich, 2014, ISBN 978-3-643-90494-2. The newsletter wishes to thank the author and the publisher Lit Verlag for their kind permission to reproduce the passage here.*

*Eugen Ehrlich (1862-1922) is one of the founding figures of Sociology of Law and his work drew international attention during his lifetime already. His book "Grundlegung der Soziologie des Rechts" ("Fundamental Principles of the Sociology of Law" in the 1936 English translation) is still discussed when it comes to legal pluralism, sociological jurisprudence and empirical legal studies. Famously, Ehrlich stated that the main source of development in law is the "living law" of the associations that form a society. In his article, Ziegert places Ehrlich's sociology of law within the wider context of the legal scholar's ideas.*

In the total output of Eugen Ehrlich, the sociology of law with its corresponding realist-empirical substratum of living law accounts for only a minor part of his writings, and even in the trilogy planned as the core of his general theory of law (Ehrlich 1918, 313), the "Grundlegung" is only (...) the debunking exercise involved in erecting his theoretical architecture on "raised ground". Nevertheless his sociology is not just a quickly sketched collection of superficial arguments but a thoroughly observed and long considered conceptualisation of scientific methodology applied to law. In this light, the lack of specificity or clarity in his sociological definitions is not necessarily a weakness of Ehrlich's theory but an expression of the level of abstraction which he has in mind. As seen above in

Figure 1:  
Differentiation of legal reasoning according to Eugen Ehrlich. The initial creativity of lawyers' law decreases as legislation promoted as state law increases.



connection with the historical account of the development of Japanese law, the inner order of associations is concrete data on the structural design and function of social relations, which is not seen when individual "behaviour" is observed in a social field; only this structure reveals the options that individuals have, or do not have, and which they chose, or do not choose. This is a robust sociological argument, confirmed by primary group research and historical research and, has – as far as I can see – never been refuted. The evidence of Japanese history as regards the extraordinary solidity but also adaptability of the familial normative order, enabling it to keep law at arm's length for centuries exactly reflects the

functional statement of Ehrlich; it also allows him to draw a functional line, again empirically grounded, between the realms of normative order and legal decision-making. His terminology in doing so could be seen as unfortunate, and certainly can only be fully understood in the context of the ideological battles of his time; today it is merely confusing. Attributing to the normative order of groups and associations "legal norms" and to the legal decision-making (only) "legal propositions", he evidently expressed his value-preference for legal reality in the face of the empirical impossibility of identifying the quality of a norm other than through its source, i.e. the ordering and organising effect of "real" norms, i.e. legal norms,

versus the merely norm-evaluative effect of legal propositions. But this functional division of norm-labour also allowed Ehrlich to make further accurate observations and robust empirical arguments as to the effectiveness or ineffectiveness of the impact that law can have on norm-use for the inner order of associations. In attributing to the norms of the associations a legal quality, as if law is the expression of the normative effectiveness of social organisation, and not the political power-structure of social control, Ehrlich misses the opportunity to distinguish between the normative order of associations as social control operations maintaining traditional power-relations on the one hand, and on the other, legal decision-making producing rules for decision in order to produce more rules for decision. Such a distinction would also have helped legal pluralism to distinguish more accurately between social control and legal decision-making, or between norms and norm decision-making for the purpose of maintaining order and norms and norm decision-making for the purpose of making normative decisions. Even if, particularly in largely undifferentiated society, such distinctions are difficult to make, that does not justify attributing to them a parallel legal plurality that they do not have in the empirical reality of society. Finally, a clearer distinction would help to understand the increasing “pull to the centre” in its historical development. According to Ehrlich this centre of legal norm selection is not the state – which is just another social association occupied with social control and worried about maintaining “the inner order” – but the institutions of the judge and of the (judicial) court organisation.

A sharper focus on legal decision-making is also the objective of the second volume (Ehrlich 1918, 1925) of the trilogy. He elaborates there the major tenets of his general theory of law. Significantly, Ehrlich drops the concept of living law from the discussion and, for that matter, any mention of sociology of law, and concentrates on meticulous, empirical-historical research into the development (or differentiation) of legal reasoning from earliest times to his own time of pervasive legislation and a receding but not negligible input of lawyers’ law. The sometimes tediously long, but always informative, discussions of his legal-realist observations confirm his suspicions that judicial decision-making at the beginning of the 20th century has deteriorated into a largely mindless, automatic, industrial production of court-decisions which, in their self-referential isolation, by-pass social reality on two fronts: they cannot achieve in society what they normatively proclaim to achieve, and they idealise in their doctrinal purity what actually happens in courts and court-communication (Ehrlich 1925, 290). Such outcomes bring the purpose – Ehrlich calls it the value (German: Wert, *ibid.* 289–315) – of legal reasoning in question. Law, especially penal law, cannot and certainly does not “evoke social forces which are not given by society; every penal law can only work with what is already available in the collective psychology of the people (...) What distinguishes the legal administration of justice is always the endeavour to decide on a balance of interests” (*ibid.*, 291). However, doctrinal-normative decision-making is poorly equipped

for such a performance: “The juridical logic (legal reasoning) has nothing in common with logic (reason) except its name. It is not logic at all but a technique” (*ibid.*, 299). This technique consists of a “crypto sociological” operation “to first decide on justice and then find the proper sources for supporting this decision afterwards” (*ibid.*, 296).

Ehrlich sums up his historical analyses of the specialisation of legal decision-making “away” from society and its organisational norms in three points (see Figure 1).

1) A just judicial decision is a decision which assesses the interests of parties in a conflict correctly; whoever is in charge of assessing interests in society and of deciding which of these interests deserve support, is entrusted with part of the governance of society. The effective governance of society depends on a knowledge of the forces which are at work in society (*ibid.*, 309–310);

2) In modern society, work on the judicial norms of decision-making is differentiated into three different legal roles: the legislator, the legal academic or teacher, and the judge (*ibid.*, 313);

3) It will be the task of the general legal theory of coming generations to show the way as to how the findings of the social sciences can be used in legislation, legal literature and the administration of justice (*ibid.*).

Modestly, Ehrlich concludes that his three volumes of a general legal theory “are only the beginning of a scientific foundation of a general theory of law. Probably only the legislators, jurists and judges of coming generations will stand on truly scientifically secure ground. However, even a beginning needs to be begun” (Ehrlich 1918, 313).

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#### NEWSLETTER CORRESPONDENCE SOUGHT

The RCSL newsletter looks for volunteers who would like to become “correspondents” and report about events, debates, disputes in their areas. Articles should have between half of a manuscript page and four pages length. They can cover content about a certain research area of sociology of law, or about a geographical area.

Please write to: [s.machura@bangor.ac.uk](mailto:s.machura@bangor.ac.uk)



Volkmar Gessner, 9.10.1937- 8.11.2014

RC SL has lost one of its most dedicated and active members, Volkmar Gessner. His name is closely connected to RC SL's partnership with the International Institute for the Sociology of Law, Onati. Volkmar Gessner also served as Secretary of RC SL. From 2003 to 2005, he was director of the Onati institute. In Germany, he contributed to organizing sociologists of law.

For many years, Volkmar Gessner held a Professorship at Bremen University, Germany and he added more leading functions in academia. Among his many publications is his *Habilitationsschrift* – part of a second doctorate required for Professorship in Germany – in which he famously describes the “si señor-effect”: Mexican locals met the European researcher's questions with an unexpected, stereotypical answer. Whereas conflict and dispute resolution seem his main research areas in earlier years, Volkmar Gessner later turned to phenomena of globalization and transnational law. Here again, he acted as an inspiring organizer of research with a keen interest in supporting the work of colleagues.

Volkmar Gessner's contributions to sociology of law were honoured with the Adam Podgórecki Prize 2013.

Stefan Machura

IKER BARBERO RECEIVES RCSL PODGORECKI YOUNG SCHOLAR PRIZE 2014

Gisálio Cerqueira Filho  
Federal Fluminense University, Brasil

This prize is awarded for an outstanding contribution to socio legal scholarship, alternating each year between recognising a lifetime contribution, and the work of a young scholar not more than ten years after the award of a Ph.D. In 2014 the Prize Committee, which included Masayuki Murayama, Arvind Agraval and Gisálio Cerqueira Filho, awarded the Young Scholar Prize to Iker Barbero from the University of the Basque Country. The announcement was made at the RCSL business meeting in Yokohama, Japan.

Without any doubt Iker Barbero is an outstanding socio-legal researcher at an early stage of a promising career. His studies of immigration and the paperless movement are already making an important contribution to socio-legal studies worldwide.

Iker Barbero is from the Faculty of Law, University of Basque Country/ Euskal Herriko Unibertsitatea, campus de Gipuzkoa - Donostia - San Sebastian.

His main research interests are: a) Sociology of Law. b) Social movements. c) Citizenship. d) Transnational migrations and Law. e) Crisis, uncertainty and austerity. All these themes are of high current relevance. Angela Melville, the immediate past Scientific Director at the IISL comments:

“for a junior researcher, Dr Barbero has an outstanding track record for obtaining research grants. He is currently working on the project entitled *Oecumene: Citizenship after Orientalism*, funded by the European Research Council. This Project has a total budget of 2.000.000,00 €. He has also been involved in a Project examining the social implications of transnational immigration (budget 65.000,00 €, funded by the Ministerio de Ciencia e Innovacion), and on a project examining the processing of immigrants (budget 80.000,00 €, Fundación Banco Bilbao Vizcaya-Argenteria).

Dr. Barbero was also a Research Fellow at the Centre for Citizenship, Identities and Governance at the Open University in the UK. This post was supported by a IKERBASQUE grant for the European Unions' Foundation for Science.

The IKERBASQUE grants are highly competitive, and are most often awarded to scholars working in the hard sciences (eg medical research and engineering). They are intended to support research by outstanding young scholars, and are open to any junior researcher with an exemplary research record.

Professor Iker Barbero's concerns are important when we talk about the 'knowledge society' which differs from an 'information society'. The question is considered in a recent UNESCO World Report, which looks at both the content and the future of knowledge societies. It is important also to maintain the focus on democracy, as over provision of information can produce obedience and submission among citizens and then, as Innerarity (2012) points out, we will not go in the right direction without active democracy.

What does the future hold for us? We know about seeking to be well informed about innovation, or a particular point of view, and to be able to develop a critical vision of reality supported by reason (as in the Enlightenment). But what can we do when reality is in contradiction with our expectations and desires of perfection? What can we do when entertainment becomes reality? When emotion becomes e.motion with its imaginary effects?

It is not easy to uphold the ideal of perfection when reality itself is in contradiction with our ideal. How will our sociological imagination be able to “*imaginare altre vita*”? to use the words of Remo Bodei (2013). Iker Barbero's research can be read in dialogue with the work of Daniel Innerarity and Remo Bodei, among others, because his themes raise questions for us and open doors to a comparative perspective without dogmatism.

Iker Barbero is probably one of the most promising scholars of his generation. He has published widely in Spanish, Italian, English and Euskera/Basque. He has studied in Oñati at the International Institute for Sociology of Law (IISL) and he is the first Basque scholar and the first alumnus of the IISL Master Program to win this prize. His PhD thesis is an excellent recommendation itself. We congratulate him.

References:

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Innerarity, Daniel (2011). *La democracia del conocimiento: por una sociedad inteligente*. Barcelona: Paidós.

Iker Barbero has donated the money from the Adam Podgorecki 2014 Prize to the Master students fund of the International Institute of Sociology of Law of Oñati to cover expenses of field work of two students that conduct their *tesinas* on socio-legal issues in the Basque Country.

CALL FOR NOMINATIONS: ISA RCSL PODGORECKI PRIZE 2015

The Podgorecki Prize

The ISA Research Committee on the Sociology of Law established the Podgorecki Prize in 2004, to honour the memory of Adam Podgorecki, the founding father of RCSL and a leading figure within the international sociological community.

A jury of RCSL, chosen by the RCSL President, awards the prize annually for outstanding achievements in socio-legal research, in alternate years for either distinguished and outstanding lifetime achievements, or outstanding scholarship of a socio-legal researcher at an earlier stage of his or her career.

The prize for lifetime achievements will be awarded as an honorary prize, symbolised by a commemorative



certificate, to honour outstanding and exemplary colleagues who have produced guiding and inspiring work. The prize for emerging socio-legal scholars will be a commemorative certificate and a money prize, to honour and encourage colleagues that have yet to leave a mark on the international level of production of socio-legal research but who have published one or more significant works within no later than 10 year of his or her doctorate.

General information about the prize and the Podgòrecki Prize rules can be found at:  
[http://rcsl.iscte.pt/rcsl\\_apodgpr.htm](http://rcsl.iscte.pt/rcsl_apodgpr.htm)

#### Call for 2015 nominations

The ISA RCSL Jury Committee for the Podgòrecki Prize calls for nominations for the Senior Prize, which will be awarded in 2015 to a socio-legal scholar for their outstanding lifetime contribution to socio-legal scholarship and research. Previous winners of this prize have been: 2013: Volkmar Gessner (Germany) and Terence Halliday (USA), 2011: David Nelken (Italy), 2009: Boaventura de Sousa Santos (Portugal), 2007: Richard Abel (USA) and Vincenzo Ferrari (Italy), 2005: Erhard Blankenburg (The Netherlands). The 2015 Committee notes that all the previous winners of this award have been men. Although our decision will be based strictly on the merits of the candidates, and the case presented in nominating them, we would particularly welcome the opportunity to consider nominations on behalf of some of the outstanding women scholars in our field.

Nominations require the support of at least two members of the RCSL, and should include the candidate's CV and a brief letter of support from each nominator. It is desirable, but not essential, that nominees are members of RCSL. Previous nominees may be re-nominated in this 2015 round, with updated letters and CVs. The Jury does not have access to previous correspondence or reviews.

Publications can be in any language. For works in languages other than those familiar to the Prize Committee, the nominations should give some indication of the value of the work and provide selected translations. To consider works in less well-known languages, the Jury Committee can co-opt and consult other RCSL members.

Nominations should be sent to the Chair of the jury, Robert Dingwall: [Robert.dingwall@ntlworld.com](mailto:Robert.dingwall@ntlworld.com) to be received by midnight GMT on 14 February 2015. The prize will be awarded at the Annual RCSL meeting in Brazil, 5-8 May 2015.

The 2015 Prize Jury is composed of Prof Robert Dingwall (UK), Prof Stephan Parmentier (Belgium), and Prof. Maria Ines Bergoglio (Argentina).

María Inés Bergoglio

#### EUROPEAN CRIMINOLOGY CONFERENCE 2014 IN PRAGUE: SITUATIONAL ACTION THEORY

Birger Antholz  
 Hamburg, Germany

The 14th annual Conference of the European Society of Criminology ESC was held in Prague, 10-13 September. 1.078 participants, including 235 from Great Britain, discussed the newest trends in criminology. The congress had one major theme: Situational Action Theory SAT. 23 presentations focussed on SAT and the most well attended main paper was presented by Per-Olof Wikström (Cambridge) who first developed this in 2004. He is one of the most famous criminologists in Europe. In Prague he presented the theory with key slides and figures included among other places in his newest book "Breaking rules" (not varying his presentations is possibly one of the secrets of his success). Wikström presents the key assumptions: the PEA-hypothesis: propensity x exposure -> action. Then he explains his most famous slide:

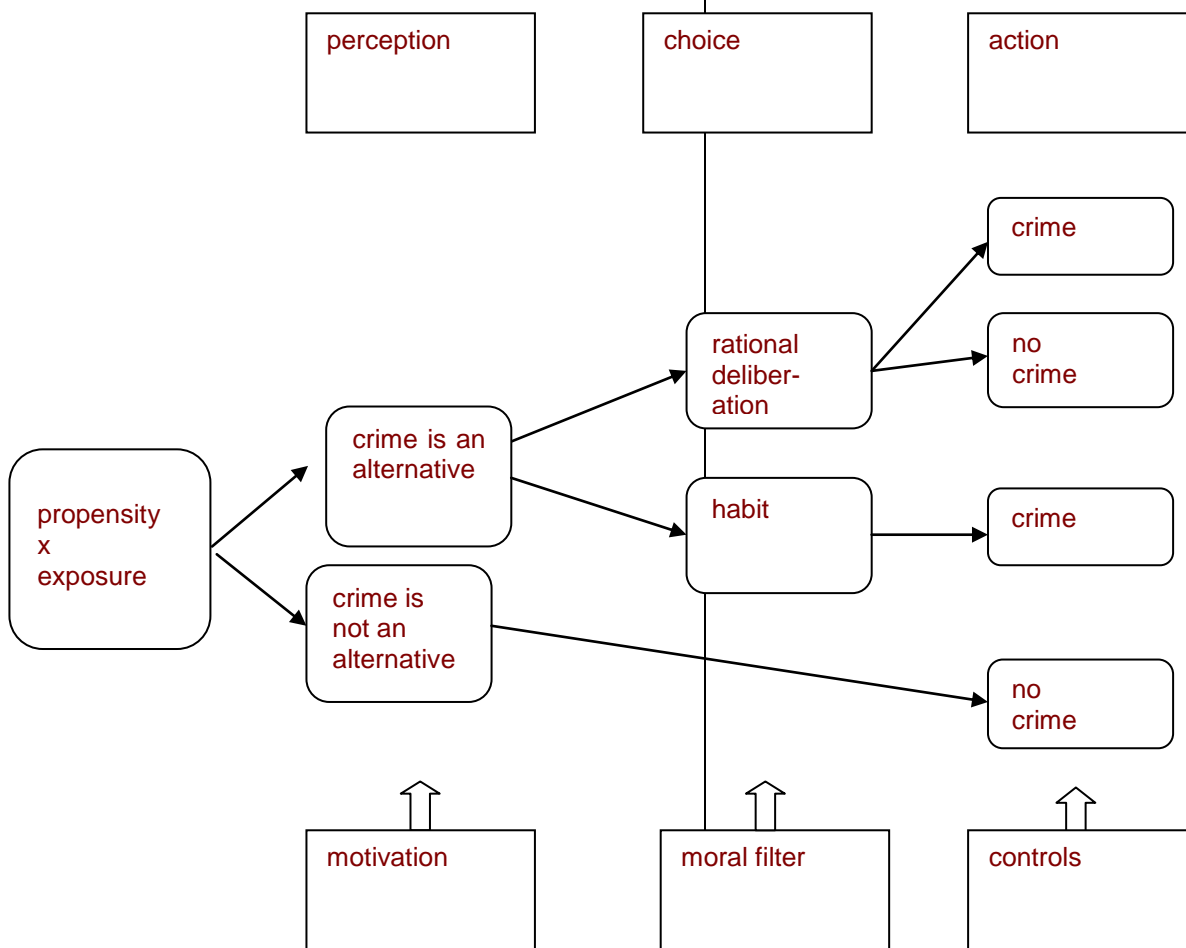
Crime happens when people prone to commit crime spend time in criminogenic settings. Wikström presents some empirical data from Uppsala, showing that there is more crime when more time is spent in criminogenic settings.

Wikström focuses nowadays on the causes of the causes of crime. He reports two examples of the causes of the causes for explaining propensity and a moral filter. Growing up in public housing is a risk factor for high propensity to crime. Cleaning up after your dog is an international example for development of a moral filter. In former times, he said, "others thought you were mad, when you picked up the dog poo. Today people look at you, thinking you are a really bad person, if you don't do so".

Dirk Enzmann gave a response. He is a Senior Lecturer in Hamburg and well established in international criminology because he is one of the leading organizers of the international self-report delinquency study ISRD which examined 7-9th grade school students in 1992-94, 2006-08 and 2012-15.

Enzmann says that the SAT alone does not explain when, where and how much criminality happens in a society. To explain this, he argues, needs the Institutional Anomie Theory IAT also. Dirk Enzmann's suggestion of combining SAT and IAT to understand the background of criminality was first announced by Steven F. Messner 2010 at the sixty second annual meeting of the American Society of Criminology ASC in San Francisco. Messner proposed a "theoretical synthesis". Together with Richard Rosenfeld Messner is the inventor of the Institutional Anomie Theory. In Prague Dirk Enzmann explained how the IAT describes the causes of the causes. The SAT is a micro theory and the IAT is a macro theory, and both are needed to explain criminality. The key idea of the Institutional Anomie Theory is that American society is

Figure 1: Steps in the perception-choice process



Source: Figure presented by Per-Olof Wikström at the ESC conference, Prague, 12 September 2014.

based on economic success, which means everyone aims to earn money and acquire material goods. Social, familial, health, educational and political institutions are weak. This institutional imbalance causes the anomie which leads to the high crime rates in the United States. Enzmann shows in data from several countries that the grade of institutional anomie correlates highly with the crime rate. For example Sweden has good institutional conditions and low crime, while Russia has institutional anomie and high crime rates. Enzmann also uses Robert J. Sampson's concept of the collective efficiency scale, which measures social cohesion among neighborhoods. He shows that Chicago and Stockholm have quarters with high social cohesion and low crime and quarters with high social anomie suffering under high crime rates. The SAT explains why individuals become criminal, the IAT explains the crime level in a society.

In spite of Enzmann's contribution the trend in Europe is clear. The other 22 SAT-presentations at the Euro-pean Conference of Criminology showed that the Situational Action Theory left the Institutional Anomie Theory, the General Theory, Rational Choice or the Routine Activity Approach behind. The current ten SAT research projects in Europe (Cambridge, Linz, Ghent, Bielefeld, Eichstätt, Haifa, three in Hamburg, Malmö) indicate that Situational Action Theory will be the leading theory in Europe for explaining crime in coming years.

## INTERNATIONAL WORKING GROUP ON COMPARATIVE STUDY OF LEGAL PROFESSIONS 2014

Ulrike Schultz  
Hagen, Germany

The group is a network of almost 360 scholars from all around the world. Information is sent out regularly by circular mails. In addition, the group has set up a blog to inform about the group's activities:

<http://iwglp.wordpress.com/>. Updated information on the group can also be found at the RC SL website:  
[http://rcsl.iscte.pt/rcsl\\_wg\\_professions.htm](http://rcsl.iscte.pt/rcsl_wg_professions.htm).

From the 6th to the 9th of July 2014 the last biannual meeting has taken place in Frauenchiemsee/Bavaria. 61 colleagues from 14 countries (Canada, USA, Australia, Turkey, Syria, Israel, Japan, Netherlands, Belgium, UK, Portugal, France, Finland and Germany) have attended. Sessions have been videorecorded.

[http://www.fernuni-hagen.de/videostreaming/rewi/ls\\_haratsch/legalprofession14.shtml](http://www.fernuni-hagen.de/videostreaming/rewi/ls_haratsch/legalprofession14.shtml)

In Frauenchiemsee the new chair for the next four years has been elected: It is Rosemary Auchmuty who is a member of long standing of the legal profession group.

At the RC SL Conference for the 25th anniversary of the Onati Institute in May 2014 the WG had two panels on the Legal Profession and two on Women/Gender in the Legal Profession.

In 2014 workshops on Delivering Family Justice in Late Modern Societies have been organised by Mavis Maclean jointly with Jon Eekelaar and Benoit Bastard at the Onati IISL institute.

Many scholars cooperate on individual projects and on invitation of colleagues several of our members have also given presentations and papers in different countries on legal profession issues, e.g. in Saint Petersburg/Russia, Lisboa/Portugal, London/UK.



(Some of the) participants, at the Frauenchiemsee conference, first in front row from the left: Ina Schultz, last in first row: Ulrike Schultz, organizing team.

At the Legal Profession Group Meeting in Frauenchiemsee it was proposed to try and put together a follow up to the famous three volumes "Lawyers in Society" ed. by Rick Abel and Philip Lewis:

- The Common Law World 1988
- The Civil Law World 1988
- Comparative Theories 1989.

The Working Group has a number of active Subgroups:

Subgroup 1: Ethics, Deontology

Leader: Degroot, Leny, l.degroot@jur.kun.nl

Subgroup 2: Family, Policy and the Law

Leaders: Benoit Bastard, bastard@mipplus.org

Mavis Maclean, mavis.maclean@spi.ox.ac.uk

Subgroup 4: Judiciary

Leader: Tony Bradney, a.bradney@law.keele.ac.uk

Subgroup 7: Legal Aid

Leader: Alan Paterson,

prof.alan.paterson@strath.ac.uk

Subgroup 8: Legal Education

Leader: Fiona Cownie, F.Cownie@law.keele.ac.uk

Subgroup 9: Legal Professional Values & Identities

Leader: Hilary Sommerlad, Sommsand@aol.com

Subgroup 11: Regulatory Reform

Leader: Christine Parker, c.parker@unimelb.edu.au

Subgroup 12: Women/Gender in the Legal Profession

Leader: Ulrike Schultz, Ulrike.Schultz@FernUni-Hagen.de

Gabriele Plickert plans to revitalize Subgroup 3 on International Lawyering.

Wes Pue and Sara Dezelay plan to set up a new subgroup 10 on Lawyers and Legal Imperialism.

There are also plans to revitalize subgroup 6 on Lawyers and Clients with the help of Ina Pick.

### *Subgroup Reports:*

Subgroup 2: Family, Policy and the Law Subgroup

Leaders: Benoit Bastard and Mavis Maclean

The Group held a Workshop in Onati May 2014 on New Ways of Delivering Family Justice, convened by Mavis Maclean and Benoit Bastard, which builds on earlier papers presented at the Legal Profession Group Meeting in Germany 2012, and examines the response of policy makers and the professions in different jurisdictions to the current combination of economic austerity and the development of ADR.

Subgroup 8: Legal Education Subgroup

Leader: Fiona Cownie

The Legal Education Group has had a good representation at all meetings of the Working Group on the Legal Professions which have taken place during the last four years. On several occasions they have collaborated with the sub-group working on Gender and the Legal Profession, either to run joint sessions, or to contribute to plenary panels on topics of mutual interest. The Legal Education sub-group itself continues to thrive, and to attract new members.

Subgroup 12: Women/Gender in the Legal Profession Subgroup

Leader: Ulrike Schultz

Women/Gender in the Legal Profession Group had panels on Women/Gender in the Legal Profession and Gender and Judging at the RC SL and LSA meetings. Gender and Judging has the status of a CRN (Collaborative Research Network) of the LSA.

Brettel Dawson, Gisela Shaw and Ulrike Schultz are about to finalise another special issue of the International Journal of the Legal Profession on Gender and Judicial Education with ten contributions.

In connection with a research project which is currently running at FernUniversität in Hagen on Gender and Careers in the Legal Academy – <http://www.fernuni-hagen.de/jurpro/tagungen.shtml> – a new comparative project on Women/Gender in the Legal Academy was launched and a special meeting in 2015 or 2016 is planned.

Media:

Videostream of an interview by Håkan Hydén, University of Lund, Schweden with Ulrike Schultz, FernUniversität in Hagen about “Gender Questions in Law and the Legal Profession“ for the Web Based Master Program “Sociology of European Law“ (SELA) at Lund [http://video.fernuni-hagen.de:8080/flash/ls\\_haratsch/2012/03/Ulrike\\_Schultz\\_Lund.mp4](http://video.fernuni-hagen.de:8080/flash/ls_haratsch/2012/03/Ulrike_Schultz_Lund.mp4)

Podcast of an interview by Ana Oliveira, CES Centro de Estudos Sociais in Coimbra und Lisboa, Portugal, with Ulrike Schultz about the feminisation of legal professions.

<http://saladeimprensa.ces.uc.pt/index.php?col=canalces&id=6419#.UK-KNmeRII4>

Videostreams of the Conference on “More Gender than Justice? Gender and Careers in the (Legal) Academy” at FernUniversität in Hagen on July 13th. <http://www.fernuni-hagen.de/videostreaming/gleichstellung/201306/>

<http://www.fernuni-hagen.de/jurpro/tagungen.shtml>

## HFSA SYMPOSIUM

The Seventh Symposium on “Philosophical and Sociological Perspectives on Law” organized by HFSA (Archive of Philosophy and Sociology of Law) and the Istanbul Bar Association was held at Istanbul University 4th to 7th November 2014. Organized biannually at a national level, this meeting is the only one in Turkey that brings together academicians and experts from the disciplines of law and human and social sciences. This year there were 28 sessions on a wide variety of subjects which can be regrouped as follows: the concept of justice, penal politics, actors in justice, human rights, juvenile justice, prisons, the Ottoman legal system, law and violence, law and social opposition as well as feminist theory and law. Three additional sessions were dedicated to the Turkish Foundation for Philosophy’s 40th anniversary during which the presentations focused on Aristotle,

Kant, and Rawls. Moreover, a special session was reserved for questions of teaching philosophy of law. All the contributions will be published in a book by the HFSA.

Verda İrtiş

## BRASILIAN SOCIOLOGY OF LAW JOURNAL

ABRASD is the Brazilian National Association of Researchers in Sociology. It was founded in 2009 in presence of the former RC SL president Vittorio Olgiati in Niteroi, Brazil. The Association maintain a website ([www.abrasd.com.br](http://www.abrasd.com.br)), organizes anual meetings ([www.vcongressoabrasd.blogspot.com.br](http://www.vcongressoabrasd.blogspot.com.br)), promotes the sociology of law in Brazil among other things. ABRASD also publishes one of the most important Brazilian journals in sociology of law and its new number can be accessed on

[http://abrasd.com.br/revista\\_abrasd/rabrasdV/rabrasdVissn.pdf](http://abrasd.com.br/revista_abrasd/rabrasdV/rabrasdVissn.pdf).

Germano Schwartz

## RC SL MEMBERSHIP AND FEES RENEWAL

RC SL’s members whose membership expired or expires can renew it by fulfilling the form on the following link

[http://rcsl.iscte.pt/rcsl\\_joinForm\\_2014.pdf](http://rcsl.iscte.pt/rcsl_joinForm_2014.pdf)

to be sent to Manttoni Kortabarria Medina ([manttoni@iisj.es](mailto:manttoni@iisj.es)):

## GUNTHER TEUBNER RECEIVED WOLFGANG-KAUPEN-PRIZE



On 9 October 2014, Gunther Teubner (Universität Frankfurt) received the Wolfgang-Kaupen Prize of the Sociology of Law Section in the German Sociological Association for the best sociology of law article of the

year 2012. On the left, newly elected speaker of the section, Fatima Kastner (Hamburger Institut für Sozialforschung). Teubner received the prize for his article: "Das Projekt der Verfassungssoziologie: Irritationen des nationalstaatlichen Konstitutionalismus. In: Zeitschrift für Rechtssoziologie, 32, 2, 189-204", English translation: "The Project of Constitutional Sociology: Irritating Nation State Constitutionalism". The best article prize for 2013, went to Jan Schank (Ruhr-Universität Bochum) and his article "Wissen was jugendbeeinträchtigt ist – Membership Categorization in der Alterskennzeichnung von Computerspielen", which appeared in the same journal, 33, 1, 31-50. The title translates as: "Knowing Who's Harmed – The Use of Membership Categorization in Age-Rating Computer Games".

Stefan Machura

### RCSL GOVERNING BOARD August 2014 - July 2018

**President:** Masayuki Murayama  
**Immediate Past President:** Vittorio Olgiati  
**Vice-Presidents:** Arvind Agrawal  
 Håkan Hydén  
**Secretary:** Germano Schwartz  
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 Rashmi Jain  
 Stefan Machura  
 Ralf Rogowski  
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Working Group Chairs are also Board members.

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

**Podgorecki Young Scholar Prize Winner:** Iker Barbero

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

### RCSL WORKING GROUPS & CHAIRS:

**Civil Justice and Dispute Resolution:** Luigi Cominelli  
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**Social and Legal Systems:** Lucas Konzen and Germano Schwartz  
**Sociology of Constitutions:** Alberto Febbrajo

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 Jan Glastra Van Loon (1974-1980)  
 Jean Van Houtte (1980-1990)  
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 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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