

RCSL NEWSLETTER

INTERNATIONAL SOCIOLOGICAL ASSOCIATION
RESEARCH COMMITTEE ON SOCIOLOGY OF LAW

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PRESIDENTIAL ADDRESS

Dear Colleagues,

We will have our RCSL annual meeting in Canoas, Brazil, on May 5 to 8, this year. This meeting is a joint meeting between the RCSL and the Brazilian Association of Researchers in the Sociology of Law. It is our tradition to rely upon local organizers for holding an annual meeting. The Brazilian meeting is not an exception. Germano Schwartz and his colleagues have been working hard for the success of the meeting. I hope that the Brazilian meeting will be a memorable occasion for collaboration with Brazilian and Latin American scholars.

When this Newsletter is issued, the deadline for paper and session proposals for the Brazilian meeting will have passed, and the deadline for session proposals for the RCSL meeting at the ISA Forum on July 10 to 14, 2016, will have also passed. Though the size of a Forum is smaller than that of a World Congress, both are organized by the ISA, and RCSL holds our annual meeting as a part of a larger meeting on both occasions. When the RCSL joins both the World Congress and the Forum, this means that we would hold our annual meeting as a part of an ISA big meeting every two years. This raises a question about how we can keep our sense of belonging to RCSL, and not feel 'lost' within a big meeting. As a possible

solution, even if only in part, I would like to strengthen the local tie: relying on local organizers at a World Congress and Forum. This time, for the ISA Forum in Vienna in 2016, I asked Julia Dahlvik at University of Vienna to serve as Program Coordinator and to organize sessions in collaboration between RCSL members and Austrian scholars. Julia and her colleague Walter Fuchs at the Institute for the Sociology of Law and Criminology in Vienna recently established the Law and Society Division in the Austrian Association of Sociology. Therefore, the Vienna meeting will be a wonderful opportunity for RCSL to develop collaboration with Austrian scholars. Since the RCSL meeting at the ISA World Congress in Yokohama last year, we began to organize sessions with themes that did not fall within existing Working Groups. This is rather new for RCSL, as we typically had WG Sessions and other Sessions only for Work in Progress where presenters who did not belong to a WG presented papers. In Brazil, we will also have sessions organized by Brazilian scholars. I would like to continue this practice for the Vienna meeting. In Vienna, we plan to have sessions organized by Austrian scholars and those organized by non-WG members as well as WG sessions. The introduction of new kinds of sessions does not mean changing the structure of our annual meeting: WG sessions remain at the center of our activities. But the new kinds of sessions might lead to creation of a new WG and also help to reflect a wider range of academic concerns that may not be included in themes of the WGs. In this way, we can expand the scope of our annual meeting. Thanks to the efforts of Julia and Walter, we will have space for sessions in addition to those to be assigned by the ISA.

The Executive Committee asked the RCSL Board to vote on expanding the Grant to Young Scholars to include a Ph.D. candidate. This proposal was approved by the Board just recently.

The RCSL Board also approved the creation of Joint Grant to Oñati Master Students. This is a collaboration between RCSL and IISL (the International Institute for Sociology of Law) to help Oñati Master students to attend the RCSL annual meeting. It is another way to strengthen our tie with IISL.

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The Executive Committee is discussing another item: ways to expand the scope of the RCSL activities by reaching out to young scholars. RCSL has tended to be an academic association of established scholars. But as international graduate students increase everywhere and as career paths to academic positions diversify, it could be more appropriate for the RCSL to be more accessible to graduate students in the sociology of law. Specifically, we are creating a discounted membership fee for graduate students. We will welcome your ideas and suggestions to reach out to young scholars.

I hope to see you in Brazil in May!

Masayuki Murayama

In the Fall issue 2014, the newsletter included an article "The Designs of the Proposed Taiwanese Lay Participation System and the Issues Facing It" by Mong-Hwa Chin. We are continuing with a report on developments in Japan.

THE JAPANESE LAY JUDGING SYSTEM IN INACTION?

In 1928, a jury system was adopted for certain criminal cases in Japan, the only country in Asia to introduce public participation system in the justice system. However, the prewar jury system had some problems. For example, the verdict was decided by a majority vote and did not legally bind the courts. Defendants could select a jury trial in minor criminal cases on the condition that they must pay their own trial expenses if they were found to be guilty. It was not permitted to appeal against the judgments in jury trials. On the other hand, the acquittal rate in criminal cases increased under the jury trials. However, the number of jury trial cases gradually decreased as a result of these deficiencies and a reported reluctance to take part in jury trials by legal professionals.

The jury law was suspended in 1943 due to World War II. It was expected to come into effect again after the war, however, the suspension continued. While there are other types of popular participation in justice, systems such as conciliators, judicial commissioners, and Inquests of Prosecution, the opinions of citizens in any of these positions did not legally bind the courts.

The prewar jury system came to the fore again in the 1980s, when four judgments with death penalties were overturned at retrial. The jury was reevaluated by some criminal attorneys, law professors and citizens who were criticizing the criminal justice system. Jurors were seen as better fact finders than the professional judges, who had made grave misjudgments. However, the argument for juries did not predominate.

The jury was reevaluated again in the 1990s, when the state of justice was widely discussed by the Japanese Federation of Bar Associations (JFBA) and some private enterprise associations. Among their

proposals for judicial reform, they included introduction of the jury and/or lay assessor system as one way to reform the justice system, which had been lacking a popular base. They wanted to establish appropriate participation mechanisms in a variety of settings, such as trial procedures, the process for selection of judges, and the administration of the courts, the public prosecutors offices and bar associations, as well as reforms of the existing systems for public participation systems.

The Justice System Reform Council, which was set up by the Cabinet in 1999, discussed establishment of a popular base for the justice system as one of the main themes of reform. The council reviewed the justice system in order to make the administration of justice more open and familiar to the public and to adopt plural values and professional knowledge in the administration of justice. The council also discussed the propriety of introducing jury trials or a lay-judge system as had been adopted in Europe and the United States of America, by paying attention to the historical/cultural backgrounds and institutional/practical conditions. Some members of the council went to the U.S. and European countries to watch jury trials.

As a matter of fact, members supporting the jury system were in the minority in the council. The Supreme Court also opposed to jury trial and suggested a lay assessor system in which assessors do not have the power to render verdicts. Eventually the council agreed in September 2000 that "a new system should be introduced for the time being in criminal proceedings, enabling the general public to work with judges, sharing responsibilities, and taking part autonomously and meaningfully in deciding trials".

In order to enable the general public to participate in justice, citizens were expected to be selected to take part in only one case or for a short period of time. These are features of the jury system. On the other hand, the agreement needs the citizens and judges to cooperate by sharing responsibilities and for the general public to take part autonomously and meaningfully in deciding trials. This demand leads both of them to finding facts, applying laws and sentencing together with equal powers, which are seen in the lay assessor system. Therefore, the council's ambivalent agreement suggested a mixed system of the jury and lay assessor. The council later named a lay assessor "saiban-in", which literally means a trial member.

The council finally recommended the basic structure of the saiban-in system in June 2001. According to the recommendations, judges and saiban-in should deliberate and make decisions on guilt and on the sentence together. The number of judges and saiban-in on one judicial panel and the method of deciding the verdict should be determined appropriately, giving consideration to the need to ensure the autonomous and meaningful participation of saiban-in and the need to ensure the effectiveness of the deliberations, and also taking into account the seriousness of the cases to which this system will apply and the significance and potential burden of the system on the general public. However, a minimum requirement

should be that a decision adverse to the defendant cannot be made on the basis of a majority of either the judges or the saiban-in alone.

With regard to the selection of saiban-in, the selection pool should be made up of persons randomly selected from among eligible voters. Applicable cases should be cases of serious crime to which heavy statutory penalties attach. No distinction should be made based on whether the defendant admits or denies the charge. Defendants should not be allowed to refuse trial by a judicial panel composed of judges and saiban-in. Litigants should be allowed to appeal on the ground of error in fact finding or the ground of improper sentence.

Later discussions among the parties concerned produced the law on the criminal court in which saiban-in participates, which was passed in 2004. Under the law, the purpose of the saiban-in system is for the people to deepen their understanding and support of the justice system. The saiban-in is selected randomly from persons over twenty years old. The judicial panel is composed of three professional judges and six saiban-in (the composition of one judge and four saiban-in is also permitted in certain cases). The verdict is determined by a majority vote, in which at least one vote from the judges and one vote from the saiban-in must be included.

After the enactment of the saiban-in law, the Supreme Court began to support the system possibly because it was asked to operate the saiban-in system in practice. The court made several DVDs to publicize the saiban-in system and repeated mock saiban-in trials in cooperation with the Ministry of Justice and the JFBA by 2009, when the law was put into effect.

The first saiban-in trial was held at the Tokyo district court in August 2009, which received nationwide citizens' and media attention. Citizens queued in front of the court to get tickets for the trial. Though the trial is not permitted to be broadcasted live or recorded in Japan, the media coverage went into many details. Thanks to the public relations work by the government and media reports, at least the name of saiban-in system became familiar to citizens.

The saiban-in trial seems to operate smoothly. According to the statistics of the Supreme Court, 7,404 defendants have been tried by the saiban-in system by the end of 2014. Around 70% cases ended in five days. A total of 41,834 saiban-in and 14,262 supplemental saiban-in have already performed their services. According to the annual survey by the Supreme Court, around 95% of the former saiban-in report their experience as rather good or good.

On the other hand, judgments have not virtually changed. The acquittal rate is low (0.55%) and the sentences passed by the new courts are around 80% of those recommended by the public prosecutors, as they are in the criminal trials solely decided by professional judges. Death penalties have been passed on 22 defendants.

Japanese citizens are largely reluctant to serve as saiban-in. According to the annual survey by the Supreme Court, citizens' willingness to serve has gradually fallen from 18.5% in 2009 to 14.0% in 2014. Their concerns are about the mental and physical

burdens associated with saiban-in service, such as to their responsibilities to judge persons and a bad effect on their jobs. The appearance rate of selected saiban-in candidates has decreased from 83.9% in 2009 to 71.5% in 2014.

There were some controversial decisions concerning saiban-in trials. The Supreme Court commuted sentences of the saiban-in trial and decided that the judgment of the saiban-in trial should include concrete and convincing reasons should it override the trend of precedents in similar cases and the sentences demanded by the public prosecutors (24 September, 2014). It also commuted two death sentences passed by saiban-in trials into life imprisonment in accordance with precedent (3 February, 2015).

How should these operations of the saiban-in trial be seen? Some have insisted that the saiban-in system should be abandoned because it carries burdens for ordinary citizens and is meaningless. Others have supported the system because it has merits in making the criminal trial more open and transparent, advancing citizen's awareness of crime and the judiciary.

There are some socio-legal studies of the saiban-in system. Matsumura, Kinoshita and Ota (2015) compare the results of the public opinion polls in 2009 and 2011 and conclude that citizens' evaluations of the saiban-in system improved while their attitudes toward the criminal justice in general did not change to any degree. There are interviews on some former saiban-in (Taguchi 2013), but they are difficult to approach. The Supreme Court does not disclose personal information on former saiban-in and is not willing to cooperate with researchers. Former saiban-in can be approached by way of media reporters, who get personal information on former saiban-in by asking them at the press conference sometimes held after each saiban-in trial.

Furthermore, there is a restriction on research in the duty of former saiban-in to keep silence on the process and content of the trial deliberation, with a penal sanction. The obligation to keep official secrets can be seen in European lay assessors, but seems to discourage former saiban-in from sharing their experience and views with the public.

The courts and judges are zealous in carrying out the saiban-in system smoothly, as shown in the high value placed by the saiban-in's of their own experience. On the other hand, little information and support is supplied before or after saiban-in service, which extends the jurisdiction of the courts. A citizen's concern about his or her possible saiban-in service and a former saiban-in's concern about the treatment of a defendant are not dealt with. It seems that the experience of former saiban-in should be widely known, but they are not shared in reality.

From the socio-legal point of view, the development of the situation should be watched calmly and objectively. However, in the course of my research, the problem of little problems before and after the saiban-in service forced me to set up a gathering titled "saiban-in lounge" in cooperation with related citizen groups at the end of 2014. The saiban-in lounge is held every three months, in which former saiban-in,

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citizens, attorneys, scholars and students can freely express and discuss their experience, concerns, knowledge and views. This is an attempt to socialize the saiban-in system.

The inaction of the saiban-in system relates to the fact that the reason of its introduction is obscure. The system was created in the early 21st century judicial reform movement in a way which saw no objections from the courts (judges), the Ministry of Justice (public prosecutors) and the JFBA (attorneys), while it is certain to increase popular influence on criminal justice in Japan. It will be a task for the sociology of law to illuminate and study the full social significance of lay participation in Japan's criminal justice system.

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References:

Matsumura, Yoshiyuki, Manako Kinoshita and Shozo Ota (2015), *The Lay Judge System as Seen by the Japanese People*, Keiso Shobo: Tokyo.

Taguchi, Masayoshi (2013), *Inside the Brain of Saiban-in: Narratives of Fourteen People of Their First Experiences*, Gendai Jinbunsha: Tokyo.

NEWSLETTER CORRESPONDENTS 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 the main editor: Stefan Machura, s.machura@bangor.ac.uk

IISL—PAST, PRESENT AND FUTURE

Last year the International Institute for the Sociology of Law (IISL) in Oñati celebrated its 25th anniversary. The institute was born 25 years ago as a legitimate child of the Basque Country Government and the RCSL. The world socio-legal community owes gratitude to our "founding mothers and fathers" for conceiving this inspired idea and bringing it to life, especially Volkmar Gessner and Francisco Javier Harriet – two intellectuals who worked on the idea of the Institute from the beginning. Then Jean van Houtte, Andre-Jean Arnaud, Jacques Commaille, Vincenzo Ferrari, Terence Halliday and Renato Treves. From the Basque Country Government side were: Juan Ramon Guevara, then Regional Minister of the

President's Office and of Justice of the Basque Government, Jose Antonio Ardanza. President of the Basque Government, Eli Galdos, Mayor of Oñati, Jose Ignacio Garcia Ramos, Deputy Regional Minister for Justice, and Imanol Morua, Deputy-General for Gipuzkoa.

The last 25 years confirm that the International Institute for the Sociology of Law in Oñati is one of the centres of the world community of socio-legal scholars. It has played an enormously important role in providing a forum for meetings, the exchange of ideas, and education for future socio-legal scholars.

The formula of the Institute developed and implemented by Professor Andre-Jean Arnaud, the first of the fifteen Scientific Directors (who did an enormous job) so far, has demonstrated its usefulness. That formula was developed around several key activities: to serve as a meeting place for scholars, to build up a library and documentation centre, to develop a teaching institution offering an international masters degree in the sociology of law and also become a centre for the publication of books and of a journal.

The institute runs one of the best master programs in the sociology of law. It provides an infrastructure and logistical help with the organisation of workshops. The library is one of the best in the field of socio-legal studies with a collection in many languages but especially in English and Spanish. Each year a number of visiting scholars stay for short or longer time in the Institute. Last but not least the institute publishes a scholarly journal *Onati Socio-Legal Series* which is a peer review free access journal. The outcomes of workshops are published by the Institute with Hart, Oxford in English and Dickinson in Spanish.

The aim of each staff member of the Institute and each scientific director is at least to preserve this formula of the operation of the Institute. As the socio-legal community knows, however, in the last four years the economic position of the Institute has deteriorated due to the changes in the external financial situation. The Institute has adjusted as much as possible to the new circumstances but at present we need to reinvent it. In my opinion there will be no return to the status quo ante. The cuts in the budget are permanent and the Institute must look for alternative sources of income.

The Institute is in a quite peculiar situation. It is located in Europe but is not a fully European institution, and therefore does not have direct access to EU funding. It is not a research institution since only the scientific director is an active researcher. The Institute can but is not able to apply for grants if only for the simple reason that the Institute does not have personal resources to properly deal with the complicated and time consuming application processes. At the same time the institute possesses an asset – the library, buildings and last but not least the huge global network of socio-legal scholars. The Institute can organise groups of scholars around research areas. Therefore I appeal to socio-legal colleagues to take into consideration the inclusion of the IISL in Oñati in your prospective application for grants. The Institute provides a very good infrastructure for research and for the Institute overheads from research grants could be a substantial income.

I also see a big role for regional and national networks and associations of socio-legal scholars. Please consider setting up scholarships for your own graduates, from your region and your countries to study for an international master's degree in sociology of law in Oñati.

My aim is to start the discussion on the future of the International Institute for the Sociology of Law. It already began during the 25th anniversary congress especially at the panel of former scientific directors, which was open to all interested and where we frankly discussed the present situation and possible solutions to the financial difficulties of the Institute. I also want to involve members of the broader socio-legal community, especially members of RCSL, in the discussion and activities of the Institute.

The Institute is our precious institution with a long and well established tradition and proven record of excellence in its areas of activities. Now is the proper time to do something for the Institute in order to establish solid ground for at least the next 25 years of its activities.

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PROFESSOR SANDRA BURMAN

The socio legal community will be saddened to learn of Sandra's death in Cape Town on January 28th 2015.

She was a founder member of the Centre for Socio Legal Studies, Oxford, where she worked on the first large empirical project looking at the compensation and support for victims of illness or injury, publishing results of a pilot study as early as 1977 with Hazel Genn¹, long before the final report came out in 1984².

She was an energetic and congenial colleague, much missed when she returned to South Africa to work on the development of social legal studies there, but on her regular summer visits to Oxford when she would tell us about developments back home and enlist our support continued for many years.

She set herself demanding goals in South Africa, and did not spare herself in working towards them whatever the obstacles. She will be remembered with affection and respect as a fine scholar and a woman of conviction and integrity.

Professor Hugh Corder of the Faculty of Law in University of Cape Town has written a warm tribute. He describes how she took her BA Cape Town in 1962 and her LLB in 1964 followed by her PhD in Oxford in 1974 on the change in African customary law and society in late 19th century Africa. She returned to Cape Town in the early 1980s where she worked with the Centre for Conflict Resolution led by the calm and indomitable Quaker, Professor H W van der Merwe. ([Http://www.uct.ac.za/dailynews/?id=8962](http://www.uct.ac.za/dailynews/?id=8962))

Her wide research interests included family law, in particular the consequences of divorce, and the

history of illegitimacy in South Africa. She fought for the establishment of socio legal studies in South Africa, but was perhaps ahead of her time, and was unable, despite strong support from colleagues in the UK, to prevent the withdrawal of HSRC funding from her Centre for Socio Legal Research on her retirement.

She coped courageously with health problems so successfully that her early death has come as great shock to those who knew her. As Hugh Corder says, "She will live on in the work and lives of so many, research assistants and colleagues".

Mavis Maclean
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Endnotes

- 1 Burman S B Genn H G and Lyons J ,1977, 'Pilot Study of the Use of Legal Services by Victims of Accidents in the Home' 40 MLR,47
- 2 Compensation and Support for Illness and Injury D Harris et al OUP, Oxford 1984

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The Newsletter presents chapters from recent books which are of general interest. The following appeared as foreword to the new edition of "The Sociology of the Professions" edited by Robert Dingwall and Philip Lewis. The book first appeared in 1983 and Sida Liu in the following discussion puts the original contributions into the context of later debates and findings. It thus provides an update on developments in the important area of the sociology of professions. The newsletter wishes to thank the author, the book editors and the publisher of the 2014 edition, Quid Pro Books, New Orleans, Louisiana for their kind permission to reprint the text.

THE SOCIOLOGY OF THE PROFESSIONS

This book was originally published in the heyday of the sociology of professions. From the 1960s to the 1980s, this subfield of sociology experienced a "golden age" (Gorman and Sandefur 2011) that produced most of its classics. However, most articles and monographs use empirical evidence from one profession, usually medicine or law, as the prototype for developing general theories. Dingwall and Lewis's edited volume is a rare effort to fully compare the two classic cases of doctors and lawyers in the professions literature. The contributors of the book include a number of prominent authors on the professions in Britain and the United States. Until today, it remains a

vitaly important volume for scholars and students interested in various aspects of professional life.

In the original Introduction to the book, Robert Dingwall made an insightful observation that the sociology of professions, until the early 1980s, was “largely founded on the contribution of two people, Talcott Parsons and Everett Hughes” (p. 1). Three decades later, does this observation still hold? If I were to identify the two most influential paradigms in the sociology of professions in the early 21st century, the answer would be the neo-Marxian market control theory (Larson 1977; Berlant 1975; Abel 1989) and Andrew Abbott’s (1988) jurisdictional conflict theory. Arguably, Abbott’s ecological theory of professions follows the tradition of Hughes (1994) and the Chicago School of Sociology (Park and Burgess [1921] 1969; Abbott 1999), but the scattered intellectual sparks of Hughes seem to have been eclipsed by Abbott’s highly systematic and rigorous writings. Meanwhile, the influence of Parsons’s functional approach has sharply declined and been replaced by the neo-Marxian and neo-Weberian perspectives of market monopoly and social closure. In other words, the theoretical landscape of the sociology of professions has somewhat changed since this book was published in 1983.

But this is precisely the reason why the republication of the book is important and timely. In contemporary social sciences, the term “bringing XXX back in” has become a cliché and I hesitate to use it here. For the sociology of professions, however, bringing Parsons and Hughes back to the attention of new generations of researchers on lawyers, doctors, and other professions would significantly benefit the field. As Dingwall argues, Parsons’s major contribution to the sociology of professions lies in his effort to link the professions with the broader social structure and division of labor, a functional approach along the same line of Émile Durkheim’s ([1948] 2012) writings on professional ethics. In the meantime, following Weber, Parsons ([1939] 1954) situates professions in the context of modern society’s rationalization and considers rationality, functional specificity, and universalism to be the essential characteristics of professionalism. This approach is in sharp contrast to the two contemporary paradigms mentioned above (Larson 1977; Abbott 1988), both of which emphasize closure or endogeneity in professional life.

As a typical Chicago School sociologist, Hughes’s contribution is hard to be presented “in a synthetic fashion” (p. 4). Dingwall identifies several key concepts in Hughes’s writings, such as license and mandate, as well as his distinctive “quasi-anthropological” methodology of the Chicago School that emphasizes “first-hand experience of the social world” (p. 6). Yet Hughes’s contribution to the sociology of professions is beyond a major transitional figure of the Chicago School. Equally important is his ecological approach to work and occupations, that is, occupations and professions emerge from bundles of work activities and are parts within larger systems of work (Hughes 1971, 1994). Most interestingly, Hughes argues that each profession seeks a monopoly, and “it does so in part by limiting its activities and the area of its responsibilities and tasks, while delegating purpos-

ely or by default many related tasks and responsibilities to other occupations” (Hughes 1994, p. 71). These ideas developed in the 1960s are strikingly similar to Abbott’s (1988) jurisdictional conflict theory two decades later, though the latter theory has gained much more attention in the contemporary sociological literature.

In addition to bringing back the legacies of Parsons and Hughes, the reprint of this edited volume is also significant because of the field’s theoretical stagnation in the early 21st century. Since the 1990s, research on doctors, lawyers, and other professions have become increasingly fragmented into other areas of sociology, such as medical sociology, sociology of law, sociology of science, and so on. A recent article in the *American Journal of Sociology* even makes the provocative claim that the moribund sociology of professions should be replaced “with the more comprehensive and timely sociology of expertise” (Eyal 2013, p. 863). The central problem for the quiescence of this once-thriving area of social science research is precisely the fact that researchers who study lawyers, doctors, and other professions do not engage with one another as much as they did in the 1980s. As Gorman and Sandefur (2011, p. 281) put it, contemporary research on professional and expert work has continued by “going underground” and then re-emerged as the study of knowledge-based work in several subfields of sociology and in interdisciplinary literatures.

Looking back at this 1983 volume in today’s context, one must be impressed by the extent to which theorists of professions and empirical researchers on doctors and lawyers from both the United Kingdom and the United States fully engage with one another throughout the book. In Part I, Eliot Freidson and Dietrich Rueschemeyer, two prominent theorists of the professions in the 1970–1980s, offer two excellent summaries of the field’s “state of the art” (p. 19). Freidson’s assessment of the concept of profession “as an intrinsically ambiguous, multifaceted folks concept, of which no single definition and no attempt at isolating its essence will ever be generally persuasive” (p. 32), as well as his recognition that the concept is “an historical construction in a limited number of societies” (p. 20), are among the most incisive statements on the persistent problem of defining professions. While sharing Freidson’s view that professionalism is an “Anglo-American disease” (p. 26), Rueschemeyer argues that the sociological theories of professions must focus on “the social control of expert services, its different institutional forms and their structural conditions” (p. 54), for which comparative historical studies “hold the greatest promise” (p. 55). Since the 1990s, the growth of both sociological studies on expertise and epistemic communities (Adler and Hass 1992; Collins and Evans 2007; Eyal 2013) and comparative historical inquiries on the profession-state relationship (Jones 1991; Johnson, Larkin, and Saks 1995; Krause 1996; Halliday and Karpik 1997) has demonstrated the great visions in Rueschemeyer’s argument.

Yet the most interesting and rigorous part of the book is Part II, which consists of six empirical chapters on professional work, perhaps the largest collection on

this topic in the professions literature. Two of the chapters deal with the general practice of doctors and lawyers (Chapters 4 and 5), while the other four chapters focus on various sectors of the professions, such as English solicitors (Chapter 6), mega-law firms in the United States (Chapter 7), and professionals in bureaucracies in both countries (Chapters 8 and 9). Although the authors used a variety of research methods, qualitative methods such as interviews and case studies prevail in these chapters. This methodological orientation not only reflects the individual preferences of the volume's contributors, but also suggests a general characteristic of the sociology of professions as a research area, namely, it has always been rooted in ethnographic and comparative-historical methods. This feature makes it distinctive from some related subfields of sociology, particularly organizational analysis and social stratification, in which quantitative methods prevail.

The last three chapters of the book (Part III) are concerned with professional careers. Using biographies, interviews, and statistics, Johnson and Paterson investigate the diverse trajectories of medical and legal careers (Chapters 11 and 12). Atkinson's theoretical chapter on the reproduction of the professional community (Chapter 10) traces the intellectual lineages of both the functionalist and interactionist views of professional careers and even has some interesting discussions on Bourdieu – it is perhaps the earliest discussion on Bourdieu in the sociology of professions. Although Bourdieu is dismissive of the concept of "profession" in his later writings (Bourdieu and Wacquant 1992), as Atkinson suggests, his concept "habitus" provides a powerful analytical tool for understanding the structures of professional careers as well as how individuals navigate their career trajectories.

This book's emphasis on professional work and careers makes a sharp contrast to what Abbott (1988) calls the "structural" and "monopoly" schools in the sociology of professions (Wilensky 1964; Millerson 1964; Berlant 1975; Larson 1977), which focus on the structural aspects of professionalization, such as licensing, education, association, and code of ethics. In the early 21st century, the sociology of professions is sometimes mistaken as a body of scholarship that prioritizes social structure over work and expertise (e.g., Eyal 2013), and the reprint of this book serves as a timely reminder that professional work has always been a central concern of social science researchers on the professions, both theoretically and empirically (cf. Lewis 1989, though focusing on legal work, also emphasizing the effect lawyers have on creating law). This is particularly true for ethnographers who study the workplace interactions and career trajectories of lawyers and doctors following Hughes and the Chicago School tradition.

The missing of structural approaches to the professions, particularly the market control theory (Larson 1977; Berlant 1975; Abel 1989; Abel and Lewis, 1988–1989), makes the present volume an incomplete presentation of the status of the field in the early 1980s. Following both the neo-Marxian theory of commodities and the neo-Weberian theory of social

closure, this influential approach seeks to explain the professions' market monopoly and social status by their control over the "production of producers" (e.g., licensing and professional education) and "production by producers" (e.g., professional associations and code of ethics). Despite Abbott's (1988) strong critique of the concept of "professionalization" in his widely acclaimed book, later studies have consistently shown the powerful effects of occupational closure on a profession's income and status (Abel 1989; Weeden 2002).

The book's exclusive focus on doctors and lawyers, two stereotypical professions in the Anglo-American cultural context, reflects a general problem that has plagued the sociology of professions for decades, namely, its overwhelming attention on a few high-status occupations in modern society. As a matter of fact, almost all major theories of the professions are derived from empirical studies on the medical profession, the legal profession, or some combination or variation of both (Freidson 1970; Rueschemeyer 1973; Abbott 1988; Macdonald 1995; Dingwall 2008). Although most scholars in the field recognize the inherent definitional problem in the concept of profession, which is essentially a "honorific symbol" that describes certain desirable kinds of work (Becker 1970), there has been little effort to expand the scope of empirical studies to a wider range of professions in order to advance theory.

Since the 1990s, a number of major studies on occupations such as accountants, technicians, advertisers, firefighters, and economists have emerged in the social science literature (e.g., Hanlon 1994; Barley 1996; Faulconbridge 2006; Desmond 2007; Fourcade 2009). Some of them explicitly engage with the sociology of professions, whereas others adopt distinct theoretical perspectives from other areas of sociology or other disciplines. How to integrate the empirical work on those occupations other than doctors and lawyers into its theoretical landscape is a key challenge for the future development of the sociology of professions. A related and equally important task is to shift the focus of research from high-status occupations to occupations at the middle range of the status hierarchy, such as nurses, technicians, teachers, librarians, flight attendants, and so on. Most of those occupations have been studied by social scientists before, but rarely using the same analytical tools for studying lawyers or doctors. In short, an expansion in the range of empirical cases would greatly enrich theories of occupations and mitigate the "Anglo-American disease" in the concept of profession that Freidson points out in the present book.

Finally, globalization has blurred the national and occupational boundaries for many professions in the past two or three decades. What Galanter characterizes as "mega-law" in this volume is only an early harbinger of the global competition and integration of professional service firms. Not surprisingly, the globalization of professions has become one of the most researched topics in recent years and has produced a variety of theoretical agendas that challenge the conventional wisdom in the field (e.g., Fourcade 2006; Halliday and Carruthers 2007; Djelic and Quack 2010;

Faulconbridge and Muzio 2011; Flood 2013; Liu 2013). Those recent theories often appear more dynamic and processual than the theoretical perspectives provided in this 1983 volume. In that sense, the republication of this excellent book three decades after its initial publication will reconfirm its status as a classic collection of essays on the professions, but the sociology of professions as a research field must continue to move forward and explain new social processes brought by the change of time, be it globalization, feminization, or collective action.

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THE AUSTRIAN SITUATION OF RESEARCH IN SOCIOLOGY OF LAW

In Austria, the study of law and society is only weakly visible and inter-connected. With this contribution, the recently founded section 'Law and Society' of the Austrian Sociological Association (ÖGS), seizes the opportunity to sketch the Austrian situation of research in sociology of law. The following outline is fragmentary, however, and to be understood as work in progress. Additional input from scholars and institutions working in the field is welcome and desirable, so that the fragmented research landscape can develop through discussion and exchange in the future.

Institutions

Currently, empirical and theoretical research on socio-legal issues is being realized particularly by the following institutions:

The Institute for the Sociology of Law and Criminology (IRKS), Vienna, is the only Austrian research institute explicitly and exclusively dealing with topics at the interface of law and sociology; their focuses are sociology of law, security studies, conflict resolution as well as inclusion and exclusion. The institute considers itself "a platform for critical analysis of law and control (...) [focusing] on different aspects of regulating deviance and on the uses of law in social processes" (cf. <http://www.irks.at/en/institute>).

A few other institutions are particularly dealing with (socio-)legal questions, realities and practices with regard to either human rights or a very specified field of law, though none of them explicitly alludes to "law and society" or "sociology of law" as a research field and/or as disciplinary point of reference: the Ludwig Boltzmann Institute for Human Rights (BIM), Vienna, the Austrian Institute for Family Studies, Vienna, European Centre of Tort and Insurance Law (ECTIL), Vienna and the European Training and Research Centre for Human Rights and Democracy (ETC), Graz. Those institutes underline their transdisciplinary position at the interface of theory and practice; the BIM describes itself as an "independent research centre with the aim of contributing to the scientific discourse of human rights at the national, European

and global level (...) working on a broad range of human rights topics arising from current social questions" (cf. <http://bim.lbg.ac.at/en/mission-statement>) whereas the ETC underlines its engagement "both in a theoretical and practical manner in questions of the enforcement of human rights and democracy (...) [the work] based on research, education, consulting and publications" (<http://www.etc-graz.at/typo3/index.php?id=646>).

Even though the focus of the Institute of Conflict Research, Vienna, lies in a much broader sense on political and societal conflicts in general, security studies constitutes one of their four research pillars, besides research on democracy, cleavages in politics and society as well as historical social research.

At the university level, the situation is rather fragmented and only loosely linked to sociology: At the Universities of Innsbruck and Graz the sociology of law is explicitly mentioned as being part of the department of law. A particularly active role is held by the University of Innsbruck, where the Department of Civil Law focuses explicitly on sociological jurisprudence (*Rechtstatsachenforschung*) and the sociology of law (cf. <http://www.uibk.ac.at/rff/>), with regular lectures, an annual conference on the topic as well as empirical research projects. Due to staffing shortages, the University of Graz has to limit their efforts in the field to "general theoretical considerations", not being able to conduct empirical research (cf. <https://rechtsphilosophie.uni-graz.at/de/institut/rechtssoziologie>).

The sociology of law at the University of Salzburg is – together with political science of law (Rechtspolitik) – part of the Department of Social Sciences and Economics with two professors currently being engaged in teaching and research (cf. <http://www.uni-salzburg.at/index.php?id=31344>).

At the University of Vienna, sociology of law cannot be considered as an institutionalised research field. At the Faculty of Law, sociology of law can be studied as an elective subject though lectures are not offered on a regular basis. There are, however, researchers at the department of Legal Philosophy, Law of Religion and Culture who are conducting theoretical research in the field of law & society. At the Department of Sociology an institutional basis is also missing; nevertheless, lectures on social control and deviance have been part of the offered courses for a long time. From time to time, courses dealing with law and society in a more general way are offered, mostly as a result of initiatives of members of the 'Law and Society' section. In Linz, there is also the Department of Legal Gender Studies, which deals with issues such as diversity and anti-discrimination as well as feminist legal theory and historical analysis in the field of law and gender.

Even though cooperation and linkages between universities and non-university research institutes are existing, inter-university cooperation as well as cooperation throughout disciplines in general have to be considered as underdeveloped. If inter- and transdisciplinary approaches and cooperation take place, they are usually limited to concrete projects and rarely institutionalised.

Also, connections among researchers and practitioners are generally rare, although in applied research (e.g. by IKRS, BIM, ETC) frequent exchanges with legislative and administrative practitioners from different contracting governmental agencies (e.g. Ministry of Justice, Ministry of the Interior, City of Vienna, higher courts) and other stakeholders (e.g. probation services, guardianship associations) take place. The willingness to cooperate with researchers and to learn from study findings, however, may vary depending on political circumstances or the practitioners' attitudes.

To sum up, there is an institutional basis for law and society as a field of research in Austria, but inter- and transdisciplinary as well as inter- and transregional research cooperation needs to be strengthened and promoted.

Research and Teaching

Despite the ongoing (rhetorical?) reference to Eugen Ehrlich, as the "founder" of sociology of law, proud allusions on "the" Austrian scholar in the field, one can neither speak of continuity of Eugen Ehrlich thoughts, nor of a particular commitment to this area of research in Austria.

On the one hand, similar to Germany, Austria is missing a trans- or interdisciplinary line of research that goes beyond the instrumental perspective on law, i.e. beyond a perspective that looks at law's effectiveness, consequences of legal provisions, analysis of the work of legal institutions, framework of legislative process etc. What is missing is a more "holistic" approach that re-considers law also as a constitutive element of society and promotes an interdisciplinary approach to legal realities similar to the Anglo-American 'law and/in society' research approaches.

On the other hand, particularly in the area of non-university research, efforts are made to adopt a considerably broader understanding of socio-legal studies. At the IRKS for example, not only the effects but also side effects and – often narrow – limits of legal instruments have been examined since the 1970s throughout many research projects in different areas of law. Thereby, the following question can be considered a *leitmotif* of the Institute: To what extent can law serve as a core medium to shape social processes and what kinds of (harm-reducing, less formal, less punitive, more participatory) alternatives can be envisaged (e.g. non-intervention, social work, restorative justice, mediation)? Theoretically, this work has been and still is inspired by approaches such as conflict and social theory or interactionism.

Nevertheless, despite individual efforts, the challenges in the field are considerable, particularly concerning the funding situation in general and funding bodies that do not only restrict the extent of research in general but also the choice of research topics. Due to rather volatile economic circumstances, it is, unfortunately, not always possible to transform research results into internationally visible academic publications. Moreover, the little and underfinanced institutionalisation of the research field at the Austrian universities limits integration of important topics into the curricula of law and sociology, does not allow for sustainable cooperation with regard to research and

teaching and, last but not least, prevents the promotion of junior researchers in the field.

Joint activities

In the light of these challenges, and particularly the weak institutionalisation, the section 'Law and Society' of the Austrian Sociological Association (ÖGS) was founded in December 2013. Founding members ('section board') were Julia Dahlvik (current spokesperson), Andrea Fritsche, Walter Fuchs (current spokesperson), Hemma Mayrhofer, Arno Pilgram, Axel Pohn-Weidinger, and Caroline Voithofer. The section was established with the following aims: (1) to strengthen networking among scholars in Austria, but also in the German-speaking community and to improve connections to other researchers internationally; (2) to emphasise the importance of empirical research in this field and to discuss current research; (3) to bring law and society closer together by means of inter- and transdisciplinary approaches; (4) to promote exchange and collaboration between lawyers, sociologists and other researchers as well as between research and practice.

Activities of the section in the past include the co-organisation of the "Seventh Conference on Studies of Legal Custom and Practice Today" at the University of Innsbruck in October 2014. Also, we have established a homepage/blog (<http://oegs.ac.at/recht-und-gesellschaft/>) and a mailing list where all members of the list have the possibility to post. In addition, there is a group of regulars meeting monthly. For this year, the publication of the contributions to the conference in Innsbruck as well as a position paper based on the outcomes of the conference is planned. For 2017, we envisage the publication of a Special Issue in the Austrian Journal of Sociology (ÖZS).

The section will also be present at several congresses in 2015: On the one hand, we are organizing a panel at the Annual Congress of the ÖGS (September 2015 in Innsbruck); on the other hand we are strengthening our ties with the German-speaking scientific community through participating at the Third Congress of the German-speaking associations of the sociology of law (September 2015 in Berlin). In addition, Julia Dahlvik is currently RSLC Program Coordinator for the Third ISA Forum, which will take place in Vienna in 2016. The section has also proposed a session on 'Studying Law and Society in the Context of Transdisciplinarity and Transnationality' for the Forum.

Future

At the conference in Innsbruck in October 2014, ideas for future developments of the research on law and society were developed with the 'World Café' methodology. Participants of the conference discussed about ways to promote exchange and create synergies among researchers (and practitioners), possibilities to improve research and teaching in the field of law and society in Austria, and what are promising topics for future research and which theories and method(ologie)s need more attention. The results are planned to be published in an Austrian journal.

Concerning exchange and synergies more virtual presence (e.g. blog, database, Wiki), joint publications

(e.g. Special Issues) and research projects, as well as workshops, summer schools, guest lectures were regarded as helpful. With regard to research and teaching, the following measures were deemed necessary: improved structural framework conditions (financial and personal resources), stronger networking (also on international level) and better connectivity to practitioners (institutional cooperations), publications and public relations (e.g. research award). According to the participants, among the upcoming research topics are the interaction between psychiatry and law in governing delinquency, new configurations of civil justice in family law, access to democratic rights for citizens through participation in decision-making of local governing bodies, biographical studies related to legal consciousness as well as the investigation of disputes and street-level bureaucracy.

To sum up, we think that to reach our goals in the future it will be vital to intensify exchange and cooperation among researchers (and practitioners) as well as to promote the visibility of the research field in Austria but also in the wider scientific community. The section sees itself as a contact point and platform for realizing these objectives and therefore hopes for contributions and input from colleagues and institutes within and beyond Austria.

The founding members of the Law & Society section of the Austrian Sociological Association
 Contact: Website: <http://oegs.ac.at/recht-und-gesellschaft/>
 E-mail and subscriptions for mailing list: rechtundgesellschaft@gmail.com

SOCIOLOGIST OF LAW HOLDING A GOVERNMENT OFFICE IN POLAND

On August 1, 2014, Professor Małgorzata Fuszara of the University of Warsaw, a long standing member of RCSL, took up the position of Government Plenipotentiary for Equal Treatment. The plenipotentiary is responsible for implementation of the government's anti-discrimination policy in Poland. The tasks include combating discrimination – in particular on the grounds of sex, race, nationality, ethnicity, religion, beliefs, principles, age, disability and sexual orientation; drawing up and issuing opinions regarding legislation for equal treatment, launching interventions with respect to discrimination cases and preparing analyses and assessments of the legal and social context regarding equal treatment. The plenipotentiary implements these tasks in cooperation with government administrative authorities, public institutions, local government units and non-governmental organisations.

Professor Małgorzata Fuszara is a lawyer and a sociologist specialising in the sociology of law, gender studies, sociology of ethnic, cultural and social minorities as well as the sociology of politics. Professionally, she is now at the Department of Sociology

and Anthropology of Customs and Law at the Institute of Applied Social Sciences in Warsaw. She was formerly the Director of the Centre for Social-Legal Research on the Situation of Women at ISNS UW. She is the co-creator of the first post-graduate programme in gender studies in Central and Eastern Europe. In 2008 she became a member of the Rector's Commission for Preventing Discrimination at the University of Warsaw.



Małgorzata Fuszara

In her scientific work, Professor Małgorzata Fuszara also initiated measures related to shaping anti-discrimination policy in Poland. In the 1990s, together with Professor Eleonora Zielińska (Faculty of Law and Administration, University of Warsaw), she prepared the draft bill on equal treatment for women and men to regulate the principle of gender equality in all the areas where women and men function: in their family, political, social and economic lives. The bill included a proposal to establish a separate authority to ensure that the principles of equal treatment are complied with. The tasks of that authority were to verify whether the equal treatment principles are complied with as well as in intervening in the event of anti-discrimination regulations being breached. The office currently held by Małgorzata Fuszara, though based on legislation other than the act she contributed to, was one of the institutional solutions supporting equality and promoted by her in the course of her scientific work.

Professor Fuszara is one of the founders of the Women's Congress Association (Stowarzyszenie Kongres Kobiet), one of the most important and influential organisations for women in Poland; she is a former deputy president and continues to be a member of its Programme Council. In 2011, the Association presented its own Shadow Cabinet – a constructive proposal, not an opposition, for the current and future governments. The members of the cabinet, tasked with monitoring the activity of politicians and drawing their attention to areas that are

of particular interest of women, also included professor Fuszara, as the minister responsible for gender equality and combating discrimination.

The fundamental task of the Plenipotentiary for Equal Treatment is to coordinate Polish equal treatment policy. This is why Minister Małgorzata Fuszara is – during her term of office – planning to develop and strengthen the network of various organisations and institutions to implement anti-discrimination policy in their areas of operations. Local government is included in implementing such policies. Inspired by her, local government is also establishing local plenipotentiaries for equal treatment to take care of the equality issues in their local government units. Various non-governmental organisations are also invited to implement the equal treatment policies by the plenipotentiary, such as those working on matters related to the disabled or LGBT communities. These tasks are also implemented in the form of interventions with respect to individual problems related to discriminating against certain groups. Information about such barriers are submitted by those who have been discriminated against, persons; then the relevant authorities which have the competence to make relevant changes to the law are informed by the plenipotentiary about the problem. The plenipotentiary is also tasked with proposing the introduction of certain anti-discriminatory solutions into Polish law. Adoption of the act ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence (the so-called Istanbul Convention) by Parliament, was a major success for professor Małgorzata Fuszara in this respect. Ratification of this Convention in Poland met with a lot of argument and objections from conservative right-wing circles; it was due to Minister Fuszara that the Convention gained political support. Professor Fuszara's sociological and legal scientific background plays an important role in her work as the plenipotentiary. She is making every effort to ensure her activities and initiatives are based on scientific research regarding various forms of discrimination. Therefore her activity as a plenipotentiary has the characteristics of evidence-based policy, which meets the needs related to implementation of the equal treatment principle in Poland.

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ELISE MASSICARD, "THE JUDICIALIZATION OF THE ALEVI ISSUE FROM TURKEY TO EUROPE"

Aleviness is as one of the major branches of Islam, and known for its unorthodox perspective¹. In other words, Aleviness refers to "a heterodox and syncretic worship which has similarities with both Shi'ite Islam and Muslim mysticism, but also many features that are difficult to relate to Islam"². The Alevi constitute Turkey's largest religious group after the Sunni population. Since the Turkish census does not contain questions on ethnicity and religion, we do not have a definite number for the Alevi population, and "this number itself" constitutes a very speculative (political) topic. For instance, for some sources it is about 7 million people, and for others, it is nearly 25 million. Despite these discrepancies, the number of the Alevi population in Turkey is estimated as between 12 to 15 million people. In other words, it represents around 15% to 20% of the population³.

As we know, in order to conceptualize the phenomenon of "the expansion of the role of justice" in various domains such as "the management of social relationships, the treatment of 'social problems' and transgressions (from ordinary delinquency to political delinquency, and from corruption to 'crimes against humanity'), in the regulation of trade"⁴, etc., the term of *judicialization* is being used more and more. This phenomenon does not occur only at local level, but also at international, transnational and supranational levels. Thus, there is a growing interest in using social science for analyzing these issues in order to understand better the relationship between law, justice and society. Therefore, understanding the conditions for recourse to the judicial system, the reasons for encouragement, and the consequences of this recourse both at the level of individual actors and systems in the case of the Alevi – whose mobilization is unfolding in different spaces – could contribute to the questions surrounding judicialization and judicial globalization. This is one of the main points which makes Elise Massicard's article "The Judicialization of the Alevi Issue from Turkey to Europe", ("La judiciarisation contrastée de la question alévie. De la Turquie à l'Europe")⁵ very interesting and promising. She aims to analyse the limits and the possibilities of the process of judicialization through the experiences of the Alevi. She chooses this community mainly because of its multi-space existence. Thus, in her paper, through the Alevi's mobilization in Turkey, in Germany and in Europe (via the European Court of Human Rights), she aims to study "the interdependencies between national and international jurisdictional spaces", question "the effects of the internationalization of the judicialization on the state regulation of the religious affairs", and test "the hypothesis of a judicial globalization" (712). For her methodology, in addition to several semi-structured interviews (conducted during a previous research), Massicard examines the judgments of Turkish, German, and the ECHR courts as well as press reviews of the reactions to these decisions. Complementary semi-structured interviews through face to face discussions were also carried out

between 2011 and 2013 in Turkey with Alevi executives from different organizations, and with jurists and lawyers involved in these cases.

First of all, in order to understand *the emergence of the rights* in the “repertoire of contention” of the Alevis, the author is interested in tracing the logic of judicialization of the Alevi issue in Turkey. Which factors lead the Alevis to search and negotiate their rights? And, in which circumstances (political and juridical opportunities, complainants’ profiles, logics of their engagement, organizational and financial resources, etc.), do they mobilize? Massicard shows that at its initial stage (towards the end of the 1980s), the Alevi movement in Turkey used political methods like publications, public statements, manifestations, and petitions. Recourse to law appears during the 1990s. And, if the Alevis had recourse to judicial action initially as a means of defense, later on, they began to use it more and more proactively to obtain equality, new rights and recognition. In the 2000s, Alevi organizations begin not only to start offering judicial aid to individuals, but also encouraging them to judicial action (713, 716).

By following certain authors - such as McCann as quoted by Massicard – we can claim that “the law is mobilized by a disadvantaged group to challenge the established order and to demonstrate discriminatory practices”. However, we should also keep in mind “the political power relations involved in any judicialization process” as well as “the role of courts which is contingent and fluctuating with the politico-religious constellations, and emphasizing a series of extralegal logics (values systems, ideological positions of judges, social and political context, etc.)”⁶ (719-720). In her analysis, Massicard privileges *the realistic approach* that emphasizes the politicized nature of the judicial system, and evaluates the decisions stemming from the courts as the products of power relations. In other words, the courts are considered first of all as embedded in the political space (720).

Before analyzing the Alevi question as posed to the European Court of Human Rights, the author treats the case of Germany (where many Alevis are living) and concludes that it is less judicialized in the context of this country. This is due to two reasons: Firstly, in Germany, lawyers do not have the same influence within the Alevi associations compared to Turkey. Secondly, and more importantly, in Germany, Alevis have institutional recognition. As for the European Court of Human Rights, this authority is intensively used. In relation to the responses of the Court, Massicard expresses that during these last years the Court takes more interventionist positions with respect to the neutrality of the State whereas it was rather quite conservative with respect to the national models concerning the relations between state and religion (726).

“How can the effects of this multi-local judicialization of the Alevi issue be evaluated?” (726) According to the author, the possibilities of “change through litigation” are considerable (acquisition of the right to exist for their organizations, obtaining a status for *cemevi*⁷, recognition of compulsory school classes on “religious culture and morality” as a discriminatory

practice). Even if these acquisitions *through litigation* have limits, compared to those stemming from political means, they are considered as more efficient in order to create a change. Yet “at the final point, the Alevi issue demonstrates the absence of judicial globalization defined as the homogenization or standardization of the doctrines, the jurisprudence, and the networks of actors at an international level. If we actually attend to the emergence of a transnational field of human rights, it does not erase the specific management of religious affairs by states, because its application is unequal and mitigated by power relations, and in some cases, management of the relationship between state and religion does not pass through it.” (733) Nevertheless, the article also concludes that these processes result in transforming the management of the religious issues and give minorities new opportunities. As we observe for the case of the Alevis, although each context (Turkey, Germany and the ECHR) has its own specificities (in terms of complainants’ practices, lawyers’ strategies, repertoires of justification, courts’ references, etc.), there are interactions as well as complex cross references among these different levels of mobilization and judicialization (733). These findings are important because they illustrate how the effects of judicialization can vary from one context to another, and how the mobilization of courts can have different meanings and implications. This, in turn, contributes to the literature according to which “the function of justice” is considered as “eminently a political one”⁸. These findings provide a starting point for reconsidering the intricate relationship between judicialization and juridicization.

Verda İrtiş

Endnotes

1 For some additional definitions and information, see: Altan Gökalp, “L’islam des Turcs”, *Hommes & Migrations*, n° 1212, mars-avril 1998, pp. 35-52; David Shankland, *The Alevis in Turkey: the Emergence of a Secular Islamic Tradition*, London, Routledge, 2003; Elise Massicard, *The Alevis in Turkey and Europe. Identity and Managing Territorial Diversity*, London, Routledge, 2012.

2 Elise Massicard, “La judiciarisation contrastée de la question alévie. De la Turquie à l’Europe”, *Revue française de science politique*, 2014/4-Vol. 64, pp. 711-733, at p. 711. All direct quotations are the author’s (V. I.) translation.

3 *Ibid.*

4 Jacques Commaille, “La justice entre détraditionnalisation, néolibéralisation et démocratisation: vers une théorie de sociologie politique de la justice” in (Eds) Jacques Commaille, Martine Kaluszynski, *La fonction politique de la justice*, Paris, La Découverte/PACTE, 2007, p. 295.

5 Please see for the complete reference footnote 2. An English version of the article is planned by the same journal for the second half of 2015.

6 At this point Massicard refers to the following text: Jacques Commaille, Laurence Dumoulin, “Heurs et

malheurs de la légalité dans les sociétés contemporaines. Une sociologie politique de la 'judiciarisation', *L'année sociologique*, 49 (1), 2009, pp. 63-107.

7 A place of worship where Alevi ceremonies take place.

8 Jacques Commaille, op. cit., 2007, p. 296.

RCSL WORKING GROUP ON LAW AND MIGRATION, BRIEF REPORT FOR 2007-2015

The RCSL in order to develop a new Working Group on Law and Migration invited interested scholars to present papers at the Berlin meeting in July 2007. The new working group on Law and Migration was open to considering the issues of internal migration, refugees, asylum seekers and displaced persons, diaspora (including women and children), their rights, nationality and citizenship from the point of view of socio-legal dimensions, but the main focus is international migration. The work of the WG on Law and Migration is modest while the scope is large and multifaceted.

A Framework for the Analysis of Legislation and International Migration

Law can be conceived as the only source of legal construction of migration and/of justice administration; although "legal pluralism" is not the exception, folk and community concepts of justice are sometimes at variance with law but are also sometimes a source of law. We regard here law as social order across countries legitimising the flow of International Migration and have a much more refined theoretical and methodological framework for enabling society at large to have a better understanding of the legal, social, and constitutional problems involved in the movement of the population across the countries.

This subject aroused comparable ferment in the 1920s. At that time, the main sources of migration were not countries of the global "South" but self-described overpopulated countries in Europe. In May 1924 one such country Italy, convened what become known as the first international emigration and immigration conference. Held in Rome, the meeting was attended by delegates from 57 countries and the League of Nations. Among its resolutions was an "Emigration charter", recognizing rights to emigrate and immigrate but with strong provisos. Thus the right to immigrate was subject to restrictions "imposed for economic and social reasons based in particular on the state in the labour market and the necessity of safeguarding the hygienic interests of the country of immigration" (see the Notes on migration section in *Industrial and Labour Information* (Geneva) Vol.X1, July-Sept. 1924, pp. 54-68)

Paul Fauchille (1858-1926) was an expert in international law, author of the four volumes "Traite de Droit International Public" (8th ed., Paris, 1921-26). He was the founding editor of "Revue General du Droit International Public" and founding director (from 1921) of the Institut des Hautes Etudes Internationales within the University of Paris. An article subtitled "State and Individual Rights in Theory" of

Fauchille's which appeared in the *International Labour Review* (Geneva) vol. IX, no. 3 (March 1924) upholds "The Rights of Emigration and Immigration".

Legal construction of international migration among the host countries is not simply a subject for the state and governance of the host society. It contains enough scope for formulation of jurisprudential theoretical frameworks on international migrants, which, among other things, can highlight the ways in which individual migrants "subject themselves" to modernity in an uncritical fashion as has been highlighted by Marx, Gramsci and Althusser. Differently, Durkheim explained the role of "social facts" as coercive power and elucidated how the subjects in a society cling to the social institutions in the community in spite of the constraints put on them. The international migrants more particularly face this kind of "subjectification" both from the society of origin and destination/host society, as migration (emigration) is produced by society and thus migration (immigration) produces society. The legal construction on this subject requires critical analytical perspectives including legal transplant typologies to deal with international migration as a case in point.

The legal frameworks on migrants require a three part conceptual endeavour: The naturalisation process, the legislative process, and the nationality-citizenship creation/construction process. Accordingly, the research should look into the socio-legal dimensions of international migration for formulating legislative policies and related administrative praxis, not only through the representational elements, but also within the constitutive elements, of the phenomenon.

The RCSL newsletter will publish a case study by the author of this report in its next edition. The case study of immigrants as in the case of South Africa as indentured labourers and in France as Renosans forms such attempt at understanding the constitutive elements of the movement of the people, the immigrant laws and the related public policy of the host countries. It demonstrates a profound picture about the immigration paradigm, and more importantly, a prospective source of international agreements on migration to be reached between the out-sourced and the host countries.

Currently, in this regard, there are serious attempts towards migration management. For example, during the Eighth International Metropolis Conference titled "Gaining from Migration" held in Vienna, Austria in September 2000 and as a follow-up to the Oslo 2002 workshop under "the Berne initiative": a global framework for inter-state cooperation on migration management took pains to formulate an inter-state cooperation on migration management.

The workshop of Bern Initiative thus addressed effective practices for a planned, balanced and comprehensive approach to inter-state management of migration. On 4th May 2004, Patrick A. Taran, Senior Migration Specialist, ILO, in his presentation at the European Economic and Social Committee Hearing: International Convention on Protection of Migrants Rights, Brussels, stated that the Management/Governance of Migration is a pre-requisite in these days of globalised and liberalized trade and other economic activities and thus he has set a frame

work of principles of Good Governance of migration to be developed by the international community for co-operative multilateral action.

An effort to manage these migrant groups per se and diaspora in particular is defined by the efforts of public policy and the related legislation and constitutional frame works of the host nations to deal with them as nationalities and citizenship in host countries. These legislative and constitutional efforts construct a public policy of the migrant in the host society with all the vicissitudes of sociality. They respond to and are also sustained by the group identity exercises at the community level on the other. The legal and community construction of the migrant/diaspora population in the host countries for citizenship and nationalities particularly in the area of resistance of the weak indentured labourers/migrants and the restrictive practices of the legislative measures are rich resources for sociological treatises.

The current profile of international migration

According to the Report of the Global Commission on International Migration in Population and Development Review, Vol. 31, No. 4, 2005, pp. 787-798, there are nearly 200 million international migrants in 2005, counting only those who have lived outside their country for more than one year and they include 9.2 million refugees. This is equivalent to the population of the 5th largest country Brazil. One in 35 people is an international migrant; or 3% of the world's population. Numbers are increasing rapidly increasing: from 82 million international migrants in 1970 through 175 million in 2000 to nearly 200 million. Almost half the world's international migrants are women (48.6%). Some 51% of migrant women live in the developed world, compared with 49% in the developing world. There are more female than male international migrants in Latin America and the Caribbean, North America, Oceania, Europe and the former USSR.

Activities of the WG on Law and Migration

I. Conferences

Since 2007, the Working Group on Law and Migration has organised active sessions every year at the annual conference of the Research Committee of Sociology of Law.

First conference in Berlin, Germany, theme "Law and International Migration Socio-legal dimensions" July 2007

Second conference, in Milano, Italy, theme: "Law and Justice in Risk Society", July 2008

Third conference at ISA First World Forum of Sociology, Barcelano, Spain, theme: "Rethinking Legal Justice, September, 2008

Fourth conference in Onati 2009, theme: "Complexity, Conflicts, Justice, 20 years of Sociology of Law"

Fifth conference at Gothenburg, Sweden, XVII World Congress of Sociology, July 2010, themes: A- Legal Perspectives and International Migration: Continuing the Dialogue. B- Panel discussion, Legal Construction of International Migration: On Socio-Legal History of International Migration Governance and Management.

Sixth conference at Second ISA forum of Sociology in Buenos Aires, Argentina on August, 2012, theme:

"The Quest for Justice and the Limits of the Law - Social and Legal Transformations in Contemporary World Society.

Seventh conference in France: theme: "Sociology of Law and Political Action, July 2013

Eight conference at the XVIII World Congress of Sociology, Yokohama, theme: "Law, Migration and Unequal World", July 2014

Ninth conference at the Annual Meeting in Canoas, Brazil, in collaboration with ABraSD Brazilian Association of Researchers in the Sociology of Law, theme: "Migration Laws On the Move" Towards Legal Pluralistic Perspectives", May, 2015,

Tenth conference At the Third ISA Forum of Sociology, theme: "Migrant Women in Distress and the Intersectionality of Law and Jurisprudence" July 2016, Vienna, Austria.

II Round Table at the Indian Council of Social Sciences Research, New Delhi, Theme: Socio-legal Dimensions of Migration and Modernity – Governmentality and Law", 2011. Programme: 1. Socio-Legal Dimensions of Migration and Modernity (Governmentality and Law, 2. Issues of Migration Argentina, China and India and Law, 3. Law, Migration, Ethnicity, Gender and Exclusion, 4. Law, Migration and Society, Theory and Method, 5. Plenary Session, Summing up and Future Plan.

III. At the inspiration from the RCSL, ISA, a Research Committee on the Sociology of Law was set up in the Indian Sociological Society at the initiative of Prof Arvind Agrawal and Dr Rashmi Jain. There are more than 100 active members of the Research Committee of Sociology of Law of the Indian Sociological Society which holds a conference every year from the year 2009 onwards.

IV.:As part of my initiative, a research project on restrictive legislation for immigrants in a historical perspective is being planned. The aim is to investigate the socio-legal history of migration with a substantive focus on the history of "Social Production of Law and Migration" with all the public policy dimensions to manage migrants in the host countries.

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