

# RCSL NEWSLETTER

INTERNATIONAL SOCIOLOGICAL ASSOCIATION  
RESEARCH COMMITTEE ON SOCIOLOGY OF LAW

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

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## PRESIDENTIAL ADDRESS

Dear Colleagues,

At the beginning of this New Year, I hope 2016 will be a happy and healthy year for you.

The RCSL will hold our 2016 annual meeting at the ISA Forum in Vienna on July 10-14. Our Local Program Coordinator, Julia Dahlvik, has been working hard to accommodate the increasing demand for space. We received many more paper proposals than we could accept, given the space the ISA gave us for our sessions. Therefore, we have assigned some sessions to a conference room we found for the RCSL at the University of Vienna outside the ISA framework, thanks to Julia and Walter Fuchs. These sessions do not appear in the program of the ISA Forum, but they are officially RCSL sessions. We also plan to hold our business meeting in the same conference room. All the RCSL sessions with papers/presenters will be shown on the RCSL website, whether they appear in the ISA Forum program or not. This is the first time we have organized sessions by ourselves outside of the ISA scheme at the ISA meeting. If this new scheme is successful, it will provide us with the possibility of accommodating an increasing number of paper proposals at ISA meetings.

We also plan to organize **Method Market**, a special occasion for young scholars to meet senior scholars, asking questions and discussing methodologies of research within the RCSL annual meeting. In Vienna, **Mavis Maclean** and **Benoit Bastard** will answer questions about research methods. The time and place of this special occasion will be also shown on the RCSL website. If you have questions about your research method, please come and discuss.

The 2016 Podgorecki Prize Committee for Young Scholar Prize was officially established: The RCSL Board approved **Ralf Rogowski** (Chair, U.K.), **Antonio Azuela** (Mexico) and **Ji Weidong** (China). The Committee will send out the Call for Nomination. Please send your nomination to the Committee.

In the last issue of the Newsletter, I wrote about the change to the RCSL Statute which would make it easier to organize a Working Group. When I proposed the change to the RCSL Board, it was in the middle of summer holidays. Therefore, I postponed the final voting. The proposal was submitted again to the RCSL Board and finally approved by the Board in December 2015. There are many important themes that are not covered by the existing WGs. I hope this change of the Statute will facilitate WG activities in the RCSL.

The next Scientific Director (SD) of the International Institute for the Sociology of Law (IISL) in Onati has been appointed. After I sent out a Call for Nomination of the next SD, we received eight strong nominations, many more than previously expected. The Search Committee, which consisted of **Anne Boigeol** (Chair), **Reza Banakar**, **Manuel Calvo Garcia**, **Carlos Lista** and **David Nelken**, chose three candidates: Vincenzo Ferrari, David Whyte and Carlos Rivera Lugo in this order of priority. From the three candidates, the Executive Committee chose Vincenzo Ferrari and David Whyte in this order of priority, and the RCSL Board chose Vincenzo Ferrari as the top candidate for the next SD. The IISL Board appointed Vincenzo Ferrari as the next SD at

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the Board meeting in October. I am very grateful for your interest and cooperation.

We have received the very sad news that **André-Jean Arnaud** passed away on December 25, 2015. He was the first Scientific Director of the International Institute for the Sociology of Law and the recipient of the Podgorecki Prize in 2015. He will be remembered as a great scholar and teacher.

Masayuki Murayama

*Over the last issues, the newsletter reported about lay participation in a number of countries, Taiwan, Japan and Russia. This time, the focus is on Argentina.*

### THE EXPERIENCE OF LAY PARTICIPATION IN ARGENTINA

Even though its implementation has been recent, trial by jury has deep historical roots in Argentina. Understood as a guarantee against the abuse of state power, trial by jury can be found in drafts proposed during the first Constituent Assembly, held in 1813, as well as in the Constitutions of 1819 and 1826. The 1853 National Constitution prescribes trial by jury in article 24, section 12 of article 64, and article 99. The longstanding presence of trial by jury is a clear indicator of Argentina's profound democratic aspirations, as well as its ample tolerance of the gap between written law and social practices.

Yet, despite its long history, the first province (state) to implement jury trials as ordered by the National Constitution was Cordoba, in 1998. A mixed criminal court composed of three professional judges and two lay citizens—called “escabinos”—was established to deal with serious criminal cases, but only on request by the defendant, the public prosecutor, or the victim. In this mixed tribunal with a lay minority—inspired by the German model (Schöffen) — the verdict is reached jointly by juries and professional judges.

With only thirty-three resolved cases from 1998 to 2004, this type of citizens' participation in judicial decision-making proved to be very limited.. However, it helped pave the way for broader lay participation in future criminal decisions, and in 2004, Córdoba implemented lay participation in criminal decisions by means of Law 9182. It adopted a mixed tribunal with a lay majority for criminal trials in which aberrant crimes and corruption are alleged.

The Cordoba lay participation law was passed in a context of national debate concerning efficient measures to fight against insecurity and crime. These debates were inspired by a social movement led by Juan Carlos Blumberg, which demanded harsher penalties and judicial reform as means to improve urban safety. The movement understood citizen participation in criminal justice decisions as a tool to adjust punishment levels to social demands and as a way to correct the guarantee-based approach generally held by magistrates, which was considered too benign.

However, the arguments considered in the provincial legislature when the initiative was presented were quite different. During the parliamentary debate, Legislator Cid, the bill's sponsor, argued that one of the principal aims of the law was to restore the judiciary's prestige (Bergoglio 2012).

After ten years of lay participation in criminal trials, it is interesting to review whether the institution of mixed tribunals has fulfilled the expectations held by the different social actors who promoted this innovation.

#### Mixed Tribunals at work

In Córdoba, lay participation in criminal trials follows the civil law tradition, in which jurors sit together in mixed courts with professionally trained judges. Several new systems of lay participation, like Japan and South Korea, have also adopted this model.

The mixed court is composed of three professional judges and eight lay citizens (four men and four women), whose names are obtained from a list randomly chosen each year from the voter rolls. They deliberate and jointly decide questions of fact by majority vote. The presiding judge can only vote in the case of a tie; she is charged with explaining the reasoning behind the lay citizen votes, if it differs from the judges' decision. Sentencing decisions are made by the three professional judges alone.

The competency of these tribunals is actually quite limited, since they deal only with aberrant crimes and cases of corruption. Homicide, effective or attempted, is the principal offense dealt with in these trials (95% in 2014). Trials for crimes of corruption, where government officials are charged, are rare. Only twenty-four trials for this type of crime have occurred since the law came into effect, in 2005. Decisions involving an acquittal occurred in only 14% of the cases.

According to official statistics, the mixed courts have decided only 340 of the 13,127 cases sentenced in the last ten years. It becomes quite clear that decisions made by juries are a small part (2.59%) of all those handled daily by judges. Reflecting upon the small number of cases thus resolved, it is visible that the judges' transfer of power over to the common citizens in accordance with Law 9182 is modest. This strengthens the conclusion that the main goals of this initiative were symbolic and aimed at legitimizing the judiciary.

#### Lay participation and trust in justice

Comparative research has pointed out that the claim for popular participation in the administration of justice is more probable in contexts characterized by dissatisfaction with judicial performance and by lack of confidence in justice. In the long run, however, we can expect lay participation to have a positive effect on trust in justice.

There are at least three micro-processes by which this occurs. First, the very existence of a system for jury trials might reduce external criticism to penal decisions. This result is more likely when jury trials receive widespread media coverage. Secondly, as Tocqueville observed the differences in knowledge and technical skills become evident during the

interaction between judges and common citizens, thus improving the prestige of judges. In addition, it is expected that those who have the opportunity to participate in a jury trial will be likely to communicate information about their experience throughout their social networks. If they are satisfied with their experience, the legitimacy of the judicial system can improve.

In Córdoba, mixed tribunals were created in a context characterized by a weak legitimacy of the judicial system. Data obtained in two public opinion studies, conducted in 1993 and 2011 were used to discuss the effects of lay participation on the legitimacy of the judiciary. After six years of mixed tribunals, the comparison of survey data shows greater satisfaction with criminal punishment, and an improvement of confidence in the judiciary; the modifications are small but statistically significant (Bergoglio 2012).

The micro-processes explaining the link between lay participation and the legitimation of the judiciary are also present. In Córdoba, media coverage of cases tried by the new mixed tribunals has been intense. Qualitative studies on the experience of mixed tribunals have reported that the interactions between judges and jurors in Córdoba are frequently framed as a teaching relationship, where judges are always available to assist common citizens with their knowledge and to answer questions. These practices are suitable for rebuilding the prestige of judges (Amietta 2011). In addition, those who have served as jurors are satisfied with the experience, and their opinion about the administration of justice has improved (Tarditti et al. 2011).

Given these favorable conditions, it could be asked why, as general population surveys indicate, the impact of lay participation on the confidence in justice is still rather modest. It is necessary to take into consideration that the experience in Córdoba with mixed tribunals is quite limited: in a six-year period, only 150 cases have been tried with the presence of common citizens serving among the decision-makers. Even if the experience is positively assessed, the number of persons spreading favorable commentaries throughout social networks is low.

#### Lay participation and punishment levels

Different public opinions studies have shown that in Córdoba, the majority of respondents prefer harsh penal policies that emphasize offender accountability, but this does not translate into extreme measures in terms of punishment, like the support for death penalty. Recent empirical research has also reviewed the impact of lay participation in judicial decisions on punishment levels (Bergoglio 2015).

Córdoba's system provides useful opportunities to analyze differences between judge and jury decisions, given that there is a written registry of the decisions made by each of the judges and juries that took part in the deliberations. Since they sit all together during the deliberations, judges have the chance to conduct the process and influence the direction of lay votes.

Reviewing research on mixed courts in different countries, Hans (2008) notes that unanimity rates over 90% are frequent in these cases. This raises questions about the actual levels of participation of citizens in the deliberations. The level of concurrence between judges' and citizens' opinions is a little lower in Córdoba: in 79% of the cases, the verdict is reached unanimously.

Since the level of autonomy reached by citizens in their decisions is obviously arguable, it is important to consider how judges and jurors differ when faced with the same cases. The revision of majority and minority votes during an eight-year period indicates that the introduction of lay participation in criminal matters has not resulted in a greater conviction rate. Jurors tend to agree with judges, and many of the decisions are made by unanimous vote. However, lay citizens defend a different opinion in some cases, and their decision is generally more lenient. It seems that, contrary to the goals promoted by the Blumberg social movement, the introduction of mixed tribunals has not resulted in harsher penalties. Fortunately, the fears of greater punitiveness due to lay participation in judicial decisions can be discarded for now.

#### Lay participation in other provinces

The Córdoba experience has inspired some developments concerning lay participation in other areas. In November 2011, the province of Neuquén passed a new Criminal Procedure Code establishing trial by jury. It is not a mixed tribunal but a classical twelve-juror jury deciding independently from the professional judge. It was followed by Buenos Aires, the biggest province, in 2013. There are also now several draft projects at the federal legislature; all these initiatives follow the Anglo Saxon model.

It is too soon to assess these initiatives, since their implementation is quite recent: Neuquén had its first trial by jury in 2013, and Buenos Aires in 2015. However, preliminary reports are positive. Citizens accept easily the call to jury service, and they generally improve their opinion of the Justice Administration because of their participation. It may well be that these successful initiatives promote the adoption of a jury system at the federal level, fulfilling the mandate that the National Constitution established in 1853.

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#### References

- Amietta, Santiago (2011), Governance in Córdoba's Mixed Tribunal: A Study on Microphysics of Power. *Oñati Socio-Legal Series*, Vol. 1, No. 1, 2011. Available at SSRN: <http://ssrn.com/abstract=1735502>.  
Bergoglio, Maria Ines (2012), Legitimacy of the Judicial System and Lay Participation in Judicial Decision-Making Processes in Córdoba, Argentina, paper for the Law and Society Meeting, Honolulu USA, Mayo 2012. Available at [http://papers.ssrn.com/sol3/papers.cfm?Abstract\\_id=2062319](http://papers.ssrn.com/sol3/papers.cfm?Abstract_id=2062319).

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Bergoglio, Maria Ines (2015), Citizen Views on Punishment: The Difference between Talking and Deciding. *Oñati Socio-Legal Series*, forthcoming.

Hans, Valerie P. (2008), Jury Systems Around the World. *Annual Review of Law and Social Science* 4:275-297.

Tarditti, Aida, et al. (2011), Análisis del funcionamiento del sistema por jurados en la provincia de Córdoba, desde su implementación en el año 2006, in Segundo Andruet et al. (eds.), *Investigaciones aplicadas en el ámbito del Poder Judicial de Córdoba, Colección Investigaciones y Ensayos No. 8*, Córdoba, pp. 51-97. Available at <http://www.justiciacordoba.gob.ar/justiciacordoba/files/libros>.



#### REMEMBERING ANDRÉ-JEAN ARNAUD

André-Jean Arnaud died on December 25<sup>th</sup> 2015, aged 79. We are indebted to him for initiatives of the utmost relevance for the development of the sociology of law and socio-legal studies. More than that: he personified this development.

André-Jean Arnaud already published several influential books on socio-legal topics in the 1970's; among them: *Essai d'analyse structurale du Code civil français* (1973), *Les juristes face à la société* (1975), and *La justice* (1977). Taking advantage of the work preparing another book, *Critique de la raison juridique I: Où va la sociologie du droit?* (1981), he created in 1980 the *Cercle de sociologie et nomologie juridiques – Cercle de cordialité*, an informal grouping of French speaking socio-legal scholars, from France, Belgium, Canada, Switzerland, and French speaking African

countries. This network, strengthened by frequent and intense meetings, and the special support of his friends Jacques Commaille and François Ost, provided the conditions for the implementation of an impressive set of scientific projects: in particular the launching of a journal, *Droit et Société*, in 1985, and, under the same heading, of a book series (*Librairie générale de droit et de jurisprudence*, since 1991), as well as the publication of a *Dictionnaire encyclopédique de théorie et sociologie du droit* (1988, 2<sup>nd</sup> ed. 1993).

Arnaud's concern was, from the beginning, to link this francophone dynamic to the broader international development of the field. This is why he took up the challenge of organizing the 1985 RCSL Meeting in Aix-en-Provence; why he participated in the concluding analysis of the world report published under the coordination of Vincenzo Ferrari, *Developing Sociology of Law* (1991); and why – a crucial decision in his life course – he accepted in 1988 to be the first scientific director of the International Institute for the Sociology of Law in Oñati. This meant, in concrete terms, to invent the Institute; to invent a new type of instrument for global scientific cooperation. The long lasting success of the Institute, which celebrated its 25<sup>th</sup> anniversary in 2014, proves the accuracy of its institutional design. And this design was shaped, to a significant extent, by practices initiated by André-Jean Arnaud, according to a programme convincingly presented by him at the inauguration ceremony he organized in May 1989.

In the years after his time in Oñati, he gave a new impetus to the French speaking socio-legal community, by promoting the founding of the French Association *Droit et Société*, and by creating the *Réseau Européen Droit et Société*, under the auspices of the French *Centre National de la Recherche scientifique*. Apart from numerous meetings and publications, a remarkable achievement of this network was the setting up of a website offering comprehensive and systematically updated information on socio-legal research world-wide (a website only very recently replaced by the scientific blog now complementing the journal *Droit et société*).

Outside the French speaking world, his most significant recent contribution to the global development of the sociology of law relate to Brazil, one of his many homelands, the one he shared with Wanda Capeller, his partner in life and science for decades. It was the setting up of a MOST-UNESCO Programme on Economic Globalization and Mercosur Law, and of a UNESCO Chair "Human Rights and Violence: Government and Governance". Fruits of these initiatives were, among others, a *Dicionário da Globalização* (Rio de Janeiro, 2006) and his last book: *La gouvernance, un outil de participation* (2014).

As an exceptional scientific entrepreneur, André-Jean Arnaud deeply shaped the organizational structures of our domain. He also left us intellectual challenges in tune with the complexity and uncertainty of our time, an input which was recognised last year 2015 with the Adam Podgórecki Prize. In particular, his writings invite us to re-invent the role of socio-legal scholarship in the face of the profound transformation of structures of governance, on a local, national, regional, and global level. And to give priority, in our

theoretical and empirical research agenda, to the understanding of social forces and creative dynamics, beyond the social structures which these forces both require and have to transcend. A dialectical relationship he did not only discuss in his scholarly writings, but, above all, he intensely experienced – and helped those many in number, who had the good fortune to work with him, experience – in practice.

Pierre Guibentif

## 2017 CONGRESS IN MEXICO

In June 2017 the Law and Society Association will be holding its periodic Joint Congress with the RCSL, co-sponsored by other organizations. Mexico is well-known to North Americans since it abuts on to the United States along its southern border but to those of us from further afield, from Europe and Asia and Australasia, it is much less familiar, a land associated with hot food and drug crime and often very little else. I love Mexico, so this article is intended to offer reasons, quite apart from the usual intellectual stimulation and chance to meet up with old friends and make new ones, why you should seriously think of making the Congress a priority for 2017.

Mexico City is one of the great cities of the world. I first encountered it about twenty years ago when my then institution sent a team to form relationships with Mexican universities with a view to student exchanges and recruitment. There are many fine universities in Mexico City and we were royally received, but we also had some time to explore the city's historical and cultural riches, and these are what I want to write about here. Your first stop must be the Museo Nacional de Antropología. Other museums will bring the history up to date but *this* museum is your best introduction to Mexico's many great indigenous civilisations. Then you can explore the ruined temples and palaces of Tenochtitlan, once the centre of the Aztec empire, which lie next to the main city square (the Zocalo) and were only discovered in the late 1970s. If you have time, as we did on that first visit thanks to a fortuitous public holiday, hire a car to visit the Sun and Moon pyramids of Teotihuacan, the holy city of the Aztecs 50 kilometres to the north of Mexico City.

### 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

Back in the Zocalo, the colonial history and Mexico's war of independence a century ago are recalled in the

murals by Diego Rivera on the walls of the National Palace. The cathedral, across the square, is the biggest and most important Christian building in Latin America, whose architecture spans the styles from Gothic, through Renaissance and Baroque, to neo-Classical. Many major demonstrations have taken place in this ancient square, including, on my first visit, one by supporters of the Zapatista rebels, drawing attention to the government's neglect and exploitation of the indigenous population in the desperately poor southern state of Chiapas.

Most of us will want to make a pilgrimage to Coyoacan, once a separate village but now absorbed into this vast city, where Frida Kahlo's house is preserved as a museum to her life, art and collections, and where another museum commemorates the murder of the exiled Communist scholar Leon Trotsky in 1940. Coyoacan and neighbouring San Angel remain a district of art and culture, of beautiful colonial mansions and the weekly Bazar del Sabado (Saturday handcraft market). Here you can pick up wonderful souvenirs: carved and painted wooden animals; ceramics (on that first visit I bought the ceramic light fitting that still adorns my bedroom in London); rugs and textiles woven to beautiful traditional designs. Look out for silver, too, mined in Taxco and made into trinkets and fine jewellery to be sold at hundreds of specialist outlets. On my second visit, again representing my university, my hosts from one of the local universities took us to dinner at the San Angel Inn, described by the Insight Guide as 'a place full of aristocratic appeal ... mostly frequented by wealthy Mexicans who are nostalgic for the charms of a departed era'.

Which brings me to the food. There is so much to enjoy in Mexican food beyond tacos and enchiladas, and indeed the tacos and enchiladas you will eat there bear little resemblance to the products of your local fast-food outlet. Upmarket Mexican cuisine (*nueva cocina mexicana*) is as inventive and delicious as any in the world, made with fresh local ingredients and seasoned with a range of herbs we never see in Europe. Corn tortillas accompany every meal and chiles are in truth ubiquitous but so subtly used (and there are hundreds of different varieties) that the dish is rarely really hot (salsas are offered for those who, like me, love the fire). Street food – tacos, beans, salsa, fruit drinks – is cheap, tasty and nutritious. It's easy to eat vegetarian, and Mexican pastries are well worth a coffee break in a local café or store like local upmarket chain Sanborns, where the waitresses wear traditional costume.

It is true that one can, and some of us have, become ill from food unhygienically prepared, but not in good restaurants; exercising normal caution and drinking only bottled water will keep stomach upsets at bay and you're unlikely to die of one even if you get one. Other hazards? Well, pollution is bad from the horrendous traffic, and being 3,000 metres above sea level can cause breathing problems if you are vulnerable. But the climate is not unbearably hot (average in the mid-20s C in summer) and the altitude means the evenings are cool; though in June it may be wet as well. Bear in mind that Mexico City has

lovely parks – the Alameda, Chapultepec Park, the floating gardens of Xochimilco – where one can escape the heat and pace of the city.

For many people, unfortunately, Mexico is synonymous with crime, particularly but not solely associated with drugs. It is true that crime is a problem in Mexico City, as in all big cities, but again, you just need to exercise the kind of care and common sense about your belongings and person that you would use in London or Paris.

Since that first visit I've been back to Mexico almost annually. I've visited Monterrey in the north-east, Guadalajara in the west and the Yucatan in the south-east, where beach resorts stand cheek by jowl with Mayan ruins. But for history, culture, first-class food and sheer exuberance, Mexico City has few equals. The Mexicans I have met have been unfailingly friendly, hospitable and proud of their heritage. I urge you not to miss the Joint Congress in 2017, and to stay on a few days, if you can spare the time, to experience its very special charm.

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#### BOOK EXCERPT: GENOCIDE STUDIES

*In each issue, the RC SL newsletter prints an excerpt from a recent book. The following is from Nicole Rafter's "The Crime of All Crimes: Toward a Criminology of Genocide", to be published in February 2016 by New York University Press.*

*"The Crime of All Crimes: Toward a Criminology of Genocide" systematically compares eight diverse genocides – large-scale and small; well-known and less well-known – that occurred throughout the twentieth century and around the world. The book addresses three main questions: What do genocides "look like" – is the Holocaust a good model, as many assume, or do other genocides conform to different patterns? What are the causes of genocide, on the micro, meso, and macro levels? And how can criminology contribute to genocide studies? The book tests major theories against the eight examples and explores such topics as genocidal rape, the social psychology of genocidal behavior, and ways in which genocides end. Addressing the issue of "cleansing," it finds that ethnic groups are but one type among those who are "cleansed" during genocide. The book compiles profiles of typical victims and perpetrators, discusses means of preventing genocide, and speaks directly to the controversial issues of the nature of genocide itself.*

*In the excerpt, footnotes are omitted.*

#### What Does Genocide "Look" Like?

Genocides usually begin with a clear, triggering event: on January 14, 1904, the Herero rebelled against the Germans; on the night of April 24, 1915, the Turks rounded up Armenian leaders and intellectuals in Constantinople; on March 5, 1940, Stalin signed the death order for the Polish prisoners held in the area of

Katyn; on September 30, 1965, an attempted coup precipitated the Indonesian genocide; on April 17, 1975, the Khmer Rouge took control of Cambodia; on April 6, 1994, Rwanda's president was assassinated when his plane was shot down. Two of the other genocides in my sample began more gradually: the Nazis' extermination of the disabled and the Guatemalan army's effort to subdue the Maya through terrorism and murder. But more often than not, to judge from my sample, genocide begins with a sudden, dramatic event that either galvanizes perpetrators (as in the case of the downing of Rwanda's president's plane) or marks the first step in execution of a plan (as with the Turks' roundup of Armenian intellectuals).

The twentieth century encompassed at least sixty-five genocides. Uncommon at first, their frequency accelerated in midcentury, peaking during the decades 1961–1980. The midcentury concentration in Europe corresponded to Nazi and Soviet efforts to expand and consolidate their domains. After this peak, the concentration of genocides, fueled by Cold War politics and US interests, swung southwest to Latin America. At the same time, a series of genocides began in Asia, caused in large part by Chinese Communist efforts to consolidate power. (Other international and domestic genocides added to the Asian total.) In Africa, the concentration of genocides in the second half of the twentieth century, due mainly to tribal warfare, subsided slightly toward the century's end.

Genocides (as Christian Gerlach argues in *Extremely Violent Societies* [2010]) are generated by multiple players, and they are multicausal events, producing various kinds of violence directed toward various targets. Leaders often create genocidal organizations to carry out the bloodiest part of the work, enhancing their sense of impunity, particularly when they have also established legal states of exception. In the case of both genocidal organizations and legal states of exception, we are talking about state-organized crime – a form of organized crime mobilized by the state to help it commit the ultimate organized crime: genocide itself.

Two types of events that presage genocide on the macro level are war and state failure. War greatly increases the likelihood of genocide; the most lethal combination is an external war fought simultaneously with a civil war. State failure is sometimes precipitated by war, at others by a political crisis, but in either case, it leads to massive instability that then cascades through the population, reaping more instability and insecurity and potentially preparing the ground for genocide. Significantly, even though genocide often occurs during a period of war or state failure (or both), its victims and perpetrators may not initially be in direct conflict. Rather, the perpetrator attacks a weak and unprotected victim in the same territory – notably a group that it detests on grounds of race, ethnicity, or ancient rivalry. Often the result is cleansing of some sort – not necessarily ethnic but racial, social class, biological, religious, or political as well.

Some genocidal states accumulate histories of atrocity comparable to the prior records of ordinary

offenders, and in these cases, their histories predict reoffending, just as they do for individuals. A quick scan of the list of twentieth-century genocides ... shows the same offender names popping up time and again: China, the Soviet Union, Turkey (although its multiple genocides occurred almost simultaneously and as part of the same cleansing effort), and the Tutsi. These (perhaps putting Turkey aside) were the twentieth century's most recidivistic nations or groups. Among groups, the emotional dynamics of genocide involve reframing and stereotyping, identity politics, manipulation of ideologies to create new vocabularies of motives, and often (but not always) dehumanization. The dominant group creates motivational narratives that widen the ever-present emotional spaces between "us" and "them." Demarcation of these divisions is followed by increasingly violent clashes until a dramatic event or marked turning point sets off the genocidal process. Most genocides are "hot," meaning that the emotional temperature of the group runs high and momentum builds to a turning point. This is why, when there is a triggering event such as the downing of the president's plane in Rwanda, the genocide starts immediately; participants are already primed. Although "cold" genocides like Hitler's "euthanasia" program and the Katyn Forest Massacre do occur, they are less common – and more likely to be secret.

The perpetrators of genocide are mostly male, as are most of the victims whom they kill outright. However, genocidal rape constitutes another way of destroying the victim group; it tends to be used when the genocide takes place in the context of state failure – that is, when social control systems have broken down. Symbolically, genocidal rape feminizes the victim group, demonstrating its impotence, while masculinizing the victors.

Some genocides end with a clean break, while others simply peter out or dip below the genocidal level in the intensity of their violence. Some end when perpetrator coalitions break apart, others when they meet their goals or outside forces make them stop. But although genocides end – in the sense that exterminatory violence comes to a close – they leave behind a multitude of troubles, particularly for the women and children who are most likely to survive. The suffering they cause lasts for generations. Insofar as they succeed in reorganizing the society in question, their impact is permanent.

Do genocides follow any particular pattern as they unfold? Gregory H. Stanton, the president of Genocide Watch, an alliance to end genocide, argues that "genocide is a process that develops in eight stages. ... Logically, later stages must be preceded by earlier stages. But all stages continue to operate throughout the process." Stanton's stages begin with classification and symbolization (the creation of hate signifiers); they continue through dehumanization, organization, and polarization; and they end with preparation, extermination, and denial. Not all of the genocides in my sample went through these stages (dehumanization and denial were missing from several, for example). To the extent that all processes have beginnings, middles, and endings, the geno-

cides in my sample resembled one another, but their patterns and dynamics differed radically.

To what extent do other genocides resemble the Holocaust? This was one of the key questions motivating my study. The genocides in my sample did echo the Holocaust in important respects: they occurred during periods of war or extreme upheaval; they involved mobilization of genocidal organizations and creation of legal states of exception; they involved some sort of cleansing; and the genocidists were confident of impunity. To take note of these similarities, however, is very different from holding the Holocaust up as some sort of model or supreme template. Rather, it is to say that genocides, the Holocaust included, have certain common characteristics.

Although generalizations about genocides can be useful, they should not be allowed to obscure the extreme diversity among genocidal events. The problem is that generalizations are based on a median (the middle case in a set) or average (a total divided by the number of items in the set). Neither the median nor an average can convey a sense of the range one finds in genocide: in the numbers killed or raped, in the length of time the genocide took to play out, as well as in the way the process started, the types of weapons used, and the ways of organizing the killing.

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#### POLICE, PRISON AND JUSTICE IN TURKEY AND IN FRANCE (XX-XXI CENTURIES)

Organized by Social Research Center of Galatasaray University in collaboration with Max Weber Center-ENS de Lyon, this meeting has taken place in last October in Istanbul. Following the first one which was realized in Lyon in November 2014, these workshops had both the objective of analysing the transformations observed in the institutions of order, and generating comparative axes concerning French and Turkish contexts. For that, the meetings were designed each time in four parts ("Police", "Prison", "Justice" and "Concluding Session"). During this second gathering in Istanbul, under the first part, professional identities and recomposition of the body of police superintendents (by Frédéric Ocqueteau), supervision of protest groups by the police (by Ayşen Uysal), backstage of the Turkish police facebook (by Umut Sarı) and re-criminalization of prostitution policies (by Lilian Mathieu) were discussed. In the second part, the treatment of women in the prisons (by Coline Cardi), gender and prison wardresses (by İpek Merçil), prison warders in the high-security prisons (by Seçil Doğuç), and hunger strike were the focus. This session was followed by the presentations on the experiences of the judges within the juvenile high criminal courts (by Verda İrtiş), socio-historical reasons of the juvenile penal justice system and its current situation (by Francis Bailleau), role of the Bar through the questions of ethics and discipline (by Benoît Bastard), judicial

organization around the figure of prosecutor (by Gözde Aytemur), and on the double judicialization via the guardianship, and the liberties and detention judges (by Benoît Eyraud). At the concluding session, (introduced and directed by Corinne Rostaing, Marie Vogel and Noémi Lévy-Aksu), after a series of exchanges, developing a comparative research project on the "professions" was suggested.

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#### CONFERENCE OF GERMAN-SPEAKING SOCIOLOGY OF LAW ASSOCIATIONS, 9TH-11TH OF SEPTEMBER 2015 IN BERLIN

The legal sociologists from Austria, Switzerland and Germany met from the 9th to the 11th of September 2015 for their third common congress. After Lucerne in 2008 and Vienna in 2011 the Humboldt University Berlin in 2015 was the meeting place. The fourth conference of German-speaking legal sociologists is planned to take place in September 2018 in Switzerland.

The conference motto is "promises of the law". More than 340 participants listened to more than 200 presentations (selected from 300 submissions responding to the call for papers). The conference language was German in more than 90% of the cases, however, there were also English-speaking sessions. The opening lecture was given by legal sociologist Susanne Baer, who currently serves a term as judge at the highest German court, the Federal Constitutional Court. The three-day-long conference bundled up subjects in different tracks. These tracks mark the subjects which the German-speaking legal sociologists occupy at the moment: law and development, law and religion, life forms and identities, the NSU process (see below), emergent rights, mediation in conflicts, economic crime, inclusion, constitutional courts, rule of law and governance and social inequality.

An example of a panel presentation is a lecture by Pamela Kerschke-Risch about a food scan-

dal. Maize from Serbia had excessive aflatoxin values (mold mushroom values). First the allowable limits were raised. Then it was tried to introduce the moldy maize to the EU by a detour through Romania. At the end the maize was sold in the USA. Kerschke-Risch shows that this kind of foods-collar crime can be explained with James William Coleman's "Understanding White Collar Crime" and the neutralisation techniques of Sykes and Matza.

NSU stands for National Socialist Underground. Between 2000-2006 in a murder series, 10 people, predominantly migrants were killed. The German police assumed a mafia background. Later it turned out that two right-wing extremists committed these actions to generate uncertainty among migrants and to deter immigration. For two years a spectacular process is running against the common girl friend of both culprits (who committed suicide to avoid arrest) and accomplices. A series of presentations at the conference dealt with the role of the co-plaintiffs, with procedural and legal details and with the question whether the process as expected contributes to finding the truth. The role of the state draws attention as the interior secret service had its agents and informers in the Neonazi networks.

Parallel to the meeting Germany showed a completely different face. During the conference time it gave thousands of refugees a euphoric reception. In the railway stations hundreds of helpful volunteers were standing with donations and "Welcome refugees" posters. On the weekend before the conference Germany received 20,000 refugees, on the weekend after the conference 40,000 were expected. The leading politician Katrin Göring-Eckard said: „We experience a September fairy tale in Germany“.

The final event was moderated by the Swiss Michelle Cottier. As often during the congress the topic is the balancing or the crossing of law and sociology. Eva Kocher suggests operating with publications interdisciplinary. One should publish the same texts in different fields to reach wider circles. The French-speaking Swiss Pierre Guibentif who is a professor in Portugal and usually published in English, complained in perfect German about the casualization of academic careers. The Austrian Walter Fuchs does not work at the university, but at a research institute, the Institute for the Sociology of Law and Criminology,



Final discussion with Alfons Bora (Bielefeld), Pierre Guibentif (Lissabon), Michelle Cottier (Geneva), Walter Fuchs (Vienna), and Eva Kocher (Frankfurt at the Oder). Photo: Birger Anholz.



Vienna. From a recent ethnographic study, he reported that when assessing crime trends, one must consider that the inclination to report crime against ethnic groups has increased. Alfons Bora demands a sociology with more law. Independent consultation must tell what is not heard with pleasure. In the discussion a contributor believed that it needed the jurisprudence, otherwise it is a bad research. Another voice complained that the field of sociology of law is standing in the shadow of the jurisprudence. This is explained by still another audience member: "Lawyers use their hand tool two, three steps better". A different voice recommended to keep separate subject and method in the discussion.

The interplay of law and sociology remains controversial. Michelle Cottier closed the conference and referred to the next congress of the German-speaking sociology of law associations in three years' time in Switzerland.

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#### CALL FOR PAPERS

Legal texts, legal cultures and procedures: theoretical and methodological issues  
Panel Proposal to be presented at the CADAAD 2016, University of Catania, 5-7 September 2016  
Conveners: Deborah De Felice, Giuseppe Giura, Carlo Pennisi, University of Catania

The concept of legal culture lies at the crossroads when comparing the theoretical and methodological approaches for studying the social dimension of law. In the legal field, the image of law, as a system of rules and regulations with its own specific language, pervades the speeches of lawyers and constitutes the "cornerstone" of legal education. On one hand, this image reflects the method through which the legal events have been distinguished from illegal ones, on the other hand it refers to a conceptualization of legislation as a mechanical method of decision-making.

From a sociological point of view, the institutionalization of legal culture can be considered the result of an historical process that has generated a monopoly in determining what must be considered as "the law", regarding a defined course of action, and with what consequences. From this perspective, the legal-normative approach reflects an attempt by the law to connect complex social processes to legal rules and principles. The linguistic dependence of the law should be considered primarily as a cultural and historical fact, and not only or mainly as a logical one. The procedural dimension, in our cultural contexts, is rooted in the linguistic dependence of juridical phenomena, while the legal decision-making processes, of which the law consists, are characterized as communicative processes, reflecting an open and reflexive nature: sociologically, they represent the focus of the analysis.

The Panel *Legal texts, legal cultures and procedures: theoretical and methodological issues* suggests a comparison between studies in the international field that have looked at "legal speech" in general, its tradition in socio-legal studies, and the developments foreshadowed by current research studies (e.g. jurisprudence as an autonomous item of investigation and knowledge source at a different level of legal experience).

The aim is to obtain a picture of current analytical approaches to the judicial system through reference to the procedural dimension, highlighting the sociology of law specifically when compared to similar disciplines, and the capability for dialogue with these.

#### References

- Banakar, Reza (2009), *Law through sociology's looking glass: Conflict and competition in sociological studies of law*. In A. Denis, & D. Kalekin-Fishman (eds.), *The ISA handbook in contemporary sociology: Conflict, competition, cooperation*, London: Sage Publications, pp. 58-74.
- Cotterrell, Roger (2006), *Law, culture and society. Legal ideas in the mirror of social theory*. Aldershot: Ashgate.
- Luhmann, Niklas (1995), *Procedimenti giuridici e legittimazione sociale*. Milano: Giuffrè.
- Nelken, David (2012, ed.). *Using legal culture*. London: Wildy, Simmonds & Hill Publishing.
- Pennisi, Carlo (1998), *Istituzioni e cultura giuridica. I procedimenti come strutture di comunicazione*. Torino: Giappichelli.

All papers will be allocated 20 minutes plus 10 minutes for questions. The language of the conference is English.

Abstracts of 250-350 words excluding references should be sent as MS Word attachment to defelice@unict.it, giuseppe.giura@alice.it, cpennisi@mbox.unict.it before 15 January 2016. Please include in the body of the email but not in the abstract itself (1) your name, (2) affiliation and (3) email address. Notifications of acceptance will be communicated by 1 March 2016.

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According to the ISA procedure, applications for registration grants should be sent to the program coordinator before January 31, 2016:

[julia.dahlvik@univie.ac.at](mailto:julia.dahlvik@univie.ac.at)

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For further details please see <http://www.isa-sociology.org/forum-2016/grants.htm>.

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