



## THE BIRTH OF SORTUZ: Toward emergent socio-legal studies

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Law is still with us. The Foucauldian prophecy that announced traditional state law's banishing because of the emergence of disciplinary society and its *norm* and power-knowledge regimens has become only a limited certainty. The growing social and analytical salience of other forms of regulation, such standards, customary law and *soft law*, which barely resembles the symbolic elements of *Law*, has not, however, fully eclipsed lawyers and state produced law. What seems to be happening is a widening of the spectrum of social phenomena that can be regarded, for analytical purposes, *Law*, a situation that significantly calls the attention of scholars and researches around the world. Discussions on what social situations should be called law are mainstream topics in comparative analysis of legal cultures, legal consciousness and legal pluralism. A classical legal philosophy issue, from Grotius to Kelsen and Hart, has become an analytical necessity for socio-legal studies. Reflexive law, normative pluralism, law as discourse and pragmatics approaches to law are few significant assessments of the rich and complex relations between law and society.

The first volume of this journal seeks to shed new light on this situation. Social phenomena such as European immigration affecting Sweden and the Basque Country communities and identities, Centro American and Caribbean Basin Law and Development Programs and the constitution of the legal field on one small indigenous village in Mexico, are some samples of the wide arrange of topics, places and social situations that falls into the law and society studies. Such a wide arrange of social phenomena is, at the same time, assessed with a similar richness of theories, research methods and styles. The different articles published in this issue run freely from qualitative and quantitative research methods, passing through case studies with deep participant observation to discourse analysis. At the same time, the theoretical frameworks used to made social reality intelligible are constructed taking and discussing, rigorously, elements of legal and political philosophy, Bourdieu's social fields theory and leading approaches in socio-legal studies.

Mihaela Vancea's article *Swedish multiculturalism: newly arrived arab immigrants in Malmö* is a fine example of the rich spectrum of theories and methods used to asses a salient social

phenomena like immigration. In fact, three of the five articles of this first issue are dedicated to analyse what, unfortunately, have become a dramatic social situation. Vancea, in her article, develops a deep case study of the initial settlement of newly arrived immigrants in one Swedish village. Based on the information gathered on a scholar program designed for immigrants, she analyses the clash between immigrant's hopes and the mainstream components of Swedish immigration policy. Successfully, she combines qualitative methods with reflections on political philosophy to conclude that Swedish immigration policy seeks cultural integration despite its rhetoric on multiculturalism and respect for other's identity.

The rich diversity of methods, theoretical frames and ideological standings, similarly, can be appreciated in the second article of this issue. The "same" social phenomenon is assessed from a different analytical point of view. In her article, Hillón depicts the dialectic migration-immigration through a case study of immigrant's life experiences in Basque small towns. Based on a rich, complete and reliable set of data gathered from interviews and observation, Hillón shows the different strategies deployed by immigrants in precarious legal, social and economic situation to achieve better life standards in the receiving country. Hillón shows the different strategies employed to overcome the obstacles and shortcomings created by the Spanish legislation and police measures. The fact that immigration is regarded legally as a social problem explains the gap between immigrants' expectations and their current precarious social and personal life.

The third article approaches immigration from a rigorously theoretical point of view. Andrea Brighenti's article "Migrants as the real Europeans" focuses on the mutual constitutive relations between immigrants and European identities. Brighenti criticises the ideological construction of European identity under the different European Union treaties, from Roma to Schengen, arguing that instead of using what is a traditional inclusive notion -citizenship- to recognize the extant population -*demos*-, the current process focuses on national identity -*ethnos*- to define the political corpus of the emerging European community. The long standing issue of Western identity, the dialectic and challenging relation between European identity and the "other" embodied in the Islamic immigrant, is recovered by Brighenti to show us that far from abandoning colonial strategies such as creating the other as Criminal or Barbary, nowadays this is precisely the path through which European identity is being defined into a process that he calls *negative supravisibility*. Despite the current processes of transnationalism and blurred frontiers, Brighenti argues, the European space is not ready to fulfil the aspirations of a more multicultural and delocalised society.

The two remain articles of the journal also show the rich and diverse law and society landscape. On the one hand, Juan José Cifuentes focuses on the impact upon local legal cultures -Guatemala and Caribbean Basin- of the Free Trade Agreements inspired on neo-liberal ideology. In order to create a national space that fits the requirements of international organizations and transnational corporations, local governments adopt legal knowledge and transplants legal and political institutions to ensure the smooth flux of capital. In particular, Cifuentes focuses on the judicial reform programs that seek to implement mechanisms known as *Alternative Dispute Resolution*, asking if these programs are aimed to improve access to justice for traditionally disadvantaged groups rather than fuelling a reform based on a particular notion of development. He arrives to the conclusion that such reforms, and specially the institutions included in alternative dispute resolution systems, work as

instruments of economic hegemony. On the other hand, Juan Carlos Martínez depicts what he calls the institutional breakdown of an Oaxaca village. Martínez was distinguished with the Masaji Chiba Program on Legal Pluralism and Non-Western Law in 2005. The results of his research are included in this article as the journal opens a space dedicated to the diffusion of the researches and works made thanks to the Chiba program. Based on Bourdieu's social and legal fields' theory, Martínez presents a breaking interpretation of the constitution, and destruction, of an Indigenous village legal field. Traditionally dominated by analytical perspectives such as human rights recognition, multiculturalism and legal pluralism, the perspective presented by Martínez allow us to understand the struggles in which actors involved in the indigenous field participate. He also offers a detailed analysis of the tensions between formal and informal institutions, of the clash of discourses and interests, as well as detailed theoretical interpretation regarding concepts, such as the idea of "indigenous people", that are far from being pacific issues.

Nowadays, Oñati International Institute for the Sociology of Law has become a major academic space not only for scholars specialized in relations between law and society, but also for researches, scholars and students from other disciplines such as Political Science, Anthropology, History and Psychology, which are interested in the legal side of their specific traditions. Scholars, both young and consolidated, across countries and disciplines find in Oñati a privileged space to work in their research interests. This journal seeks to create a virtual, but real space, that strengthens the emerging community around the relations between law and society. Indeed, the community of scholars that year by year meet, discuss and grow in IISL facilities may find in this journal an additional chance to share, and discuss, their knowledge and findings.

This journal owes much to many people. We specially appreciate the enthusiasm and the insights of Juan José Cifuentes, Andrés Hernández, Yulieth Hillón, Carlos González and Pavel Valer. Some of them have also contributed writing articles and supporting the project with their ideas, critics and friendship. Joxerramón Bengoetxea, current IISL Scientific Director, has supported, since the very beginning, this journal and significantly helped to advance, define and structure what not so long ago was just an idea. Similarly important has been the work of the Editorial Board members, whose detailed reading of the different articles improved their quality and helped to fulfill academic community expectations. Finally, yet importantly, we thank the IISL staff for their kind and helpful support along the process that led to the creation of this journal. We specially appreciate the time dedicated by José Antonio Azpiazu to the final process of edition and publication. We hope that this journal helps to strengthen the emerging careers of young scholars that now start to walk along the law and society path and, at the same time, to the growth of a tradition that every day shows more vitality.