



The Oñati International Institute for the Sociology of Law (IISL):
25th Anniversary

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Abstract:

The Oñati International Institute for the Sociology of Law (IISL) was inaugurated on the 24th of May, 1989. Over the course of twenty five years, the IISL has become a reference for socio-legal studies all around the world; it has truly been a place of meeting for several researchers. On the occasion of its 25th Anniversary and as presentation of this issue, I wish to reflect over the IISL's creation and the place it came to occupy in the development of the sociology of law field. And I also wish to place the contemporary successes and challenges of the IISL. This issue of *Sortuz. Oñati Journal of Emergent Socio-Legal Studies* (Volume 6, Issue 2) is meant as an example of the scholarly production of former students of the IISL and, together with the previous issue (Volume 6, Issue 1) that presented articles by former Scientific Director, *Sortuz* attempts to contribute in showing the richness of the community that the IISL gathers.

Keywords:

IISL, Oñati, Sociology of Law, Socio-Legal Studies, Anniversary Issue.

"... existe muchas veces el riesgo de conversión del Derecho en pura técnica o cobertura formal, que lo aleja del dinamismo social y de los valores que ha de realizar. Frente a las inercias y tendencias racionalizadoras, la Sociología Jurídica pretende acercarse y comprender las relaciones sociales desde la razonabilidad, desde la vida práctica y cotidiana, poniendo el acento en los conocimientos sociales de la eficacia del Derecho".
(Ardanza 1989, p. 30).

1. INTRODUCTION

This issue of *Sortuz. Oñati Journal of Emergent Socio-Legal Studies* (Volume 6, Issue 2) is the second of two deliveries to celebrate the 25th Anniversary of the Oñati International Institute for the Sociology of Law (IISL). The first issue (Volume 6, Issue 1) presented articles by former Scientific Directors and the current Scientific Director of the IISL. Over the course of these twenty five years, the Scientific Directors have been the

¹ ... there is often the risk of the conversion of law into purely technical or formal hedge, which separates it from the social dynamism and the values it must undertake. Faced with the rationalizing inertia and tendencies, Sociology of Law intends to approach and understand social relations from the reasonableness, from practice of everyday life, emphasizing the social knowledge in the effectiveness of law.

academic leaders of the Institute; they have contributed with their knowledge and guidance for the students that come into the IISL community. However, turning back to the first intention of *Sortuz* – as designed by its first editors, Iker Barbero and Libardo Ariza – to be a space of opportunities for the growing IISL community, this second issue is meant as an example of the scholarly production of former students of the Institute. With this issue *Sortuz* means to further contribute in showing the richness of the community that the IISL gathers. Over the course of twenty five years, the IISL has become a reference for socio-legal studies all around the world; it has truly been a place of meeting for several researchers.

On the occasion of the 25th Anniversary of the IISL, I wish to present this issue by reflecting over the Institute's creation and the place it came to occupy in the development of the sociology of law field. And I also wish to place the contemporary successes and challenges of the IISL. Finally, I will present a reflexion over the future of the IISL and the contributions that integrate this issue.

2. THE BEGINNING: 1989

The IISL was inaugurated on the 24th of May, 1989², emerging from an alliance between the Research Committee of Sociology of Law (RCSL) of the International Sociological Association (ISA) and the Basque government. The IISL was not the result, as it is not a finished endeavour, but a significant success of the struggle to create an institutional setting in which law is not seen purely in its normative dimension through the sociology of law. The late 1980's and early 1990's are identified as times in which sociology of law was passing through a vibrant and influential period (Guibentif 2014, p. 71). It was a time of impulse of the field that has continued in several ways and parts of the world where the sociology of law continues to challenge the more formalist views of law. Hence, the first moment for the IISL is called by Arnaud (2013) a *denouncing* stage, because it denounced the legal positivism that founded laws that did not care for the social realities. In a sense, this replicates the very interests of those of us who turn to sociology of law, especially that of those who come from law. The turn to sociology of law is usually marked by an in-satisfaction with the explanations that are given from legal positivism. The IISL was then an opportunity to create a space in which the sociology of law was the dominant approach; a place that would welcome those many who were disputing the positivist definition of law.

This impulse of the field was connected as well with a historical moment in which the Basque government was interested in establishing further contact with the international sphere; and with the kind of expertise that sociology of law could bring in the fields of state building and political violence (Guibentif 2014, p. 72). After the Francoist dictatorship in Spain, the Basque Country underwent a series of complicated political processes that included processes of reconstruction of the Basque culture that the dictator had forbidden in several ways. In the education field this was a period of reconstruction, and the Basque government supported the education endeavors that could ignite the development of the Basque intellectuals. I had the opportunity of meeting Francisco Javier Caballero, who was central for the creation of the IISL, a little before entering the IISL master. It was, for me, an eventful meeting as I became aware of some of the

² The IISL was created on the 23th of December 1988, but its inauguration ceremony was carried a few months later on the 24th of May, 1989 (Arnaud 1989b, p. 9, Caballero 1989, p. 15).

missions of the IISL; including the intention for it to be an opportunity not only for the sociology of law to find a place of dominance in the world, but also an opportunity for the Basque Country to bring young and established scholars from all over the world to know the Basque social environment. These scholars were also to produce valuable knowledge for law in general and for the social processes that the Basque Country was going through. As was stated by Juan Ramón Guevara in the inauguration of the Insitute: "el empleo de los conocimientos socio-jurídicos es una necesidad operativa, que interesa no solo para continuar el avance dogmático de esta ciencia jurídica, sino también para obtener resultados prácticos y satisfactorios"³ (1989, p. 27). In the same line of thought, José Antonio Ardanza Garro (1989, p. 31), Lehendakari⁴ of the Basque government, talked in the inauguration of the IISL of the pertinence of the sociology of law for collaborating in the design of effective legislation for a country.

The very history of the building that the IISL occupies is representative of the different moments of struggle of the Basque country and the hopes that were placed in the Basque institutions and education. The University of the Sancti Spiritus was created in mid XVI century and it remained the only university of the Basque Country, passing through different centres of education until its closing at the begging of the XX century (Murua 1989, pp. 24–25). The institution was central for the formation of the intellectual elite of Basque Country as its existence and internal changes are profoundly linked with the political processes of the region (Morales 1999). After many decades, during which the building was used for different activities, the creation of the IISL was then considered as a new opportunity to bring an educational centre to Oñati.

However, the actual materialization of the IISL was owed to the enthusiastic work of a few people. Pierre Guibentif identifies the following persons as central for the creation of the IISL:

Juan Ramón Guevara Saleta, at that time vice-minister for Justice at the Basque Government who took the political steps crucial for the creation of the Institute; Eli Galdos, at that time mayor of Oñati, who did strongly support the Institute's setting up in Oñati and integration in the Basque institutional context; José Ignacio Garcia Ramos, first president of the Institute's governing board; Francisco Javier Caballero Harriet, Basque socio-legal scholar who did establish the connections between the Basque authorities and RCSL, and André-Jean Arnaud, first scientific director (Guibentif 2014, p. 72).

As Francisco Javier Caballero Harriet, who as at the time the Director of the Laboratory of Sociology of Law in Donostia-San Sebastián, accounted in the inauguration of the IISL: "Oñati' encarna lo que, como jurista, llamaría el caso fortuito, pero, como sociólogo del derecho, prefiero llamar 'el azar'⁵" (Caballero 1989, p. 14). He then explains the different circumstances that connected Volkmar Gessner's ideas for the creation of a centre for international research, with the support of Renato Treves and André-Jean Arnaud, and the interest and enthusiasm of Juan Ramón Guevara from the Basque government. It is attributed to the latest the idea of placing the IISL in the building that it continues to occupy. It was then the work of few determined persons that turned ideas

³ The use of socio-legal knowledge is an operative need, of interest not only for the continuation of the dogmatic advance of this legal science, but also for obtaining satisfactory and practical results.

⁴ The *Lehendakari* is the president of the Basque Country.

⁵ "Oñati" embodies what, as a jurist, I would call a fortuitous event, but, as a legal sociologist, I call "a chance".

into reality and gave sociology of law an institutional space to develop in the Basque Country. However, it should not be ignored that the inauguration of the Institute came with the renewed support of the Basque government, as expressed by the Mayor of Oñati, Eli Galdos (1989), and the *Lehendakari* of the Basque Government, José Antonio Ardanza Garro (1989).

3. THE 25TH ANNIVERSARY: 2014

If the creation of the IISL was owed to the work of few very important persons, it has not remained contained in a small community of scholars. At its inauguration, the first Scientific Director of the IISL, André Jean Arnaud (1989a, p. 46), put forward the intention for the Institute to become a place for younger researches to come in contact with each other and with the more consolidated specialists of the sociology of law. But this mission became a reality when, in the year 1990, the IISL welcomed the first generation of its Master in Sociology of Law. Since then, hundreds of students from over 60 different countries have passed through its doors to be part of an education experience which also involves different professors in a curricula that changes and adapts each year. Indeed, the professors that teach in the Institute also rotate continuously. With some exceptions, professors are invited to teach a two week seminar in two different years. This allows for a permanent update of the Master offered by the IISL, which also remains in touch with the most relevant socio-legal topics of each historical period. Students and professors feed a vibrant community of socio-legal scholars that takes the influence of the IISL well beyond the frontiers of the Basque Country.

It was relevant since its creation that the IISL would not become "the fortress of a faction" (Arnaud 1989a, p. 47), and this is achieved by its openness and the different opportunities it offers for researchers. The position of Scientific Director is also changed every two years, and each new Scientific Director brings in new ideas and networks that greatly enrich the Institute. At the same time, the Institute offers scholarships and visiting facilities, along with what is perhaps the best library in socio-legal studies in the world; all of which attracts a variety of visiting scholars every year. The IISL has remained an open space for researchers from different countries, levels of expertise and political tendencies, within the reasonable preference of socio-legal scholars that tend to distance themselves from the more dogmatic approaches.

The openness of the IISL is evident not only in the variety of researchers and students that find a suitable place for growth within its walls; but also in the wide perspective of sociology of law that it welcomes. At the time of the creation of the Institute there was an important effort being made in the definition of the sociology of law field (Arnaud 2013). In a sense, this question remains open ended, but it has also shifted its focus in practice. While some lines of thought have consolidated over time, the IISL has adopted the wider perspectives that encompasses a variety of interests. As can be seen in the various publications of the IISL, its production is not constricted by an exclusive commitment to the meeting between sociology and law, but rather to a wider comprehension of socio-legal studies. This has allowed for the IISL to be open and influential in several fields that help create an interdisciplinary interest, understanding and study of law; including sociology, but also anthropology, political economics, cultural studies, etc. The activities and the Institute itself have also been closely connected with the Law and Society movement, more relevant in the US.

Over the course of twenty five years of promotion of the sociology of law, many of the challenges in the legal field that inspired the creation of the IISL continue to be a concern that makes of the Institute a fertile oasis for socio-legal research; and many achievements have also been managed. Socio-legal studies of legal education continue to show the dominance of the positivist paradigm in the formation of lawyers in different parts of the world (i.e. Lista 2005, Brigido *et al.* 2009, Ibarra 2012, García 2013, Hagino 2013). This makes the mission of the Institute, and of the community that gathers around it, as current as ever. While, at the same time, a lot has been advanced and gained. The Institute has been central to the production of researchers, with a master program that continues to educate generation after generation of young scholars by some of the best researchers of the world⁶. And the IISL has actually funded researches in the topics on non-western law and neoliberalism through its scholarships. The Basque example has also been a relevant influence for the researchers, as the work of Thamara Santos (1994) on the communitarian regulation of Oñati shows. But, most importantly, the IISL continues to be a place of meeting, as was proven in the Congress that celebrated its 25th Anniversary in May 2014.

4. *SORTUZ* AND THE ACADEMIC PRODUCTION OF THE IISL

The IISL has a long tradition in the publication of scholarly production in the sociology of law. This began with the publication of the journal *Current Legal Sociology* and the series *Oñati Proceedings* in the very inauguration of the IISL (Arnaud 1989b, p. 9). Currently, the Institute offers venues of publication that include the following book series: *Oñati International Series in Law and Society*, in the editorial house Hart and *Colección Oñati: Derecho y Sociedad* published by Dykinson. In 2011 the open access journal *Oñati Socio-Legal Series* was inaugurated with the publication of the thesis of the 2009-2010 generation of the Master in Sociology of Law.

It is in this setting that *Sortuz Oñati Journal of Emergent Socio-Legal Studies* joins in to provide a venue for the publication of socio-legal research. *Sortuz* initiated in the year 2007 by the initiative of Iker Barbero and Libardo Ariza, both former students of the IISL; and with the support of the Joxerramon Bengoetxea, Scientific Director of the IISL. The journal was meant as a place of opportunity for the researchers interested in socio-legal studies, mainly connected with the Institute and with a the wide perspective of the field that is evident in the work developed at the IISL. As stated in its presentation:

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

⁶ As part of the celebration of the 25th Anniversary of the IISL, two pieces of research were carried that will certainly be an enormous contribution for the understanding of the impact of the IISL Master in Sociology of Law in the world. Angela Melville and Susana Arrese presented a research on the work of IISL master's professors; while Rogelio Pérez-Perdomo has involved in a research over the careers of former students from the same program.

meet, discuss and grow in IISL facilities may find in this journal an additional chance to share, and discuss, their knowledge and findings.

Starting this 2014 with the two issues that celebrate the IISL's 25th anniversary, Alexander Kondakov and I have been invited to act as new general editors; a commission that is a huge opportunity to continue contributing and collaborating with the IISL community. Being so, this issue is meant to contribute in the exploration of relevant contemporary topics of socio-legal studies, by the hand of former students of the IISL.

Some of the topics presented in this issue are long-standing concerns for socio-legal studies that continue to be relevant in the field; although they are updated with a focus in current processes and institutions. This is the case of the study of legal professions, institutions and structures. The article by Vélez on the perspectives about legal aid explores the workings and expectations of an institution of increasing relevance in the Latin American context. It is a significant contribution to the understanding of the state's formal justice mechanisms that are central to the concerns of socio-legal studies. Nevertheless, the turn toward a pluralist vision of law beyond the state has also been of the utmost importance for the field. The socio-legal premise of questioning the centrality of positive law has unavoidably turned to the understanding of law in different regulatory systems that do not necessarily emerge from the state. Legal pluralism is mentioned by André-Jean Arnaud (2013) as a key topic at the time of the creation of the IISL, and it has remained a central concern for the IISL community; with the impulse as well of the Masaji Chiiba Grant for studies of non-western law. Arianto's article continues with this tradition in the context of extraction processes that have become one of the greatest concerns of traditional communities over the past couple of decades.

Contemporary sociology of law has also been marked by processes of globalization and neoliberalism, that have brought to the forefront processes in which the state has been challenged from different fronts. Scamardella's article explores how the models of governance have had an impact in the possibilities of participation beyond the traditional model of the state, and the questions that this has risen on the matters of democracy. Also on the challenges to the state's authority, social movements have become one of the most relevant interests for socio-legal scholars all over the world. Lapenta, Manzo and Bonfigli explore different aspects of contemporary social movements. From the identity of social movements to the strategies they use to promote social change, and also in the way that they shape cities, social movements contest law and the state in defining social realities. They also show that law cannot be understood without those who live it, and that institutions depend on the political struggles of each historical context.

Finally, this 2014 we have inaugurated a *Translations Section* in *Sortuz*. This section aims to comply with some of the inspirations for the very creation of the IISL. It is meant to strengthen the exchange of knowledge production among different spaces and languages; to be a communication bridge for the international community interested in sociology of law. Hence, this issue includes an article on international courts by Mikael Rask Madsen, who is one of the most prominent former students of the IISL.

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