



OÑATI INTERNATIONAL INSTITUTE
FOR THE SOCIOLOGY OF LAW
—
OÑATIKO LEGE-SOZIOLOGIAKO
NAZIOARTEKO ERAKUNDEA
—
INSTITUTO INTERNACIONAL
DE SOCIOLOGÍA JURÍDICA DE OÑATI

WORKSHOP ON: Local Courts as Transnational Actors: an Interdisciplinary and Empirical Approach

Coordinators:

Sharon Weill (The American University of Paris/ Sciences Po) and Sara Dezalay (Université
Catholique de Lille)

30-31 May 2024

Meeting room: Karl Renner & Achille Loria (*1st floor*)

Workshop description

Lower national courts are increasingly asked to perform a transnational role in their involvement in major geopolitical issues such as climate change, migration, transborder economic disputes, or terrorism. Their role as global players, however, has been largely overlooked as research local courts tends to focus on constitutional/supreme courts.

Studies of lower courts continue to be conducted predominantly within a narrow national context, or in a comparative way on specific issues or regions. They are carried out either through the lens of bureaucracy and process (Feeley, 1979; Latour 2002), or through the lens of social control addressing the management of dangerous populations (Foucault, 1975; Garland, 2001) and the state's moral control (Feeley & Simon, 1992, Fassin 2017). Transnational legal research has cut large swaths in tracking legal globalization dynamics (Halliday and Shaffer, 2015). Yet, it tends to overlook the routine and local management of justice. The routine legal practices of national legal actors, such as lower courts, which are tasked with dealing with thousands of cases, remain under-studied (Hodgson, 2010) and except for supreme courts, studies of courts do not usually extend their analysis to transnational relations.

Fulfilling this research gap responds to the growing need to “re-localize” socio-legal studies within their geographical space, and to analyze the trans/national from “within” through a bottom-up approach based on prolonged localized ethnographies.

The workshop brings together researchers from different disciplines, who conduct in-depth research work on lower courts (based on ethnographies and socio-legal methodologies) in different settings: from “regular” jurisdictions to “exceptional” ones, dealing with criminal, administrative, civil and transitional justice issue, including security, peace and conflict; environment; businesses/tort cases; migration and asylum, criminal activities and human rights.

Beyond comparative purposes, tracking interconnections and context-specific discussions, a core aim of the workshop is to foster a multi-disciplinary discussion to ask the following questions: Is it necessary to combine several strands of social science research to build an understanding of the roles played by local courts as global actors? How and why can an inter-disciplinary approach be

fostered? What can it tell us about the nature of local courts as “transnational” actors and the impact of their roles as transnational actors on the international legal, political and economic order?

To push against disciplinary and area studies boundaries, we have structured the workshop around five debates: (1) The role of human actors; (2) The impact of the institution (routine, bureaucracy, hierarchy);

(3) The dynamics of legal doctrines; (4) Geo/political interdependence and geographical inter-connections;

(5) Doing research on local courts as trans/national actors: future directions for research.

The first four themes will be structured as roundtables. Some of you will act as “lead” participants to the discussions. For this purpose, please prepare a short presentation (10mn maximum): on the basis of your own positionality and empirical work, please reflect on how you engage with the broad theme of the roundtable.

The last session will be organized around smaller group discussions, followed by a plenary to reflect on the outcomes of the discussions and the workshop. Discussions emerging from the workshop will form the basis of the methodological and theoretical framework we aim at steering and participants will be invited to write articles based on their reflections/feedback and discussions. As a follow up to the conference, we aim at publishing a special issue of a socio-legal review (such as the Intl. Journal of Law in Context).

Workshop Schedule

Meeting room: Karl Renner & Achille Loria (1st floor)

Arrival, 29 May 2024

20:30 Bus arrives in Oñati.
21:00 **Dinner** “Restaurante Iturritxo” for all the participants [*Street: Atzeko Kalea, 32*]

Day 1: 30 of May 2024

8:30-8:45 **Registration** at the International Institute for the Sociology of Law [1st floor]
8:45-9:00 **Opening:**
Sabine Frerichs, Scientific Director of the IISL and Leire Kortabarria, Publications officer

09:00-10:30 – Introduction: Sharon Weill and Sara Dezalay

Roundtable to introduce participants and their work by themes and geographical regions.

10:30-11:00 **Coffee break** [*Gurvitch & Galdos room*]

11:00-13:00 - Panel 1 - The Role of Human Actors

Moderator and Commentator: Sara Dezalay

A court decision is a product of the interaction and contribution of many actors. The actors’ career trajectory, competences, and prior socialization are key to understanding how court decisions are made. In this context, the interaction between these agents, and in particular their involvement in relations of cooperation/competition and their embeddedness in wider political and societal struggles and networks, should be examined. Of interest is understanding how the legal choices made by the different actors are affected by these dynamics – locally and transnationally.

Participants are invited to reflect on the wide question: how and why does agency matter in your own work? What transnational dynamics have you identified?

- Sandrine Lefranc, Sciences Po, Paris/ CNRS, France (TJ/terrorism/restorative justice)
- Nina Törnqvist, Uppsala University, Sweden (Prosecution of multinational business)
- Tine Destrooper, Ghent University, Belgium (Victims and transitional justice)
- Ely Aaronson, Haifa University, Israel/ZOOM
- Alejandro Chehtman, Di Tella University, Argentina /ZOOM (mass trials)

13:00-14:00 Lunch time [*Cantina Zapore*]

Day 1: 30 of May 2024 (continuation)

14:30-16:15 - Panel 2 - The Institution: Routine, Bureaucracy and Hierarchy

Moderator and Commentator: Sharon Weill and Malcolm Feely, UC Berkeley (ZOOM)

Trials are a work of routine performed by professionals bounded by institutional bureaucracy, hierarchy and varied levels of professional security/preciousness. The operations of lower courts are necessarily impacted by the structure of the institution (Latour, 2002; Didier Bigo 2007). Routines, notably organized by managers, can impact the balance struck between the legal and social dimensions of the act of judging and orient the work of courts towards a bureaucratic goal of efficiency, with limited resources. While lower courts render their decisions on a case-by-case basis, and do not impose general policies, it tends to obfuscate the political dimension of their work. Moreover, when the work is framed within a larger pattern of mass litigation, the professional practice of judging a “case” is not done in isolation, as legal studies often portray.

Of interest is understanding how the legal choices made are affected by these factors.

Participants are invited to reflect on the wide question: how and why do the institution and dynamics of institutionalisation matter in your own work? What transnational dynamics have you identified?

- Florian Grisel, CNRS, France (Organisational culture of court)
- Niké Wentholt, Postdoc researcher, University of Humanistic Studies (Colonial reparations)
- Jess Hambly, Australian National University (Migration courts)
- Maria Saffon, Ti Della University, Argentina (Structural prosecution of mass crimes)/ZOOM
- Mikkel Christensen, University of Copenhagen, Denmark (International criminal law)

16:30-18:00 - Panel 3 - The Dynamic of Legal Doctrine

Moderator and Commentator: Greg Shaffer (Georgetown University)

While developing and applying a doctrinal framework, any legal decision is motivated by the social and political forces that shape it. Courts further shape their own policy, by filling content into vague statutory terminology and establishing the facts. How do lower courts constitute the meaning of law through interactions of bottom-up, horizontal, and top-down forms of law making? We will question if, as doctrine is developed and functions as an independent force, it can eventually facilitate or limit alternative visions of the law.

Participants are invited to reflect on the wide questions: how and why does legal doctrine matter in your own work? What transnational dynamics have you identified?

- Oscar Parra Vera, Judge, The Special jurisdiction for peace, Colombia
- Nicola Palmer, King's College London (Rwanda UJ/migration cases)
- Monica Zwaig, Prosecutor, crimes against humanity, Argentina/ZOOM
- Jacqueline Hodgson, University of Warwick (Terrorism)

All invited to a (local;-) Basque dinner 😊

Day 2: 31 of May 2024

09:15-11:00 - Panel 4 - Geo/political interdependence and geographical interconnections

Moderators and commentators: Kerstin Carlson and Moshe Hirche (Hebrew University)

Despite justice's claimed capacity to evade political variables, it is 'an integral part of a political process in which many agencies interact with one another' (Shapiro and Stone Sweet, 2001). This final roundtable will examine the complex reality of cases that involve a combination of political actors and interests. We will discuss this from two main perspectives: (1) What is the space attributed to politics and international relations within courtrooms? (2) Within the broader international political arenas, as well as historical situatedness, what is the political role of lower courts in today's geo-politics?

Participants are invited to reflect on the wide question: how and why do geopolitical drivers matter in your own work? What transnational dynamics have you identified?

- Renata Mustafina, Post doc, Sciences Po/EUI (Political opposition on trial in Russia)
- Felipe Tirado, Phd Candidate King's College London (Brazilian lower courts)
- Kerstin Eppert, Bielefeld University, Germany (terror trial in Germany)
- Revital Madar Post doc, EUI (Israeli military courts)
- Sophie Andreetta, Research Fellow FNRS (Migration/Benin)

11:00-11:15 **Coffee break** [*Gurvitch & Galdos room*]

11:15-13:00 - Panel 5 - Doing research on local courts as trans/national actors: future directions for research

This session will be structured around smaller group discussions, around core issues and questions that will have emerged from the first four roundtables. These smaller-group discussions will be followed by a plenary discussion on future directions for research.

13:00-14:00 Lunch time [*Cantina Zapore*]

14:30-17:00 - Workshop conclusion: next steps, publication planning

DINNER