



**The Force of Science and the Force of Organizations.  
Some Exploratory Thoughts Applied to the Example of the Oñati International Institute  
for the Sociology of Law**

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**Abstract:**

A challenge in the current discussion of sociological theories is to find ways of combining systems theory with theory of social agency. The theoretical framework here introduced suggests one possible combination and is applied to reflections on the Oñati International Institute for the Sociology of Law's past and future. What justifies this exercise is that it is time for the Institute to appreciate on what social forces it can count; and it is worth for sociology - of law - to take advantage of this opportunity to develop its tools for the approach of social forces.

**Keywords:**

Oñati International Institute for the Sociology of Law, Systems Theory, Agency, Science, Organization.

## **1. INTRODUCTION**

Twenty-five years after the inauguration of the Oñati International Institute for the sociology of law, it makes sense to open a debate on its modes of operation as an organization devoted to scientific activity<sup>1</sup>. In this debate, it is worth taking into account the results of our own scientific work, notably the results of our socio-legal researches. The present paper aims at contributing to such a reflexive exercise. It begins with an outline of a model of scientific activity derived from a general model which also can be applied to the analysis of legal institutions and activities (I). It suggests possible complements to this model (II). And it tries to apply it, firstly to the interpretation of the past development of the Institute (III), and secondly to the formulation of some prospective thoughts on its future (IV).

## **2. SCIENTIFIC ACTIVITY BETWEEN SOCIETY, SCIENCE, ORGANIZATIONS, INTERACTIONS, AND INDIVIDUALITIES**

The model I want to take as a starting point for the present thought exercise is derived from the work of Niklas Luhmann, and more specifically from his work on law. Law is

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<sup>1</sup> Topic addressed at the panel of former scientific directors of the IISL organized by the current scientific director, Adam Czarnota, at the IISL 25<sup>th</sup> Anniversary Meeting, Oñati 21-23 May 2014. The present short essay understands itself as a background paper to the author's contribution to this panel.

approached by Luhmann as an autopoietic system, that is, as an ongoing process of legal communication. At the same time, Luhmann takes the law as one functional system among others, and functional systems as one category of social systems among others, being the main other categories interactions, organizations, and the (world) society. Within this framework, when it comes to analyse what he observes more concretely in terms of legal communication, Luhmann recognizes that the concrete operations likely to be qualified as legal communications may at the same time be considered as belonging to other social systems: interactions, organizations, and society. Actually, the differentiation of the legal system is related to a process of specialization of certain organizations, such as courts, law schools, and law firms (Luhmann 1993, p. [297 ff.] 274 ff.). So in many cases legal communication is at the same time communication which takes part in the autopoiesis of organizations (moments in a lawsuit, in the operation of a law firm, in an initiative of a law school, and so on) and of concrete temporary interactions. Moreover, as communication, it also generates here and now human society.

This model applies to science as well: scientific communication in most cases is simultaneously communication that takes part in the operations of organizations specialized in science – such as universities, research centres, learned societies (Luhmann 1990, p. 672 ff.) –, as well as in concrete interactions, in particular those which take place in these organizational contexts. They also are part of society in the broadest sense of the term.

In Luhmann's work elements of an additional component to this model are to be found. Communication, as including, beyond information, an aspect of *Mitteilung* – i. e., apart from its content, a displayed intention of sending a message – refers to the conscience of people involved in it. Meaning requires both communication and conscience. Social reality would not be what it is without communication on perceptions, thoughts, and minds. Communication takes place because it is somehow coupled to the minds of the individuals involved. The relationship between conscience and communication, however, is not an immediate one. Just as communication, conscience is an ongoing process, but a process – autopoiesis – of a different kind. As such, it is not part of communication, but it can be linked to it by specific devices, such as language (which we use both to communicate with others, and to formulate thoughts), or the notion of personality (which structures certain communications, as well as perceptions we have of ourselves)<sup>2</sup>.

Conscience plays a particularly important role in modern art, law, and science. The notion of author is necessary to our communication in these domains. Typically, artistic and scientific communication is linked to the notion of an individual authorship. Modern legal reasoning gives a prominent place to the concept of subjective rights. The operations of these three systems involve people specially trained, as individuals – professionals – for participating in the communication belonging to one particular functionally differentiated system: artists, lawyers, scientists.

So the complete systemic model of legal, as well as scientific, business includes these five components, the fifth of them belonging to a category of its own: it takes place as part of society; it contributes to a worldwide network of functionally differentiated communications (legal or scientific); it happens because one or more organizations exist, which operate locally with the aim of making such differentiated communication locally

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<sup>2</sup> For a more developed introduction to the theory of conscience in Luhmann's work, see Guibentif (2013a).

possible; it is the substance of interactions formed partly inside, partly outside of such organisations; it takes place because individuals duly trained for this purpose have learned to form thoughts likely to correspond to such functionally differentiated communication.

### 3. SCIENTIFIC ACTIVITY AS AGENCY

One problem with systems theory is that it locates action and actors at the periphery of its conceptual scheme. This is not an arbitrary theoretical choice, but it takes into account the fact that modern society is a result of an evolution which differentiates, on the one hand, action and, on the other hand, tools to be developed for this action; in other words: production and reproduction; agency and structure. The theoretical option of focusing on structural mechanisms and their reproduction has enabled systems theory to build an impressive conceptual scheme accurate for the analysis of one aspect of social reality. The challenge is to take advantage of these gains, but to add to the analysis they make possible another approach of social reality, focused on agency; on the emergency and disappearance of forces.

One possible way of combining the two approaches is to admit, in a first step, that differentiation of social systems took place – and was an evolutionary success – precisely because it generates new types of differentiated social forces. The most obvious example: the differentiation of economy generates monetary power. Actually, recent stages in the process of functional differentiation could be interpreted as reactions against processes of concentration and uncontrolled growth of power generated within one differentiated social system in particular<sup>3</sup>. In a second step, we admit that forces generated within different social systems are likely to conflict with each other<sup>4</sup>, or, conversely, to reinforce each other. Forces generated by one system benefit from forces emerging in other systems, as far as there is some harmony between them, thus giving rise to a dynamics transcending the borders of differentiated systems<sup>5</sup>. Such composition of forces will be favoured by the existence of mechanisms of structural coupling between different systems.

The plausibility of a model of social reality combining in this way systems theory and theory of agency could be tested by its application to the process of differentiation of what could be named cultural social systems at the time of the Renaissance. This could be summarized as follows: new ways of practicing art and science gained momentum in a process both of intensification of artistic and scientific communication, and of intensification of individual intellectual work in these domains, intensification favoured by the establishment of a new type of organization, both giving a new social status to individuals, and creating arenas for a new type of communication: the academies<sup>6</sup>. I assume that Teubner had this kind of mechanisms and processes in mind when he wrote about the “production secret of functional differentiation” that lies in the interplay

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<sup>3</sup> See Teubner (2011, 2012), who suggests a parallel between the evolution of political systems in the early 20<sup>th</sup> century and the recent evolution of the financial system.

<sup>4</sup> This is the main idea inspiring Luhmann (1965), where functional differentiation is analysed as characterizing societies where totalitarian trends are less probable.

<sup>5</sup> References to such cases of composition of forces are to be found in Luhmann (2000, p. 133), under the topic of *Versäulung* (“forming of columns”): the forces which oppose two groups are the result of an accumulation of tensions existing on the different levels of multiple differentiated social arenas.

<sup>6</sup> The experience of the forces generated by these processes can be documented by the analysis of discourses held during the French Revolution, emphasizing the role of arts and philosophy in the recent progress of humanity. Elements of such an analysis in Guibentif (2013b).

between a functionally differentiated system and the “domain of spontaneity” that corresponds to it (Teubner 2012, p. 44).

This model could be applied to the work of Luhmann himself. Here we have a societal trend: the efforts to reconstruct Europe after the world war; scientific dynamics, in particular the forces generated by the conflict between critical and more technocratic approaches in the social sciences of the 1960'; an organizational trend: the setting up of new universities in Germany and in particular in Bielefeld; a special relationship between Luhmann and Helmuth Schelsky, one of the key players in the creation of the Bielefeld university; and, last but not least, Luhmann's own intellectual energy. The structural coupling between Luhmann's thought and the social context was warranted by his identity as author and scholar. It was intensified by systems theory, which establishes – just as all accurate theory of society should do – correspondences between facts observed and thoughts, and thereby between dynamics on these two levels. And systems theory was complemented on a more concrete level, one could argue, by the now famous *Zettelkästen*.

Such a model, here applied to science, may help to structure and justify systematically advices which could be given to individual researchers for the design of single projects or, more broadly, for strategic choices in their career: the challenge is to find correspondences between their personal interests<sup>7</sup> and issues in the current scientific debate, but also a vibrant organizational setting, a network of stimulating personal relationships, and, ideally some correspondence with pressing issues in non specialized broader public debates.

This model also could be used for discussing the performances of scientific organisations. The sustainability of a scientific organization could be appreciated in the light of its relationship to current societal debates, to the current development of science, to actual personal communities – sets of interactions –, and to the imaginative contributions of individuals. Here, however, it seems advisable to apply a more complete version of the model than it is the case for the discussion of individual projects. The latter is made comparatively easy, at least in a first approach, by the fact that the personality of a researcher may be considered as one of the main mechanisms of structural coupling between the social systems which play a role in scientific business. When it comes to a scientific organization, we could, in a first step, consider this important mechanism of structural coupling: the individuals involved. The question, on this level, is how organizations can link their own dynamics with current societal, interactional, and scientific dynamics through projects and experiences of individuals. In a second step, however, we should look for other possible mechanisms of structural coupling between organizations and interactions, science, and society.

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<sup>7</sup>We admit that individual interests are not directly conditioned by the social context in which individuals currently work. They may have roots outside this context – other contexts in which these individuals did participate in other times, or personal inspiration. At least since the end of World War Two, sociology deals with the challenge of combining its main hypotheses with the recognition of the potentials – institutionally recognized by human rights – of individuals. One particularly sophisticated attempt to meet this challenge is Talcott Parsons' theory of social action, which presupposes an actor free to choose values and priorities, an actor who has to be motivated if he is to participate in a collective endeavour. A remarkable recent effort to develop a theory of society based on the notion of free individuals, with explicit reference to Parsons, is Hommeth ([2011] 2014).

One additional specification still has to be included in this model. To speak about the “force of a system” (what we actually do: force of law – Bourdieu [1986] 1987 – force of an organization; force of a relationship – of a friendship, of a conflict) may refer to two different realities – probably in some cases linked to each other, but essentially different: on the one hand, the fact that what takes place within this system has a strong dynamic; communication is more or less intense, “vibrant”; on the other hand, the fact that what takes place within the system as a whole, i.e. the system itself, has more or less impact on its environment; let’s say: more or less “influence”. The differentiation of social systems contributes to both forces. On the one hand, it focuses and channels communication in a way that may stimulate it. In the case of cultural systems, it gives force to communication not only by intensifying a specific kind of communication, but also by contributing to the structural coupling between that communication and the mental activities of the participants, as well as, through that communication, between these different mental activities. On the other hand, it makes possible for communication in the environment of the system to refer to the system as a whole, as representing the diffuse universe of communications which it generates and identifies, as a motive for effective actions, or as an explanation of effective societal trends<sup>8</sup>. And it favours the social legitimization of a certain discourse (e.g. “science” as improving our knowledge of the world). We find all the elements of this reasoning and the recognition of both types of forces in two theories of society that suggest a direct relationship between these two types of forces. Bourdieu’s hypothesis of the way how fields generate social forces (the conflicts between the players in the field cause impression outside the field: Bourdieu [1986] 1987). And Habermas’s (1992, p. 187) hypothesis of the law as a mechanism which transforms communicational power generated within certain arenas in legitimate administrative power.

#### 4. SCIENCE, INTERACTIONS, SOCIETY, AND INDIVIDUALS IN THE HISTORY OF THE OÑATI INTERNATIONAL INSTITUTE FOR THE SOCIOLOGY OF LAW

The above outlined model could help interpret the process of creation and development of the Oñati Institute.

Several initiatives taken at that time suggest that this was a particularly dynamic period on the scientific level, in the field of sociology of law: publication of the *Dictionnaire encyclopédique de théorie et de sociologie du droit* (Arnaud [1988] 1993), and of *Developing Sociology of Law* (Ferrari 1990), organization of the Amsterdam Joint Meeting RCSL and Law and Society Association (1991), launching of the journal *Socio-Legal Studies* (1992). Within the scientific domain, this dynamics could have been favoured by, on the one hand, an intensification of empirical research linked to the more effective involvement of sociologists in socio-legal research, after a period during which socio-legally interested jurists did occupy leading positions in the field (Carbonnier in France, Ernst E. Hirsch in Germany, for example), and, on the other hand, to new works of more theoretically oriented authors, partly stimulated by this intensification of empirical research<sup>9</sup>. In the view of these facts, it is fair to say that sociology of law was at that time both a vibrant and, even if in a modest measure, an influential field. This is due,

<sup>8</sup> On the way systems create the conditions for the social construction of “actors”, see Luhmann ([1987] 1995, p. 113)

<sup>9</sup> In France, Bourdieu writes “The Force of Law” ([1986] 1987), inspired by the researches of younger colleagues such as Yves Dezalay, Anne Boigeol and Alain Baucaud. In Germany, Habermas writes the chapter of his theory of communicative action on the process of juridification (*Verrechtlichung*) inspired by recent empirical researches on this topic (Voigt 1980).

not only to scientific dynamics internal to this specific field, but also to dynamics within the related scientific domains: sociology in general and jurisprudence. In sociology the 1980' were the last years of more intense theoretical debates between schools of thought, in a certain way culminating in the work of Anthony Giddens (1984, Capeller 2011). In jurisprudence, this was a time when critical legal studies did inspire controversy (Kaluszynski 2010).

Interactions, in the procedures which led to the creation of the Institute, were favoured by the fact that the RCSL did at that time gather an international group of scholars who had succeeded in establishing a rather dense network of social relationships<sup>10</sup>.

These factors may have played a role in the emergence of the project of creating an organization more permanent and stable than a research committee of an international scientific organization. On a societal level, the strong interest of the Basque government in developing connections to international arenas, as well as to expertise in fields such as state building and responses to political violence, did correspond precisely to this organizational interests of scientists.

If the Institute eventually was created<sup>11</sup>, it is due to the fact that certain individuals did establish connections – couplings – between these social processes, and that the dynamics of these processes did correspond to their own personal agenda, scientific agenda for some of them, political agenda for others. The Institute did benefit, in its first period of existence, of the active and enthusiastic contribution of dozens of people<sup>12</sup>. It is fair to name here five persons: 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<sup>13</sup>, and André-Jean Arnaud, first scientific director.

So the creation of the Institute may be interpreted as the result of a composition of forces emanating from other systems: domains of science (sociology, jurisprudence, sociology of law), organizations (RCSL, the Basque government, the city hall of Oñati), and individuals.

Its development in the following years was sustained, to some extent, by these external forces (and was also conditioned by changes which occurred in the above mentioned systems). But it had also to find forces in its own organizational functioning. Before tackling this period, let us shortly characterize the Institute itself as an organization. It is indeed a rather special scientific organization for the following reason. Its permanent members are the staff and the scientific director. The scientific director is the only one of them who is at the same time full member of the organization and participating in the scientific community. Most of the time, however, we have to add to the hard core of the

<sup>10</sup> On the link between social relationship and interactions, let us remember Goffman (1983, p. 13).

<sup>11</sup> For details on the process of the Institute's creation, see in particular Gessner (1998).

<sup>12</sup> The best way to identify these people is to browse the contents of the Institute's early publications, in the first place the volume collecting the speeches delivered at the Institute's inauguration: Arnaud (1989).

<sup>13</sup> These connections are documented in the volume by Caballero Harriet (1986), which includes a contribution of Juan Ramón Guevara Saleta (1986) on the relevance of sociology of law for the Basque autonomous region.

Institute's full membership, a broad set of people contributing, for given periods, to the institute's organizational reality: master's students, lecturers in the master's programme, organizers and participants in workshops, visitors. The Institute, thanks to the routines developed by its staff, has found ways to make these people feel that, for the time they prepare their coming to Oñati, and for the time they are in Oñati, they are, in a certain sense, members of the Institute. One of the key factors of the Institute's success is certainly the way permanent and temporary members have learned, over the years, to participate in a very special, always changing organizational community.

Since the first days of existence of the Institute, its development has been sustained by the dedicated involvement of this complex community. In the first place its staff, responsible for its administrative management and for the material implementation of its different programmes; in chronological order of their launching: library and documentation centre, workshops, publications, master's programme. In the second place socio-legal scholars from many different countries, coming to the Institute and participating in its activities since its very first initiative: its inauguration ceremony. The energy devoted to these tasks and events was stimulated by the interplay between dynamics specific to both of these two components of the Institute's community. The scientific activities were stimulated by the experience of an efficient administrative and technical support. The Institute administrative performance was stimulated by the experience of an enthusiastic involvement from the part of visiting scholars. The most productive moments in the Institute's history were those in which effective dynamics on each of these two levels were clearly perceived on the other level and did impulse organizational performance as well as scientific activities.

A similar reasoning applies to the relationship between the Basque political sphere and the scientific community gathering at the Institute. An obvious difference to the relations between this community and the staff is that there is that no common space is shared. This gives special relevance to shared moments, such as, for instance, anniversary ceremonies. Here, however, the Institute's governing board can play the role of a mechanism of structural coupling. These mechanisms and occasions of mere contacts between the two worlds are obviously not enough: crucial for the Institute were moments in which, at these points of contact, corresponding interests were experienced: on the one hand, interest in working on socio-legal issues in a culturally, politically, and socially stimulating environment; on the other hand, interest in maintaining a link to relevant scientific expertise.

Highly important for the Institute's dynamics are also differences within the scientific community, and experiences of corresponding interests and wills in the contact between different components of that community: research interests from the world's different regions, and linked to different theoretical and political options, which meet, did confront or complement each other, at workshops, larger gatherings, or in the classroom of the master's programme.

##### **5. NEW DYNAMICS; NEW MECHANISMS OF COUPLING BETWEEN THEM**

The future of the Institute depends, in a first place, on favourable dynamics in the social worlds which participate in its existence and in its environment, and on its capacity to take advantage of these dynamics, favouring their composition into effective social forces. We should here pay attention to the two above distinguished types of social forces: dynamics

internal to these worlds, since they are likely to enter in composition with dynamics internal to the Institute; forces emanating from these worlds considered as a whole, likely to influence the Institute own functioning, but also external actions likely to support the Institute. Finally, now that the Institute has twenty-five years of existence, we also have to ask what force of its own as an institutional whole it has developed, and how such force could be strengthened.

### 5.1 DYNAMICS IN THE SOCIAL WORLDS SURROUNDING THE INSTITUTE

Let us start with the scientific world. Here we have to consider both how its structures did evolve and what changes these evolutions did bring about in terms of forces. Among others, four trends have to be emphasized.

The first trend which conditions contemporary science is the fact that it is much more strongly conditioned by the political agenda than it was in the last decades of the 20<sup>th</sup> century. Or perhaps we could say: there was a strong development of mechanisms of structural coupling between science and politics. Governmental agencies make now a much more intensive use of science in the design and monitoring of their policies. This evolution had a direct impact on socio-legal research. In Germany and Switzerland, for example, many papers presented at congresses, or published in journals, derive from this kind of research. In other countries, it seems to be more difficult to take advantage of this kind of research in work circulated and discussed within the scientific community. Networks involved in this kind of research could be encouraged to meet in Oñati; actually, they would strengthen lines of activity of the Institute of direct relevance for the Basque Government<sup>14</sup>.

The links between politics and science derives also from the fact that some media give now more relevance to scientific findings, even if implicitly, in the discussion of political or economical issues. This evolution, added to the demands of governments, did favour a second major trend in the structures of the scientific world: disciplines ceased to be the main structures. They are now challenged by streams of research and debate identified by issues. As far as this evolution is concerned, the Institute's situation is paradoxical. On the one hand, as an Institute in the Sociology of Law, it has a amazingly duplicated disciplinary identity: it belongs to one particular discipline in the social sciences: sociology; and it has links to jurisprudence. And, on both sides, it can aptly be characterized as belonging to a sub-discipline. But, on the other hand, if this field did develop, with these complex disciplinary coordinates, it was due to the fact that there were strong interests in the study, with practical ambitions, of rather specific and concrete issues: legal consciousness, access to law, normative pluralism, implementation of public policies, citizenship, etc. etc. This is a field open to the discussion of pressing issues, and able to renew and adjust its focuses.

For the Institute, this evolution means that it has to be particularly proactive in the identification of new issues in the scientific field, and in the opening of appropriate spaces of discussion of these issues in its organizational formats (master's courses, workshops, larger meetings, etc.), thereby elevating the probability for the Institute to host lively

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<sup>14</sup> At the 20<sup>th</sup> anniversary of the Oñati Institute, André-Jean Arnaud argued in favour of the involvement of the Institute in what he calls "policy intelligence", which corresponds exactly to what can be derived on this point from the present analysis. See also the workshop organized on this topic at the 2013 RCSL meeting in Toulouse, chaired by Thierry Delpuech and Jacqueline Ross.



debates on cutting edge issues. In the strategies of opening the expertise domain of the Institute to debates that have force in the public sphere, we should pay attention in particular to economics and philosophy. The crisis of the international financial system has triggered passionate discussion among economists, and intensified older tensions between them. On the other hand, partly as a consequence of changes in our political spheres, where the left-right divide has lost part of its former structuring power, debates of political philosophy are gaining momentum<sup>15</sup>. Both streams of debate are, in their substance, strongly linked to our research interests. People and networks specialized in these debates should be involved in the institute's activities. There are strong arguments in favour of such an involvement. Not only their reflections will certainly enrich socio-legal work; socio-legal scholarship offers, as a counterpart, training and capabilities in empirical research – as complementing in particular a philosophical approach, and in empirical research on phenomena economists are less familiar with: the existence of social groupings, cultural diversity, inequalities, collective and individual identities.

The third trend is the diversification of scientific institutions. In the 1980's, the time when scientific business did belong almost exclusively to universities and learned societies was coming to an end. Since then, new formats were put into practice. A sophistication of governmental scientific policies gave more relevance to new players: funding and evaluation agencies. Dynamics internal to the academic field or related to transformation of civil societies led to the creation of think tanks, institutes for advanced studies, as well as highly diverse kinds of research networks. The impact of these evolutions on the nature and contents of scientific activities is not easy to appreciate. One consequence might be formulated in the following terms: it became much more competitive, and the most important field where this competition takes place are the indexed journals, being the publication in such journals one of the major criteria of the evaluation not only of individual, but also organizational performance<sup>16</sup>. The launching, in 2007, of *Sortuz*<sup>17</sup>, and, in 2011, of *Oñati Socio-Legal Series*<sup>18</sup>, allows the Institute, in addition to the book series, to offer to those involved in its activities a possibility of publication in journals which corresponds to their current expectations.

Another possible strategy in the face of this evolution could be for the Institute, with the help of interested socio-legal scholars, to open some space for researches precisely on this topic: the regulation and organization of science. This would require cooperation with sociologists of organizations, social psychology, possibly cognitive sciences. But the study of this domain, highly sensitive to the scientific community, as well as to government – public and private – actually, could well take advantage of socio-legal expertise, with the knowledge it has developed in normative consciousness, law in the context of other regulatory tools, law and politics, etc.

The forth trend is the generalization of the use of personal computers and communication technologies. Apart from the dramatic changes in our day-to-day scientific business, this trend has given rise to new societal issues, as well as disciplines. Again,

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<sup>15</sup> At the intersection of these two lines, we have in particular the debates inspired by the work of Amartya Sen. See in particular Sen (2009), Nussbaum (2011). For developments in the French academic world, as an example: de Munck & Zimmermann (2008) and Bessy (2007).

<sup>16</sup> This trend could explain the fact that it has become increasingly difficult to publish edited volumes, which were, for years the most prestigious output of the Institute's activities.

<sup>17</sup> See its official website: <http://opo.iisj.net/index.php/sortuz/index>

<sup>18</sup> See its official website: <http://opo.iisj.net/index.php/osls/index>

sociology of law is rather well placed to take part in these debates (Larsson 2013), and the Institute would certainly benefit from initiatives addressing them.

## 5.2 FORCES OF THE SOCIAL WORLDS SURROUNDING THE INSTITUTE

Here we have to come back to the relevance of scientific disciplines nowadays, considering now, not their internal dynamics, but their social prestige. In general terms, social sciences have lost much of their appeal over the last years, and sociology of law is no exception. This leads actually to a paradoxical situation: the issues on which we work attract strong public attention and organizational demand, but at the same time, sociology of law as an academic field remains largely unknown.

Definitely, nowadays to be identified by a discipline does not anymore per se provide an institution with an appealing public image. This means that the *issues* which are discussed at the Institute have to be strongly highlighted. Ways have to be found, notably in the design of its website, to give them more relevance. This could help the Institute to take advantage from the public interest toward them, and, in connection with to some of them, to take advantage of the prestige of scientific disciplines which social position did less suffer over the last years than the one of sociology: philosophy, economics, political sciences, communication sciences<sup>19</sup>.

What does this mean for the reference to sociology of law in its label? Here we have to consider the three potentials of a label: firstly to clearly identify an entity; secondly, to link one entity to other entities with the aim giving it some of the prestige and influence of them; and thirdly, to favour internal dynamics. When the Institute was created, the first motive was the most important, but the second one could have played some role, too. Now, the second motive ceased probably to be relevant. On the other hand, the first one remains crucial. Indeed, issues nowadays change rapidly, and the Institute has to be in condition to adapt to these changes while maintaining a solid identity. The disciplinary identity, which defines an approach, not a precise issue, is likely to provide such an identity. The third motive is still relevant; actually, we could say that the history of the Institute's demonstrates its relevance. Scientific activity requires trained people, professionals, and strong links between these professionals. This is exactly what a scientific discipline offers - and up to now no convincing functional equivalent is in sight - a reference that helps organize findings into a coherent set of knowledge, set up training programmes, and facilitate personal contacts between professionals.

One additional justification for a disciplinary identity is that it does not designate a closed field, but a clearly marked place from where to connect with specialists of other domains. And we have already noticed at several occasions that the Institute should be a place for socio-legal scholars to meet with philosophers, economists, political scientists, specialists of computer sciences, and so on.

In general terms, the current situation could be summarized as follows: in the necessary interplay between science - an important social function in our society - and scientific

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<sup>19</sup> This was one of the motives for the RCSL to hold its 2013 annual meeting under the heading "Sociology of Law and Political Action". Another example of the accuracy of such a connection to political science is the success, in particular in France, of a "political sociology of law", which allowed sociology of law to benefit both of lively and inspiring debates currently taking place in its scientific neighbourhood, and of the prestige of political science. On these debates, see, among others, Commaille (2009).

organizations – necessary for the carrying out of science – science in general and its disciplines have lost social force; organizations have strengthened their positions. In such a context, the force of a scientific discipline depends on the way it is organized specifically as a discipline. The success, over the last decades, of economics, could be explained in the basis of this argument. Economics correspond, apart from university departments, learned societies, and journals, to a large set of specialized organizations, or organizational units. It is not by chance that one of the most influential newspapers in the world is titled *The Economist*. And it would be worth analysing why there is no such a thing as chief sociologists.

An ambitious strategy for the Institute, based on this situation, could be – as one among many other lines of actions, obviously – instead of counting on some additional prestige derived from the fact that it includes sociology in its label, to position itself as one organization which contributes, as organization, to the prestige and influence of sociology as discipline. This reasoning should be taken into account in the relations with the International Sociological Association. Sociology, as other disciplines, needs to be supported by the activities of organizations of new, imaginative formats, demonstrating on the ground the relevance of their scholarship. The IISL is, objectively speaking, a candidate for this role.

Now if it is true that we are living in a world where private and public organizations are the main players and source of influence (Belley 2011, p. 274), it is crucial for the Institute to rethink its position in today's world of organizations, and in particular in the world of scientific organizations. As far as non scientific organizations are concerned, ideal would to develop partnerships with sponsoring organization. As a non profit organization with a very strong international orientation, the IISL is a good candidate for enterprises seeking to improve their records in social responsibility. Partnerships with international organizations should remain an objective. There is a trend for international organizations in the sense of opening themselves up to civil society. Again, the IISL has the profile of an organization likely to represent, even if it is in a specific domain, a global civil society. As far as scientific organizations are concerned<sup>20</sup>, ways have to be found to more clearly identify the Institute as a scientific organization of a specific kind. After twenty-five years, it should be possible to give it a clear qualification. Since it worked productively over these years, being neither a conference centre nor a research institute, what is it exactly? A clear statement on this point could improve its legitimacy and favour alliances with other organizations.

### 5.3 THE FORCE OF THE IISL ITSELF

Up to now we have surveyed forces generated outside the Institute, likely to give momentum to its own forces, or to be combined with them. It is now time to address the Institute's own forces. And we have to discuss here these two kind of forces: the dynamics which take place within the Institute, and the force of the Institute as whole.

We all know how effective are the dynamics which sustain the Institute's functioning: the competent work of its staff; the initiatives of those who organize workshops; the contributions of the participants in the workshops; the inputs of the master's programme

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<sup>20</sup> The establishment and strengthening of a network of institutional relations between scientific organizations of different types was the main purpose of the launching of the World Consortium on Law and Society. See <http://lawandsocietyworld.org/>

faculty; the training efforts and researches carried out by the students of this programme; the writing efforts of contributors to the Institute's publications. A clearer link between the Institute's functioning and individual work could be established, as far as I can see, in the case of people visiting the Institute. Their number has considerably risen over the last years. They come to the Institute to take advantage of its exceptional documentary resources, as well as, more occasionally, of activities taking place at the time of their visit, valuable for their work in progress. The work resulting from their stay in Oñati is also a work resulting from the Institute's functioning.

These different lines of activities are likely to take advantage from stimulation from the part of the Institute's environment, but they also benefit from contacts between them. This may have been improved over the years, but for some time, it was one of the important organizational challenges faced by the Institute: how to maintain effective links, as stable as possible over time, between these activities, while maintaining also the autonomy of these different lines? The person best placed for encouraging such links, in the current organizational design, is the scientific director. One institutional device likely to support and complement the scientific director's work in these matters could be a kind of scientific advisory board, which could produce reports on the Institute's different activities, from a scientific point of view, but above all, highlighting cross cutting trends, correspondences between the different lines of activities; possibly suggesting fruitful occasional connections between them. The same procedure could be an opportunity to identify possible fields of development, considering the emergence of new issues of debates, or relevant developments in neighbored scientific disciplines or domains. In other words, it would operate as a mechanism of structural coupling, not only between the Institute's components, but also between the Institute as an organisation and science as a differentiated social system.

The design of such an organizational body rises many political and practical questions, which discussion belongs ultimately to the Institute's Governing Board. But it would be worth evaluating carefully costs and benefits. Costs could be maintained on a fairly low level, taking advantage of communication technologies. Members of such a body should visit the Institute from time to time, but it could be not more than every two years. Its major benefit would be to provide a global picture of the Institute's working, likely to motivate its members and to contribute to its public promotion. Its membership could allow the Institute to give publicity to its interdisciplinary commitment, and to strengthen alliances with other scientific organizational players. In a first version concluded with the mention of strengths, weaknesses, and recommendations, its reports would be instruments of self-evaluation, which would enhance the institutional legitimacy of the Institute as a scientific organization.

This brings us to the force of the Institute considered as a whole. It depends crucially on its visibility. The improving of its website over the years, the diversification of its publication lines, the launching of *Sortuz* and of *Oñati Socio-Legal Series*, the circulation of its electronic newsletter have contributed to improve this visibility. The work of a scientific advisory board could also help in this sense.

Another mechanism which could be useful here would be a clear definition of the status of Fellow of the Oñati Institute. A possible solution would be to give this title for a limited duration – one year? – to people actively participating in one of its activities (term to be renewed after every new participation). A list of former fellows could also be maintained. Such a definition would provide the Institute with a clear notion of the community

currently involved in its activities, and enable it to display names. On the other hand, it could encourage people concerned in identifying themselves as linked to the Institute, notably in their publications.

One last point. Definitely, the Institute's most valuable asset is to offer excellent conditions for tackling one of the most pressing cognitive challenges of our time: to understand the processes of globalization and Europeanization<sup>21</sup>. For the time being, national governments and public opinions seem to be rather reluctant in fully recognizing the relevance of these issues and the need of accurate knowledge on them, to be updated permanently. But demands certainly will increase. The Institute should be ready to meet them, and all those who support it have here a strong reason for contributing to its forces.

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<sup>21</sup> For a recent case for globalization and europeanization as challenges specially for sociology, see Beck (2012). This argument was developed in particular in his opening address the 2014 Conference of the Portuguese Association of Sociology.

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