



OÑATI INTERNATIONAL INSTITUTE
FOR THE SOCIOLOGY OF LAW

—
OÑATIKO LEGE-SOZIOLOGIAKO
NAZIOARTEKO ERAKUNDEA

—
INSTITUTO INTERNACIONAL
DE SOCIOLOGÍA JURÍDICA DE OÑATI

WORKSHOP ON: The influence of Media and the influence of New Technologies on Law: Socio-Legal Approach

Coordinators:

Iker Nabaskues Martínez de Eulate (University of the Basque Country/EHU, Department of Administrative, Constitutional and Philosophy of Law) and **Francisco Javier Fernández Galarreta** (University of the Basque Country/ EHU, Department of Public Law)

4 – 5 May 2023

Programme

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

Wednesday 3rd May

Arrival

21:00 Dinner in “Restaurante Iturritxo” for the participants [Street: Atzeko Kalea, 32]

Thursday 4th May

09:45-10:00 Registration at the International Institute for the Sociology of Law (*1st floor*)

10:00-10:30 Welcome and Inauguration

Sabine Frerichs, Scientific Director of the Oñati International Institute for the Sociology of Law

Leire Kortabarria, IISL Publications officer

Moderator: Iker Nabaskues Martínez de Eulate, Lecturer Legal Theory, University of the Basque Country, Department of Administrative, Constitutional and Philosophy of Law of the Faculty of Law

SESSION 1.- OPENING CONFERENCES

Morning sessions

Moderator: Iker Nabaskues Martínez de Eulate, Lecturer Legal Theory, University of the Basque Country, Department of Administrative, Constitutional and Philosophy of Law of the Faculty of Law

10:30-11:00 Opening conference. *Character development and legal message in popular culture*

Speaker: Stefan Machura, Professor of Criminology and Criminal Justice, Bangor University

A typical narrative pattern in law-related popular culture involves a problem-solving individual encountering and overcoming various obstacles. In many products such as films, TV series, or operas, the character of the protagonist develops in response to challenges. Witnessing this process, the audience is suggested a message on the nature of the law, legal personnel, and legal institutions, in the final analysis, if law can be trusted.

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

11:30-12:00 **Presentation. *Between suspicion and trust. The judge in Italian cinema and television***

Speaker: Ferdinando Spina, Associate professor of Sociology of Law, Department of Human and Social Sciences, University of Salento

The paper deals with the insight, originally expressed in the book *The judge on the screen* by Vincenzo Tomeo, that in order to understand the ambivalent perception of the judiciary in democratic societies, cultural analysis is needed. Focusing on the representation of the judge in Italian cinema and television, the paper highlights the link between the media's view of the judge and the historical and legal context in which the Italian judiciary has developed. The ways cinema and television have portrayed the judge provide us with perspectives on how Italian society has considered the judiciary role, status, and legitimacy. Such representations in popular culture become more significant in those historical moments when the legal culture experiences a profound change.

12:00-12:30 **Presentation. *Cancel culture and due process of law. The use of social media against constitutional rights***

Speaker: Flavia Carbonell Belloio and Jesus Ezurmendia Alvarez, Director of the Procedural Law Department and procedural law lecturer. Faculty of Law, University of Chile

Throughout the last few years, the social media culture has become one of the most relevant platforms for massive communication on a worldwide scale.

Additionally, this period has witnessed the rising of several contemporary causes, such as gender equality movements, LGTBI+ awareness, etc. Furthermore, the 2020 pandemic drastically contributed to enhance the phenomenon: everybody was compulsory locked down in their houses. Life began to unfold within walls and many persons sheltered themselves in social networks.

This scenario was a breeding ground for several social pathologies. One of them was the growth of the “cancel culture” or call-out culture, an occurrence which consists of publicly discrediting someone for a saying or conduct, with or without evidence, and condemning him/her to ostracism. Thus, it is enough a social media publication with offensive content (e.g., accusing someone of committing wrongdoing) to generate a wide range of chain reactions and, subsequently, a massive public shaming crusade. Consequently, the “cancelled” loses not only “social currency”, but also friends, family support, job, and reputation, even when the content of the publication is false. But the cancel culture does not affect only immaterial personal attributes, it can also lead to “doxing” (public provision of personal information via internet) and this, in turn, can lead to threats, harassment practices, and danger to life. As a justification, it has been said that, since the response of judicial systems is considered to be ineffective and late, and since there are so many barriers to access to justice, shunning is the only available option. The

speed of these “trials by media” does not leave time for the offering of evidence, nor for arguments supporting the ascription of a misconduct to the cancelled. As noted, these “trials” are far different from what we understand today as a judicial process. Not every practice of judging conduct constitutes a trial, nor any way of regulating a decision-making process. There are minimum conditions, both organic and procedural, that must be fulfilled so we can predicate a certain practice that it is a proper judicial process, or more precisely, a fair trial. The right of defense, which has no place in these popular trials through the media, is one of the most important elements of a due process of law.

In Chile, these practices of cancellation have led to judicialization, which followed two paths: on the one hand, the “cancelled” (i.e. the subject publicly shamed) fills a criminal complaint (defamation) against the author of the publication, if known; on the other hand, the cancelled asks for the judicial protection of his fundamental rights (right to honor, right to personal image, personal data).

12:30-13:30 Debate

13:30 Lunch [Cantina Zapore]

SESSION 2.- THE INFLUENCE OF MEDIA ON LAW

Afternoon sessions

Moderator: Iker Nabaskues Martínez de Eulate, Lecturer Legal Theory, University of the Basque Country, Department of Administrative, Constitutional and Philosophy of Law of the Faculty of Law

15:30-16:00 Presentation. *Law and Popular Culture: the need for fresh approaches*
Speaker: Peter Robson, Professor of Law, University of Strathclyde, Glasgow

At the start of academic interest in law’s image in popular culture two simple alternative focuses could be observed. One simply raided film, television and fiction to find illustrations of legal concepts, principles and practice to enliven classical teaching. Another focus was on the role of “great” films or TV series in engendering an interest in law and justice. As interest developed amongst scholars’ theories were addressed in terms of what the actual nature and function of the study should be. This then engendered an interest in the impact of what these “law” films might be and empirical work emerged. A little later the academy broke away from the obsession with film and started to expand these questions into television. More recently the academic interest has also included “alternative” approaches to justice. The expansion into theory and empirical studies and the broadening of focus away from film has enriched the field. There is, however, a new problem. The radical changes in the nature of how popular culture is consumed in the 21st century poses major problems for any attempts to assess the impact of popular culture on people’s attitudes and actions. How scholars go forward and in which direction has to be addressed. Is it time for a revival of Vincenzo

Tomeo and his pioneering approach or will the attraction of film criticism prove irresistible?

16:00-16:30 **Presentation. *Automation and the future of work. A qualitative content analysis of its representation in contemporary movies***

Speaker: Pedro Javier López Cuéllar, Doctoral Student at the University of the Basque Country (UPV/EHU)

Automated futures? Since the purpose of this presentation is to discuss the automation of work in commercial cinema, the reflection of this presentation will focus on the idea of future automation of the working force. For this purpose, and beforehand, a brief reference to the concepts of automation and future will be made.

16:30-17:00 **Presentation. *Judicial reasoning, transhumanism and empirical generalizations***

Speaker: María de los Ángeles González Coulon, Procedural law lecturers, University of Chile

This paper defends the thesis according to which the current state of the conditions for the production of conclusions about facts presumes the existence of devices that have turned justice into transhuman justice. It is not possible to distinguish intelligence from the so-called "artificial intelligence" in the context of judicial evidentiary rationality. This is especially the case with respect to empirical generalizations. That within a process allows us, with a certain level of reliability, to reconstruct the past in order to define the present and also to anticipate the future. Currently, the influence in the social life of devices that replace the memory of people and of mechanisms that make it possible to replace "human" reasoning by types or forms of execution of such reasoning is always supported by the use of machines. We are now at a point where justice is openly transhuman. The most common judge, today in world, reasons by generalizing upon the existence of technological mechanisms that influence his/her judgments.

17:00-17:30 **Break**

17:30-18:00 **Presentation. *When the Wanninkhof case turned into the Dolores Vázquez case***

Speaker: Iker Nabaskues Martínez de Eulate, Lecturer Legal Theory, University of the Basque Country, Department of Administrative, Constitutional and Philosophy of Law of the Faculty of Law

The Wanninkhof case is known as the most serious case of miscarriage of justice in contemporary Spanish history. In fact, the case was known by the name of the victim, Rocío Wanninkhof, but ended up being the "Dolores Vázquez" case, the name of the person who was arrested, imprisoned, tried and found guilty by a popular court. The media lynching to which Dolores Vázquez, a friend of the Wanninkhof family, was subjected, led to the guilty verdict. Almost 25 years after those episodes, the Spanish channel Telecinco produced a documentary series, promoted by a journalist who covered the case for her media outlet. The

documentary can be seen as a means of civil restitution for the convicted woman, whose after-effects have not disappeared.

18:00-19:00 Debate

Friday 5th May

SESSION 3.- THE INFLUENCE OF NEW TECHNOLOGIES ON LAW

Morning sessions

Moderator: Francisco Javier Fernández Galarreta, Lecturer of Procedural Law UPV/EHU

10:00-10:30 Opening conference. *Will our traditional institutions of Law work in the metaverse?*

Speaker: Joxerramon Bengoetxea Caballero, Professor Legal Theory, University of the Basque Country, Department of Administrative, Constitutional and Philosophy of Law of the Faculty of Law

10:30-11:00 Presentation. *Transhumanism: beyond the t-800 and the replicant*

Speaker: Iker Nabaskues Martínez de Eulate, Lecturer Legal Theory, University of the Basque Country, Department of Administrative, Constitutional and Philosophy of Law of the Faculty of Law

The Transhumanism cultural and philosophical movement, led by Nick Bostrom, is one of the most interesting movements to gauge the limits and scope of advances in artificial intelligence. Historically, the scientist who wanted to go "beyond" with his discoveries has been artistically portrayed on many occasions by creators such as Mary Shelley, Jules Verne or more recently, in the 20th century, the American writer Philip K. Dick. The future of transhumanism is unwritten. It may resemble the Terminator T-800 or the Blade Runner Replicant. There are no answers yet, only questions. But the debate about the questions about artificial intelligence is open and has profound philosophical, moral and cultural implications.

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

11:30-12:00 Presentation. *Regulating ticket touting*

Speakers: Guy Osborn and Mark James, Professors Westminster Law School, University of Westminster

The ticket market is a complex and fragmented one. This paper focusses upon the increasingly important and problematic area of the secondary ticket market, examining technological impacts and nonlegal approaches to policing tickets, looking at responses across a number of jurisdictions. In a post covid landscape the role of tickets is ever more important, with the tickets ability to track and trace a new dimension to be considered when interrogating the practice of scalping. The paper draws on preliminary research findings and will present strategies and methodologies for further interrogating the issue.

12:00-12:30 Presentation. *Reflections on the permanent tension between freedom of information and expression and the right to "be forgotten" of the convicted person*

Speaker: Dr. Mikel Anderrez Belategi, Lecturer of Criminal Law UPV/EHU
In the field of penal intervention, the explosion in the use of ICTs has led to an extraordinary expansion of the scope of dissemination of information on the convicted person's past. Beyond the classic debate on criminal records and post-sentence state intervention, new private actors are emerging who condition the reintegration process of the convicted person. This contribution aims to address the fundamental keys of a discussion marked by the permanent tension between freedom of information and expression and the right "to be forgotten" of the convicted person.

12:30-13:30 Debate

13:30 Lunch [Cantina Zapore]

SESSION 4.- THE INFLUENCE OF NEW TECHNOLOGIES ON LAW SECOND PART

Afternoon sessions

Moderator: Francisco Javier Fernández Galarreta, Lecturer of Procedural Law UPV/EHU

15:30-16:00 Presentation. *Phenomenological and social impact study of hate exposure on the Internet*

Speaker: Dr. Iñigo Gordon Benito, Lecturer of Procedural Law UPV/EHU
This paper approaches the study of the social impact of hate exposure on the Internet from a phenomenological perspective, making a legal-criminal approach to the incursion on the matter.

16:00-16:30 Presentation. *Online hate crimes: impact on their direct victims from a criminological point of view*

Speaker: Uxue Martín Silva, Doctoral student at the UPV in the department of public law, Criminal Law area, fellow with a scholarship from the Basque Government

This presentation makes an analysis of online hate crimes, and the impact that they produce on their direct victims from a criminological point of view, making a comparison with respect to the impact that hate crimes committed offline produce.

16:30-17:00 Presentation. *"To wield a hammer one must make a fist": Penal populism as the intersection amidst right-wing parties and institutional feminism*

Speaker: Itziar Altuzarra and Deo Szpiga, Doctoral students at the UPV/EHU in the department of public law, Criminal Law area

The paper studies the rightward shift of criminal discourse on patriarchal violence. To this end, through critical discursive analysis of different sources (hegemonic and alternative audiovisual media, political discursive trends on Twitter, etc.), we explore the following questions:

What is the communicative strategy that allows and legitimizes the alignment of Spanish institutional feminism with penal populism? How does current punitive marketing work through social networks? What are the discourses contesting punitivism from feminism itself and what is its presence in the media and social networks?

17:00-17:30 Break

17:30-18:00 Presentation. *The impact of artificial intelligence on legal professions*

Speaker: Francisco Javier Fernández Galarreta, Lecturer of Procedural Law UPV/EHU

The purpose of the following presentation is to analyze the progress of AI based technologies, which are allowing the automation of a multitude of tasks that are currently performed by different operators and legal professionals, which will cause that many of these services and routine tasks will be developed by machines, with the consequent loss of prominence of these professional groups.

18:00-19:00 Debate

19:00 Official Closing.

Joxerramon Bengoetxea Caballero, former Scientific Director of the Oñati International Institute for the Sociology of Law. At present, Professor Legal Theory, University of the Basque Country, Department of Administrative, Constitutional and Philosophy of Law of the Faculty of Law

End of session