Workshop on Evaluating Judicial Performance
9-10 May 2013

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The judiciary and the courts are essential legal, social and political institutions. Judicial officers are sometimes the focus of negative public comment and scholars have identified declines in public confidence regarding the judiciary. Yet questions about judicial performance and evaluation are complex and not capable of easy analysis within a single jurisdiction. International research on this important issue is especially challenging, as judicial selection and appointment processes are very different across democratic and democratizing nations.

On 9-10 of May 2013 an international group of twenty-two judges, law academics and social scientists gathered at the International Institute for the Sociology of Law (IISJ) to participate in a Workshop on Evaluating Judicial Performance. The IISJ, located in Oñati, in northern Spain, was established by the International Sociological Association’s Research Committee on the Sociology of Law and the Government of the Basque Country in 1988 (see www.iisj.es). The Institute maintains academic links and collaborative relations with several universities and provides facilities for seminars, workshops, visiting scholars and library research as well as offering a Master’s programme in the Sociology of Law. Annually, from April to July it holds weekly workshops which are the result of a competitive selection process. Applicants to host a workshop propose topics and invite participants.

The Workshop on Evaluating Judicial Performance was held in collaboration with the Academy of the Social Sciences in Australia with support from ASSA’s International Programs Committee and received sponsorship from the (US) National Center for State Courts. The conveners of the workshop were: Sharyn Roach Anleu FASSA and Kathy Mack, Flinders University, David Rottman and Jennifer Elek, National Center for State Courts, USA, and Francesco Contini, Instituto di Ricera sui Sistemi Giudiziari, Consiglio Nazionale delle Ricerche, IRSIG-CNR (Research Institute on Judicial Systems, National Research Council of Italy). Local administrative assistance and advice were provided by Malen Gordoa Mendizabal and José Antonio Goyenaga Yurrebaso.

Participants came from nine different countries, and six different languages, and included early career researchers. In preparation for the Workshop, participants provided summaries of how judges are evaluated in eight of the countries represented. The program is provided at the end of this report in a separate document and available at http://www.iisj.net/iisj/de/workshop-calendar-2013.asp?nombre=7014&cod=7014&sesion=1347

All presentations and formal discussions occurred in English. With the exception of the Scientific Director of the Institute, all participants were in an environment and physical location that was not their own, and sometimes far away geographically. This presented a unique opportunity for open and robust dialogue between judges, scholars and practitioners on a challenging topic, especially as in many judicial systems, judicial performance is a private and personal matter rather than one of external evaluation. Discussions continued informally during the collective breakfasts, lunches and dinners.
The workshop commenced with an evening welcome reception held at the Residence where most of the participants were staying. Each of the two full workshop days included four sessions. Each session involved presentation of two papers with comments from a designated discussant, followed by a group discussion. Full draft papers had been provided to all participants in advance, so that presenters only gave ten-minute overviews of their research, followed by the discussant’s observations. The general discussion in each session was open, in-depth and lively, involving all participants. This format provided a more enriching and valuable experience than the typical conference presentation where there is often little opportunity for sustained dialogue.

The Workshop tackled the conceptual issues associated with defining good judging and the purposes of evaluating judges, and asked such questions as: What values are central to the judicial role? What knowledge, skills, abilities, and other qualities are important to judicial performance? What does scholarship tell us about judging and judicial performance? Subsequent sessions examined challenges in measuring judicial performance, the extent to which existing evaluation programs can capture what it means to be a judge, and the potential for developing multi-method evaluation programs. A separate session discussed the nature and desirability of linking evaluations of individual judges with evaluations of the court system. One session explored potential ways in which results from performance evaluation can be incorporated into educational and other programs designed to promote improvements in the quality of the judiciary.

The exchange of ideas highlighted the diverse approaches to evaluating judges found in the countries represented at the Workshop, and raised questions about the feasibility and desirability of abstracting evaluation systems from their national contexts. Nonetheless, there was general agreement that some issues associated with evaluating judges are global in nature, such as shared concerns over judicial independence and impartiality, transcending differences between-legal systems. Significant points of disagreement also emerged. Some participants were not persuaded that evaluating individual judges is desirable, noting potential unintended consequences for the judiciary as an institution. There also was disagreement on the boundaries of what is and what is not appropriate to include for evaluation purposes (e.g., courtroom behaviour only versus a broader investigation of the judicial role). Participants debated the respective merits of qualitative and quantitative approaches to evaluating judges and the manner in which social scientists should participate in judicial evaluations.

Papers from the Workshop will be published in a forthcoming special issue of the *Oñati Socio-Legal Series*, an international peer-reviewed journal. In addition, special panels addressing issues of judicial performance evaluation will be organised for the Law and Society Association annual meeting to be held in Minneapolis, USA, in 2014.

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