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Zooming In, Zooming Out: Socio-Legal Trajectories between Country Studies and Scholarly Self-Reflection



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I. THE AIM OF THE BOOK

THIS BOOK IS the result of a workshop we organised in April 2023 in Oñati (Gipuzkoa), Spain at the International Institute for the Sociology of Law (IISL). We invited scholars from across Europe and encouraged them to investigate, self-reflectively, what they were doing as socio-legal scholars, what motivated the questions they were asking and the methods and theories they were using. Furthermore, and as if that wasn't enough of a challenge, we also asked for this reflection to occur against the backdrop of the legal and academic context in which they worked, inclusive of considering its distinct historical trajectory. In short, we were looking for contributions that overtly connected the individual scholar with their own intellectual, institutional and political context, which is to say, to those things that have influenced them, and to which they have responded or reacted. Our contributors were invited to ponder questions like: What is the relationship between a socio-legal scholar's academic biography and the intellectual and institutional context(s) in which they have been socialised? How do their personal and disciplinary trajectories align, intersect or collide? What were the main influences on their work? These are the questions explored in this volume, articulated by and through the voices of socio-legal scholars telling their own stories.

In this introductory chapter, we take this opportunity to share insights that arose from discussions at our Oñati workshop. First, we provide a theoretical underpinning for those questions to contributors, as listed above. We then outline the theme of the book, noting its deliberate situation at the intersection of biographical and socio-historical narratives. We bring together this book's

unique stories through a heuristic framework; for pragmatic reasons, this framework takes primarily a European comparative perspective.¹

II. COMBINING MICRO- AND MACRO-PERSPECTIVES ON SOCIO-LEGAL STUDIES

We are interested in comparing what we refer to as different ‘socio-legal trajectories’ across Europe. Before we explain what we mean here by the term ‘trajectories’, the more substantial conceptual challenge is to clarify what we mean to encompass through our intentional reliance on the term ‘socio-legal’. As Liora Israel notes in her chapter, “Socio-legal studies” do not translate easily into French, for example. In relation to traditional boundaries in the national academic world, the sociology of law has been the closest field of research to such interdisciplinary approach’.² Israel continues to observe that these two labels in fact emphasise different things, for example: ‘the sociology “of” law indicates a direction, from sociology to law, the latter being the subject of inquiry of the former’.³ Socio-legal studies, by contrast, is less disciplinarily specific and so more inclusive. In a similar vein, Marta Bucholc insists ‘on distinguishing the sociology of law (in Polish: *socjologia prawa*) from socio-legal studies ..., despite the fact that in daily academic circulation the two expressions tend to be almost synonymous’. Bucholc understands socio-legal studies to be those ‘studies of law having an empirical component demonstrably anchored in the theories and methodologies of social sciences, as opposed to purely speculative philosophical reflection or to legal dogmatics’.⁴ This operative distinction also exists in the UK,⁵ although the comparatively minor role played by sociology of law research and scholarship contributes to its subsumption under the ‘big’ umbrella of socio-legal studies.⁶ It is in Bucholc’s broadly inclusive sense that we employ the term, although not with the aim of achieving conceptual or definitional clarity. Rather, we hope to contribute to a more nuanced and differentiated use of ‘socio-legal studies’, ideally one that is less obviously Anglo-centric in origin.⁷

¹ For a more systematic inquiry into a sociology of law in Europe, see Volkmar Gessner and David Nelken, ‘Introduction: Studying European Ways of Law’ in Volkmar Gessner and David Nelken (eds), *European Ways of Law. Towards a European Sociology of Law* (Oxford, Oñati International Series in Law and Society, Hart Publishing, 2007).

² Israel, p. XX.

³ Israel, p. XX.

⁴ Bucholc, p. XX.

⁵ Roger BM Cotterrell, ‘Law and Sociology: Notes on the Constitution and Confrontations of Disciplines’ (1986) 13 *Journal of Law and Society* 9.

⁶ J Hendry, ‘One Umbrella or Two? Comparative (Socio-)Legal Studies in light of Globalisation’ (2021) 16(2) *Journal of Comparative Law* 552–68, 534–35.

⁷ A more practical reason for continued reliance on ‘socio-legal studies’ is that this edited collection arose in conjunction with a research project that compares socio-legal studies in the UK with *Rechtssoziologie* (sociology of law) in Germany, and terminological continuity was preferable. See www.lhlt.mpg.de/2512903.

As for ‘trajectories’, this term denotes two aspects – macro and micro – of the same idea, that is, a pathway or progressive direction. On one hand, we look at the distinctive ways in which ‘socio-legal studies’ has developed in different jurisdictional academic contexts. On the other hand, we allow the individual biographical narratives of the authors to feature in the story. This juxtaposition of the societal and the individual facilitates a unique perspective – unique insofar as no previous systematic attempt has been made to unite analysis of the histories of socio-legal studies with scholarly self-reflection and biographical narrative. Within both comparative social science and comparative law approaches there are ongoing debates about the value of purportedly objective, macro-sociological, bird’s-eye view country case study comparisons and narrations of the development of socio-legal studies in different geographies.⁸ By contrast, studies in scholarly self-reflection – represented by autobiographical and autoethnographical accounts – focus on the individual, typically subjective, experience. Our approach both builds upon and combines the approaches taken across these literatures, and represents an attempt to blend two levels of observation: the macro-, bird’s-eye view of academic cultures and geographies, and the micro-level, introspective observation provided by scholarly self-reflection.

A. Comparative Socio-Legal Case Histories

As Roger Cotterell remarks, the ‘comparative history of sociology of law is yet to be written, and to write it would certainly be a massive task’.⁹ While an extensive body of scholarship exists that reflects on the nature of legal sociology, ‘socio-legal studies’ or ‘law and society’ approaches,¹⁰ identifying what links these research fields remains a challenge. Defined mainly by their opposition to traditional doctrinal approaches and their interdisciplinary nature,¹¹ their relationship with the ‘traditional’ contributory academic disciplines, such as law,

⁸See for a discussion of the debate in the social sciences Lesley Bartlett and Frances Vavrus, *Rethinking Case Study Research: A Comparative Approach* (Abingdon, Taylor & Francis, 2016); on objectivity in comparative law, see Günter Frankenberg, ‘Critical Comparisons: Re-Thinking Comparative Law’ in Maksymilian Del Mar, William Twining and Michael Giudice (eds), *Legal Theory and the Legal Academy* (Abingdon, Routledge, 2017).

⁹Roger Cotterell, ‘The Place of a Stepchild: Notes on the Establishment of Modern Sociology of Law’ in Håkan Hyden and others (eds), *Combining the Legal and the Social in Sociology of Law: An Homage to Reza Banakar* (Oxford, Hart Publishing, 2023) 47.

¹⁰Just a few classic examples of many: Richard L. Abel, ‘Law and Society: Project and Practice’ (2010) 6 *Annual Review of Law and Social Science* 1; Carroll Seron, Susan Bibler Coutin and Pauline White Meeusen, ‘Is There a Canon of Law and Society?’ (2013) 9 *Annual Review of Law and Social Science* 287; Dermot Feenan (ed), *Exploring the ‘Socio’ of Socio-Legal Studies* (London, Palgrave Macmillan, 2013); Brian Z. Tamanaha, *Realistic Socio-Legal Theory: Pragmatism and a Social Theory of Law* (Oxford, Clarendon Press, 1997).

¹¹Naomi Creutzfeldt, ‘Traditions of Studying the Social and the Legal’ in Naomi Creutzfeldt, Marc Mason and Kirsten McConnachie (eds), *Routledge Handbook of Socio-Legal Theory and Methods* (Abingdon, Routledge, 2019).

sociology or political science, is very much dependent on local factors, as development of these disciplines has historically happened within the confines of the nation-state. The reason for this is that scientific discourses mainly emerged in, and were channelled through, nationally organised academic institutions, which provided the material grounds and resources for them in the form of academic employment. These institutions organise teaching and/or research in subdivisions that usually take the form of academic disciplines,¹² with the result that the way(s) in which these institutions and disciplines have developed has a profound impact on the type of knowledge that was and is being produced. At the same time, this development is historically highly contingent and generally little known or understood outwith the particular communities in question, or not at all. While there is a well-established line of research on the history of sociology in various countries,¹³ there have been relatively few initiatives collecting single-country studies on socio-legal studies, broadly defined.¹⁴ Notable exceptions include a series in the *International Journal of Law in Context*¹⁵ or occasional articles in the *Journal of Law and Society*,¹⁶ but these have been largely factual and descriptive. Until now, there has been no attempt systematically to compare these case studies. Regarding both the history and contemporary circumstances of socio-legal studies, we are at the very beginning of such systematic comparison.

From a socio-legal perspective, the question is whether socio-legal comparative methodology¹⁷ can be said to provide tools for the comparison of socio-legal trajectories themselves. We believe that it does and we employ the contributions in this volume in the joint endeavour of achieving and illustrating such a comparison. To this end, in section III, we suggest heuristic categories that could structure systematic comparisons.

Case studies usually tell histories in an ‘objective’ way, particularly if they are encyclopaedic. However, it is difficult to deny that any such attempt entails the need to make practical decisions on what to report and what to omit.¹⁸

¹² Paul Trowler, Murray Saunders and Veronica Bamber (eds), *Tribes and Territories in the 21st Century: Rethinking the Significance of Disciplines in Higher Education* (Abingdon, Routledge, 2012).

¹³ See, for example the book series ‘Sociology Transformed’ (since 2014), edited by Holmwood and Turner (Springer).

¹⁴ See R Treves and JF Glastra Van Loon (eds), *Norms and Actions: National Reports on Sociology of Law* (Dordrecht, Springer Netherlands, 1968) for an early compilation.

¹⁵ See David Nelken, ‘Law in Other Contexts: A New Initiative for the Journal’ (2012) 8 *International Journal of Law in Context* 133, with contributions by Israel on France, Hammerslev and Madsen on Denmark, Machura on Germany and Murayama on Japan.

¹⁶ With contributions by Campbell and Wiles on Britain (1975), Noreau and Arnaud on France (1998), Economides on New Zealand (2014), Bora on Germany (2016), Colson and Field on France (2016), Skąpska on Poland (2019) and Wheeler on the UK (2020).

¹⁷ Naomi Creutzfeldt, Agnieszka Kubal and Fernanda Pirie, ‘Introduction: Exploring the Comparative in Socio-Legal Studies’ (2016) 12 *International Journal of Law in Context* 377.

¹⁸ See Boaventura de Sousa Santos, ‘Law: A Map of Misreading. Toward a Postmodern Conception of Law’ (1987) 14(3) *Journal of Law and Society* 279–302.

That decision is necessarily a subjective choice, irrespective of whether decades of disciplinary history have to be squeezed into an article or can be examined in a book-length study. This is not necessarily a defect of country case studies, especially since the inherent subjectivity of any scholarly activity outside the methodologically rigorous ‘hard sciences’ is well understood and can be accounted for.¹⁹ However, as we argue in the next section, if used in a conscious and transparent way, the subjectivity and social embeddedness of an author might also contribute profitably to comparison.

B. Scholarly Self-Reflection

As England has argued, ‘[t]he intersubjective nature of social life means that the researcher and the people being researched have shared meanings and we should seek methods that develop this advantage’.²⁰ In line with this, in recent years there has been a proliferation of literature on scholarly self-reflection,²¹ a development that can also be observed for socio-legal studies. In particular, autoethnography²² and studies of positionality in research²³ have attempted to provide methodological and theoretical underpinnings to this self-reflective practice. Against critiques that have dismissed self-reflective practices as unscientific, the contributions have demonstrated that such practices are a means of producing and unearthing knowledge that would otherwise either be hidden or skewed by a dogmatic view of scientific objectivity. Moreover, they show how research is ‘a process not just a product’,²⁴ one that is always socially embedded. In this regard, the process cannot be separated from the body and person of the researcher, nor detached from those professional identities that contribute both meaning and context, as well as often influencing the form and substance of the research being undertaken.

¹⁹This is not to say that subjective choices and biographical factors play no role in the ‘hard sciences’, as Science and Technology Studies, and most famously, Thomas Kuhn’s work on the history of Physics have demonstrated in detail. However, this question does not concern us here since these factors are much more obvious (and acknowledged) for the Humanities and Social Sciences. On the ‘scientificity’ of socio-legal studies, see Susan S Silbey, ‘What Makes a Social Science of Law? Doubling the Social in Socio-Legal Studies’ in Dermot Feenan (ed), *Exploring the ‘Socio’ of Socio-Legal Studies* (London, Macmillan Education UK, 2013).

²⁰Kim VL England, ‘Getting Personal: Reflexivity, Positionality, and Feminist Research’ (1994) 46 *The Professional Geographer* 80, 82.

²¹See, for example Alonzo M Flowers, ‘Self-Reflection as a Critical Tool in the Life of an Early Career African American Male Scholar’ in FA Bonner et al (eds), *Black Faculty in the Academy* (Abingdon, Routledge, 2014).

²²Elaine Gregersen, ‘Telling Stories about the Law School: Autoethnography and Legal Education’ [2021] *The Law Teacher* 1.

²³Lynette J Chua and Mark Fathi Massoud, *Out of Place: Fieldwork and Positionality in Law and Society* (Cambridge, Cambridge University Press, 2024).

²⁴England (n 20) 82.

Although slightly different from the genre of scholarly biographical writing, that is, the narration of one's professional life-story, which – more often than not – cannot be separated from the personal life story, self-reflective writing shares some overlaps. The scholarly biographical genre typically comprises life histories of well-known intellectuals, in situations where the reading audience is most interested in the life of the person or persons themselves.²⁵ Usually not subject to any methodological control or restriction, these accounts are, in a sociological sense, most valuable for pointing to previously unknown historical facts and relational connections. Recent years have seen more academic engagement with scholarly life narration,²⁶ alongside increased scrutiny of its method; the interest in recording life stories of people who are relatively unknown – or even anonymous – lies in reconstructing prototypical trajectories (or deviation therefrom) of people who share certain features (gender, ethnicity, disability etc.),²⁷ And which very often concerns marginalised scholars.²⁸ In the area of socio-legal studies, a useful example is the *Journal of Law & Society's* occasional series dealing with major books that have influenced well-known socio-legal authors.²⁹

However, although these reflexive perspectives are by now firmly established, they are by no means mainstream, only being applied or taught by a small minority of scholars. Accordingly, when we gave our contributors the task of *self-reflectively* investigating their work against the background of their respective disciplinary trajectories, we knew the extent of the challenge, and so deliberately left the theoretical and methodological approach underspecified so as to allow contributors the freedom to establish their own focus and choose their own methodology. Unsurprisingly, the methods they employed differed considerably, providing us with a rich variety of approaches that not only elevate this collected volume but also clearly demonstrate the added value of this kind of blended perspective.

Marta Bucholc, for example, points to 'moments of continuity as well as those of inconsistency and contradiction inherent in the intellectual path of socio-legal studies in Poland', in order to 'demonstrate how they bear on methodological choices, research strategies, actions and omissions of scholars working in this field in Poland today'.³⁰ At the same time, she alerts us to the need to make transparent one's 'own situatedness, as a sociologist, as a lawyer

²⁵ Think of the autobiographies of Simone de Beauvoir or Bertrand Russell.

²⁶ The term 'Auto/Biography' is in the title of a Routledge book series and a journal (*Auto/Biography Review*).

²⁷ Margaret K Willard-Traub, 'Scholarly Autobiography: An Alternative Intellectual Practice' (2007) 33 *Feminist Studies* 188.

²⁸ Robert J Nash and Sydnee Viray, 'The Who, What, and Why of Scholarly Personal Narrative Writing' (2013) 446 *Counterpoints* 1.

²⁹ See, for example, Mariana Valverde, 'Key Book in My Education: Hegel's *The Phenomenology of Spirit*' (2024) 51 *Journal of Law and Society* 28.

³⁰ Bucholc, p. XX.

and as a self-conscious socio-legal scholar' – demands for interdisciplinarity are of course in the interest of legal sociologists, but they may not be the panacea they are sometimes presented as. Balázs Fekete uses an apt image to express how he understood the task: to make

the layer of a 'frozen' and lifeless view of socio-legal endeavours that takes shape from the summary of certain background information, historical trends, important names and relevant research outcomes – so to say a 'still life' in terms of visual arts ... livelier by integrating some autobiographical points.³¹

Ole Hammerslev takes inspiration from Bourdieu's writings on scholarly self-analysis, pointing out that 'an analysis of your own position needs to be considered in relation to the field that has formed you and in which you are navigating and positioning yourself'.³² For Liora Israel, the question 'from which standpoint are you speaking?' is more reminiscent of the 'critical political or psychoanalytical perspectives of the 1960s or 1970s than with the usual set of questions delivered in a book chapter today',³³ but she also notes that taking 'a reflexive perspective on one's career in the world of socio-legal studies' is useful better to understand the institutional development of the field. In her chapter, Revital Madar grapples with (non-)identification with socio-legal identity: hers is a 'contribut[ion] to socio-legal studies undertaken by an early-career scholar who is not a legal scholar nor a sociologist but whose matter is the law'.³⁴ Finally, Francisca Pou Giménez points out that the approach taken in this volume allows for the identification of those epistemic communities³⁵ that have nurtured her and her work, and 'the social, institutional and personal underpinnings of views that we have learned to aseptically portray as "fields", "currents", "schools" or even "theories"', providing 'the chance of rescuing some of these fields and currents from invisibility'.³⁶

III. COMPARATIVE HEURISTICS

In this part, we introduce categories of phenomena that occur repeatedly in the chapter narratives. We do this through a heuristic framework of four 'clusters' as a tool for undertaking comparisons. This approach is the outcome of a collaborative effort at the Oñati workshop where, in a brainstorm session, participants shared their ideas about the different factors or phenomena that played a role in both their life stories and their disciplinary histories. Prior to the meeting, the editors had devised four clusters towards which we expected themes generated

³¹ Fekete, p. XX.

³² Hammerslev, p. xx.

³³ Israel, p. XX.

³⁴ Madar, p. XX.

³⁵ See section III.B.

³⁶ Pou Giménez, p. XX.

in the discussion to gravitate. The first cluster contained all of the factors most directly connected to the individual biography of our authors. The second cluster concerned factors attributable to ‘epistemic communities’, which is to say, those groups in which the individual was embedded in their professional life, and with which they shared epistemic frameworks. The third cluster collected ‘material’ forces and structures, such as the immediate impact on the life of a scholar of institutional rules, power relationships and socio-economic conditions, for example, incentive structures for getting a job, or opportunities to secure funding for one’s research. The fourth and final cluster encompassed the category of ‘cultural’ or ‘contextual’ factors, which are related to the production of both meaning and identity, and are typically the result of longer socio-historical developments.

We should be clear at this stage that the themes discussed in the following sections do not fit neatly into a strict classification, and nor is such categorisation our intention. Instead, the idea is that, even allowing for overlaps, each category plausibly connects to a roughly coherent body of theoretical literature *on the basis of which* one can make sense of the phenomena as they arise in each individual story. This heuristic is explicitly not tied to any single theoretical paradigm, but rather is open to different concepts, premises and hypotheses that might promise insights for the comparison.

In the following, we draw from themes that were collaboratively embedded in this framework, connect them to supporting theoretical literature and cite examples drawn from contributor chapters. Our aim is to demonstrate how the framework can be grounded in empirical observations, and to identify the potential of using socio-legal (and broader social-scientific) theories and methods to analyse the research field itself.

A. Agency and Positionality: Scholar’s Biographies

Although each individual academic trajectory is unique, there are a number of recurrent themes in a scholarly career path. Some of them describe a class of phenomena rather than something generalisable: for example, many of our participants mentioned the ‘role of chance’ affecting their academic trajectory, and we all know how serendipity can shape decisions taken in life.³⁷ Liora Israel’s story is just one example of many:³⁸ having starting her career in French academia, where law was dominated by doctrinal approaches, Israel talks about how important the personal encounters with other prominent scholars were in

³⁷ Robert K Merton and Elinor G Barber, *The Travels and Adventures of Serendipity: A Study in Sociological Semantics and the Sociology of Science* (1958) (Princeton, Princeton University Press, 2004).

³⁸ Chapter 6.

forming her particular perspective and research interest. Israel also points to the importance of events that are specifically organised for young researchers, such as the Graduate Student Workshops of the Law and Society Association,³⁹ for fostering networks that can last over whole academic careers, and providing new perspectives on a field. The importance of both biographical coincidences and network-building is also stressed by Francisca Pou Giménez,⁴⁰ who, during her PhD at Yale, was introduced to a large community of Latin American graduate students of a similar age and, later, to a whole network of constitutional theorists from all over Latin America.⁴¹

A frequently occurring term in discussions of the role of subjectivity in the research process is ‘positionality’, which denotes the influence of one’s own position in socially structured relationships, and which is hypothesised to influence the research process and its outcomes. It has always been understood that ‘that a researcher’s social, cultural and subject positions (and other psychological processes) affect the questions they ask; how they frame them; the theories that they are drawn to; how they read’,⁴² but there is no straightforward answer as to how to align this with the scientific quest to provide ‘objective’ knowledge.⁴³ Perhaps unsurprisingly, positionality has more frequently and regularly been discussed in research that deals with gender, race/ethnic identity and sexuality.⁴⁴ As Revital Madar’s chapter highlights, however, other social positions also need to be considered: given her North-African family background and her witnessing of the militarised violence of Israel’s occupation of Palestine, for her, law appeared more as a threat than a remedy.⁴⁵ Madar’s account is one of questioning those categories and identities that academia creates and assigns to those who enter it – as she calls it, a ‘net of unpositionality’.⁴⁶

Eva Kocher identifies herself as a feminist labour lawyer, but also as someone who initially started on the ‘critical’ side of the split between the sociology of law and critical legal studies in Germany, with the result that it took her around 20 years to start thinking about herself as a socio-legal scholar. Francisca Pou Giménez draws our attention to the role played by gender in both influencing one’s academic career and being part of the formation of identity.

³⁹ The LSA Graduate Student Workshop at the LSA meeting in Miami 200X has also been crucial for Christian Boulanger in considering an academic career.

⁴⁰ Chapter 9.

⁴¹ The ‘Seminario en América Latina de Teoría Constitucional y Política’.

⁴² Geraldine Pratt, ‘Positionality’ in Derek Gregory and others (eds), *The Dictionary of Human Geography* 5th edn (Oxford, Blackwell, 2009) 556.

⁴³ Jessica Soedirgo and Aarie Glas, ‘Toward Active Reflexivity: Positionality and Practice in the Production of Knowledge’ (2020) 53 *PS: Political Science & Politics* 527.

⁴⁴ See, for example, Mark Fathi Massoud, ‘The Price of Positionality: Assessing the Benefits and Burdens of Self-Identification in Research Methods’ (2022) 49 *Journal of Law and Society* 64.

⁴⁵ Madar, p. XX.

⁴⁶ Madar, p. XX.

For example, she argues that, in her experience, the socio-legal ‘analysis of practice is sometimes damaging of the professional status of younger academics, many of them women, who are not awarded the prestige that accrues to practitioners of “high theory”’.⁴⁷

B. Collective Sense-Making and Identity-Formation: Epistemic Communities and the Academic Habitus

The contributory role played by networks in terms of academic biographies has already been touched upon. This leads us to a well-covered theoretical concept, namely that of ‘epistemic communities’, and their role in forming individual scholars’ understanding of the world and corresponding production of knowledge.⁴⁸ The concept originates from international relations scholarship, where epistemic communities have been defined as ‘networks of knowledge-based experts’ that help states in ‘identify[ing] their interests, framing the issues for collective debate, proposing specific policies, and identifying salient points for negotiation’.⁴⁹ Since the early 1990s, however, the concept has been generalised to cover all kinds of professional networks operating through shared epistemological assumptions around a specific subject matter, such as lawyers and legal scholars, even encompassing sub-disciplines and expertise within the field of law.⁵⁰ The socio-legal community fits this description: a collection of individuals who share similar methodological and conceptual interests, and who use shared epistemic frameworks both to make sense of their observations and to build networks of collective agency in pursuing (what they perceive to be) common goals. A ‘sub-discipline’⁵¹ can be considered as such in circumstances where it has reached a certain degree of institutionalisation, or has attained the status of a ‘movement’⁵² or a ‘research field’,⁵³ where it is possible even to unite researchers across disciplines. Scholarly epistemic communities, it should be noted, can exist where there is no formal local institutionalisation of the field they study, as is the case with German critical legal studies, as

⁴⁷ Pou Giménez, p. XX.

⁴⁸ Kate Bulpin and Susan Molyneux-Hodgson, ‘The Disciplining of Scientific Communities’ (2013) 38 *Interdisciplinary Science Reviews* 91.

⁴⁹ Peter M Haas, ‘Introduction: Epistemic Communities and International Policy Coordination’ (1992) 46 *International Organization* 1, 2.

⁵⁰ Jen Hendry, ‘The Double Fragmentation of Law: Legal System-Internal Differentiation and the Process of Europeanisation’ in Daniel Augenstein (ed), *Integration through Law’ Revisited: The Making of the European Polity* (Farnham, Ashgate Publishing Ltd, 2013); Daniela Piana and Luca Verzelloni, ‘Epistemic Communities Meet Communities of Practices’ [2022] *Rivista di Digital Politics* 221.

⁵¹ Pierre Guibentif, ‘The Sociology of Law as a Sub-Discipline of Sociology’ (2003) 1 *Portuguese Journal of Social Science* 175.

⁵² Lawrence M Friedman, ‘The Law and Society Movement’ (1986) 38 *Stanford Law Review* 763.

⁵³ Kaijus Ervasti, ‘Sociology of Law as a Multidisciplinary Field of Research’ (2008) 53 *Scandinavian Studies In Law* 138.

mentioned above, being largely organic and bottom-up in their instantiation and continuation.⁵⁴

Considering epistemic communities sociologically helps to avoid the ‘great minds’-type of histories that concentrate on individual professors and their *oeuvre* of work, often disregarding the actual influence they had in terms of the local academic landscape. As Eva Kocher shows, Germany is a case in point: while many luminaries with impeccable and undisputed socio-legal credentials have been at German universities, the socio-legal community in Germany has remained relatively weak and fragmented.⁵⁵

While this disconnect might appear strange, it is neither unusual nor surprising: the development of such a situated community cannot be seen as a linear and cumulative outcome of local intellectual history. In fact, as we will show below, it is necessary to acknowledge the impact of those material incentives and disincentives created by, *inter alia*, university hiring decisions, departmental policies, institutional *habitus*,⁵⁶ econo-political priorities and by funding body topic preferences. Moreover, developments are often not only local: as Liora Israel remarks, despite France having several ‘so-called founding fathers of sociology ... , the current landscape is probably more influenced by the pull of the US originated law and society tradition’.⁵⁷ This is to some degree also true for the German-speaking countries, with the caveat that the distinctively German Luhmannian tradition has and retains significant influence there.

The empirical question that arises is how can epistemic communities be meaningfully differentiated from each other? Part of the answer certainly turns on the language factor: language proficiency facilitates inclusion and exclusion concerning bodies of literature, participation in conversations and local and global knowledge production. The global language of socio-legal studies is English, and Francisca Pou Giménez provides a salient example of what that can mean for a non-native speaker in the US,⁵⁸ where whether or not one speaks the lingua franca natively provides or denies entry into the large market of the global anglosphere, and mobility within it. The chapters by Fekete, Hammerslev and Forić all describe the shift in in their home countries and regions from a conversation in the native languages within the local community to participation in the transnational and increasingly global English-language discussion. This step-change was not unmotivated: the practical appeal of external funding eligibility is supplemented by the prospect of a much larger audience for the local knowledge production.

⁵⁴ This is not to say that epistemic communities are homogeneous – quite the opposite. Indeed, as the chapters in this collection show, the socio-legal community is characterised by a pluralism of normative commitments, theories and methods, but these are united by the view that a broader view than that taken by traditional legal jurisprudence, on one hand, and contemporary sociology, on the other, is both necessary and desirable.

⁵⁵ Kocher, p. XX.

⁵⁶ See below, nn 65–66.

⁵⁷ Madar, p. XX.

⁵⁸ Pou Giménez, p. XX.

This does not mean, however, that different national and regional socio-legal studies research is converging as a result of being part of an overarching English-language discourse. As the chapters in this book illustrate, there remain clear and distinctive differences, not to mention large and often unseen communities: for example, those arising from the aforementioned German-speaking countries. As Pou Giménez reminds us, ‘the legal-academic communities of southern Europe are actually communities that bring indistinguishably together Europe and Latin America, at the impulse of the common use of Spanish’.⁵⁹

Epistemic communities are the places within which scholarly identity is constantly (re)negotiated, not least because the question of which label is used in self-identification is a central thread in defining who is part of the community, and who is not, in describing what the community is doing. For example, Balázs Fekete explains in his chapter that ‘legal sociologists in Hungary tend to consider themselves as members of closed scholarly group being distinct from similar scholarly associations and they are also convinced about having some specific research issues that only belong to them’.⁶⁰ By contrast, for Eva Kocher, this cannot be said about the fragmented German socio-legal community. She writes, ‘it is one thing to address all socio-legal scholars in name; it is another thing to gather socio-legal researchers on family law matters, economic justice or labour law, and expect that they have common issues to talk about’.⁶¹

Revital Madar’s chapter describes how she came to be identified – reluctantly – as a socio-legal scholar, and considers ‘what this identification unveils concerning the law’s capacity to colour other aspects of one’s work’.⁶² Such networks, it is important to note in terms of the concept of epistemic communities, are not static causal variables: indeed, the chapters by Forić, Hammerslev and Fekete all describe how the portrayed socio-legal communities have changed dramatically over the years, through political and generational change as well as through internationalisation. The chapter by Samir Forić traces the development of a socio-legal community in the Balkan countries, one within which he participated, and also stresses the importance of scholarly networks and epistemic community-building. Forić observed ‘a gradual development of the discipline’s distinctive identity – moving away from the narrow confines of legal theory where it was traditionally positioned, toward its own academic field that embeds the epistemic community no longer affiliated exclusively with law schools’.⁶³

As some contributor chapters show, building and maintaining these communities is often supported by two complementary institutional structures: centres or institutes inside or outside the university, and professional associations.

⁵⁹ Pou Giménez, p. XX.

⁶⁰ *ibid.*

⁶¹ Kocher, p. XX.

⁶² Madar, p. XX.

⁶³ Forić, p. XX.

The institutions both contribute to the strengthening of socio-legal studies and are affected – positively or negatively – by how the community evolves over time. For example, Liora Israel points to the pivotal role of the Centre National de la Recherche Scientifique (CNRS) in France in promoting sociology of law research since the 1980s, by providing a space for an initial ‘concentration of talents’.⁶⁴ Similarly in her chapter, Sally Wheeler points to the role of the Oxford Centre for Socio-Legal Studies in providing a central hub for the UK socio-legal community. Equally, university-based centres, such as those in Cardiff, Warwick and Sheffield, were places for socio-legal teaching and degree programmes, and – importantly for consolidation – for employment opportunities for new socio-legal talent.⁶⁵

Another concept that can be brought in to study the socialisation effects of epistemic communities is Bourdieu’s notion of ‘habitus’, which denotes an observable pattern of dispositions and ways of behaviour, which has been acquired by being socialised into a specific social group.⁶⁶ Dezalay and Madsen define it as ‘internalized schemes guiding agents’ behaviour⁶⁷ and apply it to the professional group of international lawyers; it has also been used to analyse legal professionals.⁶⁸ Balázs Fekete provides a vivid example in his chapter, illustrating the fact that reputational hierarchies between legal and socio-legal scholars ‘is made explicit by their clothing’, and remarking, a bit tongue-in-cheek, that the socio-legal habitus includes to ‘even be kind with younger colleagues’.⁶⁹ Samir Forić, in his chapter, describes his journey from ‘a doctrinal habitus – a cognitive scheme that orients thinking about and problem-solving of legal issues through the lens of legal doctrine’ to a ‘more theoretical, critical and reflective habitus’, which he further developed into a ‘socio-legal habitus that implies two types of engagement: first, active investment in the scholarship’s field and, second, maintenance of the balance between external and internal perspectives of law’.⁷⁰ Eva Kocher also considers the ‘lack of habitus and of integration in mainstream academia’, which she believes enables a different means of dealing with knowledge production.⁷¹

⁶⁴ Israel, p. XX.

⁶⁵ Wheeler, p. XX.

⁶⁶ Pierre Bourdieu, *Outline of a Theory of Practice* (Cambridge, Cambridge University Press, 1977) 85.

For a socio-legal discussion and application of Bourdieu’s *habitus*, see J Mant, ‘Working Politically: Combining Socio-Legal Tools to Study Experiences of Law’ in J Hendry, C Boulanger and N Creutzfeldt (eds), ‘Socio-Legal Studies in Germany and the UK: Theory and Methods’, Special Issue (2020) 21(7) *German Law Journal* 1464–80.

⁶⁷ Yves Dezalay and Mikael Rask Madsen, ‘The Force of Law and Lawyers: Pierre Bourdieu and the Reflexive Sociology of Law’ (2012) 8 *Annual Review of Law and Social Science* 433, 442.

⁶⁸ James Thornton, ‘Pierre Bourdieu’s The Logic of Practice: Understanding the Working Practices of Lawyers’ in Daniel Newman (ed), *Leading Works on the Legal Profession* (Abingdon, Routledge, 2024).

⁶⁹ Fekete, p. XX.

⁷⁰ Forić, p. XX.

⁷¹ Kocher, p. XX.

C. Institutional and Political Economies of Academia

The third cluster discussed in the workshop concerned factors related to those institutional constraints and incentives that, in most cases, can be characterised as being external to the scientific domain itself. Most of these factors in one way or another have to do with finding employment within academia, and advancing professionally against a background of quantifiable metrics, such as research evaluation or external funding. These material forces affect both how epistemic communities evolve and the academic habitus changes over time, but they are not part of either. In systems-theoretical terms we could say that, whereas epistemic communities and the academic habitus discussed thus far are part of the scientific system, these operations belong to the functionally differentiated systems of the economy and of politics respectively, and merely 'irritate' the scientific system (where academic communications are 'understood').⁷² Alternatively, were we to take a materialist perspective, these phenomena could be analysed relative to the framework of the political economy of higher education.⁷³

As any socio-legal scholar knows, securing external funding plays an important role in their own work, in terms of both the research that can be undertaken and professional advancement more generally. What needs to be studied in more detail is how and in what ways research funding affects the national, regional, and general development of socio-legal studies as a research field. Fekete notes that it is part of the measure of scholarly success,⁷⁴ while Hammerslev recalls that, to follow a career in the sociology of law in Denmark, he was guided towards both internationalisation and external funding.⁷⁵ Wheeler, by contrast, notes the UK peculiarity of governmental research evaluation to assess the quality of research, which then determines 'block grant' funding allocation to UK universities,⁷⁶ and highlights how socio-legal research is in fact more likely to attract funding than traditional doctrinal legal studies.

D. Historical Context and Trajectories

The final cluster discussed in the Oñati workshop revolved around the concept of 'context' in a sense separate from the other clusters discussed so far. Academic biographies, epistemic communities and institutional economies are all 'context' for doing socio-legal research, of course, but the factors we

⁷² Niklas Luhmann, *Rechtssystem Und Rechtsdogmatik* (Kohlhammer, 1974) 13, 17; Niklas Luhmann, *Die Wissenschaft der Gesellschaft* (Wissenschaftliche Buchgesellschaft, 2002) 324.

⁷³ Tobias Schulze-Cleven and others, 'The New Political Economy of Higher Education: Between Distributional Conflicts and Discursive Stratification' (2017) 73 *Higher Education* 795.

⁷⁴ Fekete, p. XX.

⁷⁵ Hammerslev, p. XX.

⁷⁶ Wheeler, p. XX.

considered in the last cluster were more historical and ‘long-durée’ than the previously mentioned themes.⁷⁷ These factors were also able to encompass the socio-political environment within which the research took place, and which had a bearing on cohorts of scholars within a given area at a particular time. This concerns, for example, the existence of political regimes such as the Soviet empire in countries like Hungary, Poland or the former Yugoslavia, and the reverberations of colonialism which have had huge effects on countries like the UK, France, Spain and the Netherlands. The literature one can draw upon here comes from the political and historical sociology (of law):⁷⁸ it is fruitful to engage critically with classical comparative (social) histories of the legal profession and legal scholars⁷⁹ as well as the history of the development of social science disciplines at the universities⁸⁰ to understand the impact of certain historical path dependencies on today’s circumstances. At the same time, this should not lead to historically determinist accounts; sometimes certain conditions attributed to deep-historical or ‘cultural’ legacies can be of fairly recent origin.⁸¹

From this perspective, the most notable material factor is, as Samir Forić reminds us, the ‘spatial dimension’, which is apparent in terms of those national and regional ‘developmental disparities that are reflective in the socio-legal trajectory’.⁸² Another example is given by Bucholc, who argues that the early-twentieth-century political environment in Poland affected the way some of the classics of sociology of law were received in Polish socio-legal scholarship.⁸³ Fekete also reflects on the political and cultural proximity of Hungary to Germany, which has been a major influence.⁸⁴ Evidently political regimes also matter: as can clearly be seen in the chapters by Bucholc, Fekete and Forić, the communist systems of Poland, Hungary and the former Yugoslavia differed substantially, both between each other and over time, all of which had a substantial impact on the ways in which socio-legal thinking could develop in

⁷⁷ Mathias Grote, ‘What Could the “longue Durée” Mean for the History of Modern Sciences?’ (Fondation Maison des sciences de l’homme, 2015) FMSH-WP-2015-98 <https://shs.hal.science/halshs-01171257/document>.

⁷⁸ Marta Bucholc, ‘Historical Sociology of Law’ in David McCallum (ed), *The Palgrave Handbook of the History of Human Sciences* (Singapore, Springer Nature Singapore, 2022); Paul Pierson, *Politics in Time: History, Institutions, and Social Analysis* (Princeton, Princeton University Press, 2004).

⁷⁹ For example, RC van Caenegem, *Judges, Legislators, and Professors: Chapters in European Legal History* (Cambridge, Cambridge University Press, 1987).

⁸⁰ Two examples from the literature using different ‘looking glasses’: Reza Banakar, ‘Law Through Sociology’s Looking Glass: Conflict and Competition in Sociological Studies of Law’ in Ann Denis and Deborah Kalekin-Fishman (eds), *The ISA Handbook in Contemporary Sociology* (London, SAGE, 2009); Didier Fassin and George Steinmetz (eds), *The Social Sciences in the Looking Glass: Studies in the Production of Knowledge* (Durham NC, Duke University Press, 2023).

⁸¹ EJ Hobsbawm and TO Ranger (eds), *The Invention of Tradition* (Cambridge, Cambridge University Press, 1983).

⁸² Forić, p. XX.

⁸³ Bucholc, p. XX.

⁸⁴ Fekete, p. XX.

a one-party state. In Germany, as Kocher points out, with ‘the murder and the emigration of many socio-legal scholars with often socialist and/or Jewish backgrounds, German legal academia was cut off from the Weimar tradition after the Second World War’.⁸⁵

IV. CONCLUSION

In this collected volume, we have made the case that valuable insights can be gained from exploring individuals’ professional trajectories and disciplinary environment. Exploring the intersection of disciplinary and personal trajectories holds promise, both for studies of scholarly self-reflection and for the social history of ideas. This is where the macro-sociological meaning of ‘trajectories’ and the value of comparative-historical case studies comes in: we cannot understand phenomena observed in the socio-legal realm without tracing their historical genesis. This applies to easily observable, structural factors such as institutions or socio-economic conditions, as well as more fluid and difficult-to-measure variables, such as academic or legal ‘cultures’, mentalities, values and behavioural patterns.

By means of the heuristic framework outlined in this introductory chapter, we offer the reader a structure through which to understand and compare these trajectories. The four heuristics are: (1) individual biography; (2) epistemic communities; (3) institutional and economic forces, and (4) cultural/contextual factors. For the purpose of comparison, these heuristics allow us systematically to formulate questions and hypotheses, collect data and to present diverse trajectories in a manner that highlights both differences and parallels.

... Future studies can extend the perspective to a wider set of cases, test our assumptions and extrapolate yet more stories at the intersection of disciplinary histories and scholarly biographies. It is not our intention that these chapter provide a comprehensive picture of a national academic legal culture. They are necessarily only a snapshot of perspectives. These reflections are indicative, not representative. We invite researchers to apply and test our heuristic in other settings and contexts, and to dive deeper into comparisons; the examples in our volume show that the following themes might be worth exploring in more detail.

Epistemic communities: We have seen that the existence of epistemic communities of scholars who identify with socio-legal approaches is a necessary but not a sufficient condition for the institutional success of socio-legal studies. Here, the meaning of wider institutional structures, the academic career map, external funding and reputational capital can be explored.

⁸⁵ Kocher, p. XX.

Language: The transition to a global English-language epistemic community risks severing ties to local theory production, since the global discourse and its citation practices favour the ‘big names’ from the English-language literature at the expense of non-English authors, particularly if their works are untranslated. Here, a search for these internationally unheard national voices might paint an interesting picture and introduce to a wider audience stories that add richness to our understanding of the development of national epistemic communities and intellectual traditions.

The role of gender: Some authors discuss the role that gender played in their trajectories. Here, a more in-depth analysis and comparison would be helpful. For example, what different roles is played by gender across generations, across institutions, and across legal cultures?

‘Black letter’ law: One distinctive feature of socio-legal studies is that, in almost all cases, it derives its identity from its opposition to doctrinal scholarship. This opposition plays out very differently in each epistemic community, however. A particular challenge to the comparison of socio-legal trajectories is that need not only to be embedded in the histories of sociology, but also in histories of legal scholarship.

Finally, we hope that this collection is the first of many, and we invite readers to ponder how they might develop their own comparative inquiry into different socio-legal trajectories around the world.

