

Rechtswirklichkeit Das Blog des Berliner Arbeitskreises Rechtswirklichkeit

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MEHR

NÄCHSTER BEITRAG

“Für die Soziologie ist es wichtig, das Recht als empirische Datengrundlage ernst zu nehmen” – Interview mit Doris Schweitzer

VORHERIGER BEITRAG

“Interdisziplinärer Austausch ist eine wichtige Irritationsintervention” – Interview mit Tobias Eule

SUCHE



Interdisziplinäres Forum für Recht und Gesellschaft

Nachwissenschaftler*innen aller Disziplinen, die sich in ihren Forschungen mit Recht beschäftigen, finden oft kein Forum, in dem sie sich über ihre Forschungsinteressen austauschen können. Der Berliner Arbeitskreis Rechtswirklichkeit (BAR) wurde gegründet, um eine fächerübergreifende Diskussion zu ermöglichen. Wir verstehen Rechtssoziologie bzw. Forschung zu Recht und Gesellschaft in einem weiten, disziplinübergreifenden Sinn.

–Twitter: @rechtsforschung_Mailingliste

The Berlin Working Group on Socio-legal Studies (Berliner Arbeitskreis Rechtswirklichkeit - BAR) was founded October 2001 by a small group of young lawyers and social scientists who did not feel that their socio-legal research interests were adequately represented within their own disciplines, and who felt the need for more interdisciplinary socio-legal research and projects in Germany than currently exist.

BAR-BOOKS



Interdisziplinäre Rechtsforschung.

SCHLAGWORTE

- Abstract Antidiskriminierungsrecht Basel 2018
- Berlin Berlin 2017 Bourdieue Bundesverfassungsgericht
- Debatte Demokratie Familienrecht Forschungsmethoden
- Graduate Students Grundrechte Interdisciplinarity
- Interdisziplinäre Rechtsforschung
- Juristische Ausbildung Kopftuchverbot law and development law and society LSI Migration
- Politikwissenschaft Rechtsdogmatik Rechtsgeschichte
- Rechtsmobilisierung Rechtssoziologie
- Rechtsstaat Rechtswissenschaft Recht und Geschlecht
- Recht und Religion research methods Rule of Law Socio-legal lab socio-legal studies Soziale Rechte Soziale Sicherheit
- Soziale Ungleichheit Strafrecht Strategische Prozessführung
- Verfassungsgerichte Verfassungspolitik
- Versprechungen des Rechts Völkerrecht
- wissenschaftliches Bloggen Workshop

ARCHIVE

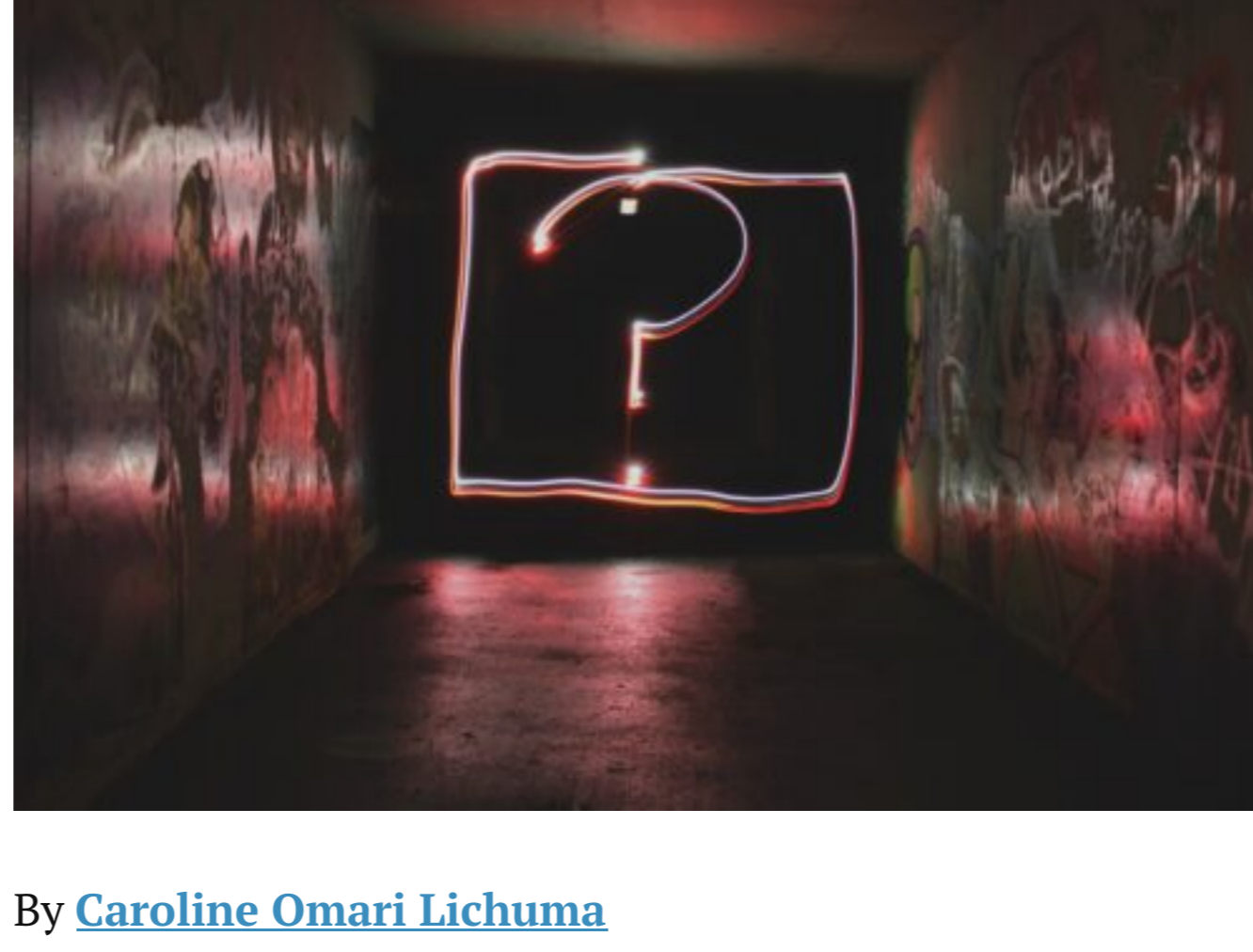
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META

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Thinking Outside The (Methodological) Box: Teaching New Dogs Old Tricks

VON BAR ADMINISTRATOR · 11.12.2020



By [Caroline Omari Lichuma](#)

A [2002 exchange in the University of Chicago Law Review between two eminent social scientists on the one hand and a distinguished law professor on the other](#) neatly summarizes the methodological battle that has for a long time raged between (doctrinal) legal researchers and social scientists. The contention of the social scientists in question, [Lee Epstein](#) and [Gary King](#), is that many law academics are poorly trained and inexperienced in matters of empirical research and the general rules that apply to such research. This, they rather controversially argue, is due to a deficiency in the education of law students at a graduate research level.

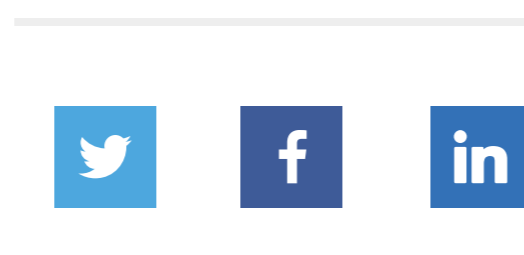
I happened to come across this debate purely by chance, when I participated in the [University of Göttingen's School of Graduate Studies "Week of Methods."](#) Spurred by curiosity about what exactly socio-legal methods are (and if I'm completely honest here, the need to accumulate credits which are a mandatory part of my PhD program) I signed up for and attended the [Socio-Legal Lab](#). Despite the limitations brought on by COVID that necessitated the delivery of this workshop in an online forum, the facilitators, other participants and I embarked on a four-day journey into the fascinating world of socio-legal research methods.

The workshop provided us with an overview of key debates in socio-legal research and introduced us to different methodological schools. We then analyzed the challenges and promises of carrying out interdisciplinary research. It was particularly eye-opening thereafter to delve into discussions on what "data" means for different types of researchers, and how this data should be collected, ordered and analyzed in order to answer the research questions posed. It quickly became apparent to me that there was a division of sorts between the participants. On the one hand there were lawyers like me, carrying out doctrinal legal research and, on the other hand, a researcher from the faculty of business and economics who was carrying out non-doctrinal and rather more empirical research work. Because of the highly interactive nature of the workshop, participants shared snippets of their research work with a focus on methodological aspects. During these exchanges I became aware of a subliminal tension between the doctrinal research camp and the non-doctrinal research camp. The questions boiled down to these: What is the data that you use in your research, what research methodologies do you employ to collect it, analyze it and ultimately draw conclusions from it? From the sometimes heated debates it was perceptible that the elephant in the room was the question whether doctrinal legal research is "even scientific." It was illuminating to realize that for a social scientist interested in understanding the nuts and bolts of doctrinal legal research, the explanation that, for doctrinal legal researchers, data collection and analysis often consists of analyzing primary sources – such as decided cases, national laws, and international treaties and conventions, as well as secondary sources such as books and journal articles in order to draw inferences and advance normative conclusions, was rather unsettling. For the social scientists this did not feel like "real data," while for the lawyers it obviously was. Despite the diverse backgrounds of the lawyers in the workshop, who came from disparate countries like Kenya, Germany, Indonesia, Turkey and Colombia (to mention just a few), most of us had been taught that legal research is more commonly normative and theoretical, and thus epistemologically different from non-doctrinal research. However, an uneasy truce emerged by the end of the workshop, when we agreed that [there is no hierarchy between the different methodologies and they are all of equal importance for the development and understanding of scientific knowledge](#).

After the workshop I found myself taking an introspective walk down my academic memory lane in order to (try to) understand my knowledge and prior use of the various research methodologies. Almost 18 years after the Epstein-King debate I was (un)surprised at how this old debate ("old tricks") felt so current and pressing for a junior researcher ("new dog") such as myself, and undoubtedly to the other workshop participants as well. After nearly 7 years as a student of the law (4 years at undergraduate level, 1 year at master's level and 2 years into the PhD) it was a slap in the face for me to realize that the only research I know how to carry out (and feel comfortable even attempting to do) is doctrinal research, whether from a normative or a purely theoretical perspective. My legal education has inadequately prepared me for more socio-legal research methodologies. Why is this so? Why do so many law schools fail to prepare their law students for the realities of interdisciplinary and non-doctrinal research?

There exists a gap between [law in books and law in action](#). The exploration of these discrepancies between the law as a system of rules and the law as a form of practice have played an important role in the development of socio-legal studies. Because the law does not exist in a vacuum, any assessment of the interactions between law and society, and the disparity between law's intention and its actual impact on social condition, necessarily involve an analysis of both the law and the society within which the law operates. [Socio-legal research has been defined as](#) "the examination of how law, legal phenomena and/or phenomena affected by law and the legal system occur in the world, interact with each other and impact upon those who are touched by them. The 'socio' is about the social context or impact of law and legal phenomena, rather than law in books. The 'legal' is more broadly defined than the text of the law."

It may be too late for me to incorporate socio-legal research methodologies into my doctoral research project given the advanced stage I am currently in. However, going forward I hope to step out of the methodological box within which I have operated for far too long, and include socio-legal research methods as part of my research toolbox in order to improve the quality of the research work that I carry out from here on out. After all, it's never too late to teach new dogs old tricks.



DAS KÖNNTE DICH AUCH INTERESSIEREN ...

- Intimität vor dem Sozialgericht: Die Re-Kommerzialisierung von Sex durch Hartz IV
06.06.2016
- "Interdisziplinäres Arbeiten ist zunächst einmal ein Gespräch" – Interview mit Anna Katharina Mangold
11.09.2020
- When do groups matter? Language use in the European Court of Human Rights and the collective dimension of non-discrimination cases
24.11.2020

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VERWANDTE BLOGS

- Allegra – virtual lab of legal anthropology
- Blog-Aggregator des FID Rechtsforschung
- Droit et Sciences Sociales
- Droit et Société
- Frontiers of Socio-Legal Studies
- History | Sexuality | Law
- Klaus F. Röhl's RSozBlog
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