

Law in other contexts: a new initiative for the journal

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This issue of the journal includes the first article to be published in an exciting new section entitled 'Law in other contexts'. This section is dedicated to making available specially commissioned reports of socio-legal research in places where English is not the first language. In this way the journal hopes to bring attention to work which may not be easily accessible to those without knowledge of the relevant language (and culture). It is also hoped that this may – eventually – make some contribution to putting into question the Anglo- American hegemony over how this academic field is constituted, which questions are considered important to ask, and which methods are thought appropriate for studying them. Articles will be included regularly in issues of the journal as they become available. Potential authors from a variety of jurisdictions have already been contacted (and others will be contacted in the future).

The instructions that these authors were given went as follows:

'You are all in the position of having been selected to write so-called "country surveys" for the *International Journal of Law in Context* – contributions that we plan to include as regularly as possible in normal issues of the journal under the heading of "law in other contexts".

- (1) These articles are meant to be about *other people's work*. They are not intended to be original articles concerned with either data or theory (such contributions can be submitted to the journal in the normal way).
- (2) Each article should set out to provide some idea of the main themes and important authors in the country setting concerned. This is of itself of interest to our readers by providing an introduction to the local development of the subject matter of socio-legal studies broadly conceived.
- (3) Both empirical and theoretical work is relevant. But much more than a bibliographical review is wanted. The aim is to make the relevant approaches/theories/findings comprehensible to foreign readers. That is itself a considerable contribution to the field.
- (4) The work you summarise and discuss should be above all that written in a language other than English, because a major purpose of these articles is to bring matters to the attention of English-only users which they would otherwise miss.
- (5) It is *NOT* necessary to cover all the work that is going on or has gone on in a country. Indeed *an article is far more likely to be of interest if it focuses on just two or three areas* and shows why the findings of these areas of study are of wider importance to those living in other countries and to the wider literature. For example, someone writing about sociology of law in Hungary might summarise what has been written there about the role of its constitutional court and what that tells us more generally about such a court or courts at a time of transition.

All articles will be refereed in the normal way.'

As may be appreciated, by reading between the lines of these suggestions, the attempt here is to ensure some sort of common approach to this assignment without suppressing the possibly

fruitful different ways it can be understood in different cultures and legal cultures. Not every interpretation of this common endeavour is acceptable. The idea is to avoid, for example, articles that are no more than annotated bibliographies or ones that concentrate on a heroic local founding figure in the field. But, on the other hand, some leeway must be allowed. Indeed, it is to a large extent the point of the exercise. What is really at stake here is how socio-legal studies is organised and conceived in different places and what purpose it is supposed to serve. In one place socio-legal studies will be intimately connected to legal writing and legal philosophy, in another it may be an offshoot of criminology.

This has implications for what we hope to learn from work elsewhere. There are some important differences even between the typical research showcased at the USA 'Law and Society' conferences and the type of writing considered socio-legal in the UK (such as the importance of 'political science' work in the former, and the importance of critical theory in the latter). But there is more overlap than difference. On one mainstream Anglo-American view, for example, socio-legal studies is, and must be, a cumulative social science endeavour. Many scholars in these communities would therefore hope to gain from foreign contributions ideas and data that could be useful for putting to the test their existing hypotheses and findings. But French and Portuguese authors contacted for this project insisted that the better response to this invitation was to try and show the local history of the subject's emergence, its relationship with other connected disciplines and the problems it may currently be experiencing in holding its own. Reporting the 'findings' of such work, still less its possible 'universal' relevance, needed to take second place to this excursus in the sociology of knowledge – and what it may tell us about the relationship between law and 'the state'.

Even the question of restricting surveys to work in the local language is not straightforward. What of studies by a researcher based in a non-English-speaking country that deal with matters in that country (or even with matters elsewhere) but are published in English? Such work may play a crucial role in the development of the subject in the country concerned (as well as in the relationship of scholarship there to the larger literature). But the assumption made here is that, if it is written in English, it is relatively accessible to the socio-legal community. Conversely, there are frequent cases of articles published in other languages that are mainly concerned with analysing and importing ideas (especially so-called Anglo-American ideas) from elsewhere. On the one hand, translating these ideas back into English seems to make little sense. On the other hand, there may be much of interest in following the local 'reception' of such Anglo-American studies – including the way they are understood and applied in local contexts.

There are no easy answers to these questions because the boundaries which this project is seeking to overcome are in many senses becoming ever more confused and artificial. 'Here' and 'there' are no longer clearly separate or separable. The role of the nation state is changing, cross-national communication is increasing exponentially – and English is strengthening as a *lingua franca*, especially for scientific purposes. On the other hand, even in Europe there are still significant differences in how law is understood and lived (despite long-standing efforts by the European Union to apply common rules to different contexts) that in part reflect contrasting worlds of legal and socio-legal scholarship. So what is envisaged here falls somewhere between the country surveys of criminological research regularly published in the *European Journal of Criminology* and the efforts in journals such as *International Sociology* to move towards a time when all contributions will include a comparative and international dimension.

Further questions about the appropriate role of this section will emerge as new countries come onto the scene (hosted also by the World Consortium website of the Institute of Sociology of Law in Onati, Spain). The first national sociology of law conference held in Brazil in 2010 gave much more space to theoretical work, especially that based on autopoietic theory, than would be found in the equivalent conference in English-speaking jurisdictions. The recent conference of the Research

Committee for Sociology of Law (of the International Sociological Association), held in Dharamsala in 2011, included some discussion of specifically Indian thinking about law and conflict but also many articles dealing with the need to use law as an instrument to overcome gender violence. Socio-legal studies in these and other places are very much a work in progress whose importance can only grow. How the project proposed here unfolds will depend on the energy and skills of the contributing authors and the reaction of readers (comments to the editors, including those coming from scholars in the countries surveyed, are very welcome). We are especially pleased to be able to start out with a strong article by Marc Hertogh on socio-legal developments in the Netherlands, which provides one excellent model of what this section aims to achieve.