

the functions they fulfill, the realities of their legal work differ in many respects, depending on the jurisdiction in which notaries practice their trade. Although notaries figure among the best-paid legal professionals in some countries; in other countries, they have considerably less prestige, enjoy lower levels of protection, face considerable challenges.

In general, the notarial profession has attracted considerably less attention than other legal professions—including lawyers (solicitors and barristers) and paralegals. The notarial profession has even been called a profession ‘under the veil’ or ‘in hiding’. Existing studies fall into three main categories: historical studies focusing on the evolution of the notarial profession in specific settings, legal analyses of the role of notaries from national perspective, and socio-legal studies of the work undertaken by notaries. Overall, socio-legal studies of the notariat remain rare and do not comprise a comparative aspect. The few existing collections of ‘country reports’ are mainly outdated and do not offer comparative analyses. A socio-legal comparative study of the notarial profession across countries would therefore deliver important insights into the reality of this segment of the legal profession and its functions in different nations.

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LAWYERS AND STATE TRANSFORMATIONS

The aim of this IRC is to bring together scholars who are working on the interaction between lawyers and state transformations.

We draw strength from the six-year project *Lawyers in 21st-Century Societies*, spearheaded by R. Abel, O. Hammerslev, H. Sommerlad, and U. Schultz, which was formalized as an IRC and produced two volumes tracing changes in legal professions across the world since the landmark three-volume *Lawyers in Society* (volume I, Hart 2020) and continental, thematic and methodological trends (volume II, Hart, forthcoming). This collective work globalized the comparative ambit of the *Working Group for Comparative Study of Legal Professions*, by chronicling changes across 46 jurisdictions. It also produced interrogations on the relationship between legal professions and the state, which we seek to explore in this next phase of the project.

The *Lawyers in 21st-Century Societies* used a flexible definition of the category of legal professions as common ground to comparatively trace the entanglement between national historical traditions in the organisation of legal professions, and exogenous forces, foremost globalization and the neoliberal turn in the past thirty years. This approach proved less helpful to explain variations in legal professions’ engagement with the state at the national level. In particular, surveys of developments in regions hitherto outside the scope of the sociology of legal professions – the African South and the Middle East –

tested the inherent Western ethnocentrism of this approach and the limitations of methodological nationalism (Hammerslev and Sommerlad, forthcoming; S. Dezalay forthcoming).

Part of these difficulties revolve around a knowledge gap on the state, which remains posited as an exogenous variable signifying a coherent entity, with state transformations merely seen as a series of national transitions – colonialism to independence, state-led economy to market economy, authoritarianism to democracy.

Against this backdrop, this IRC suggests shifting the focus from the category of legal professions towards an exploration of state transformations.

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THE NEW RC SL WORKING GROUP “LEGAL PLURALISM”

Why Do We Need a RC SL Working Group on Legal Pluralism?

Over the past decade, there appeared a number of overview publications on the issue of legal pluralism from theoretical and methodological perspectives vital to the debate today. They attest to the fact that the validity of the concept as an analytical category has meanwhile been widely accepted not only among legal anthropologists and socio-legal studies scholars, but also among jurists, legal practitioners, economists, political scientists, donor agencies, transnational corporations, and politicians, and so forth.

The article “Legal Pluralism, Social Theory, and the State”, published by Keebet von Benda-Beckmann(1) and Bertram Turner(2) in 2018, advances the concept of legal pluralism basically as a useful heuristic category for comparing the (politics around the) production of normative orders within a variety of state and non-state domains, as well as their interaction. This heuristic rather than explanatory application of the concept of legal pluralism to research into law-making in the contemporary world is greatly influenced by American lawyer and anthropologist Sally Falk Moore’s seminal legal anthropological work in the 1970s. Moore pioneered, as we know, the understanding of how, in any modern society today, (state) law is mediated through the filter of the written and unwritten normative arrangements of non-legal “semi-autonomous” social domains or “fields”, like trade conventions in certain markets for instance.(3)

On the basis of inter alia Moore’s research, a new research focus on processes and mechanism of “law production” by plural public and private organisations, including national and international NGOs, transnational businesses, or development aid projects (“project law”) and their mutual accommodation, emerged in the 1990s. The factual co-existence of plural, frequently overlapping legal orders in our world today effectively prevents not only the development of a coherent international legal system, but also the (re-)constitution of consistent national ones. In sum,

within the anthropology and sociology of law today, 'legal pluralism' as an analytical category provides a frame for a comparative study of different legal orders and their interrelationship, including mutual accommodation, law export, cultural translation of law,(4) and a whole range of problems of 'interlegality' (Sousa Santos 1987). It furthermore enhances our sensibility for the possibility that, at times, one and the same social activity may fall under the jurisdiction of a variety of legal systems, which has decreased legal certainty and increased 'lawfare', i.e. "the resort to legal instruments, to the violence inherent in the law, to commit acts of political coercion, even erasure" (Comaroff and Comaroff 2007: 145).(5)

Edward S. Cohen(6) and A. Claire Cutler(7) share this notion of legal pluralism and added the following examples of new legal regimes that have inserted themselves into the political economy, thereby increasing the degree of national and international legal pluralism: the proliferation of private transnational governance arrangements, the emergence of a transnational criminal law regime, efforts of legitimation through law of the global private security industry, the World Trade Organization dispute resolution process, the arbitration regime in investor-state treaties, including NAFTA, the creation of regulations for market discipline and governance (Cohen and Cutler 2013: 614-616). Elsewhere, Cohen highlights the role of private corporate agents in the make-up of the new transnational legal pluralism that has emerged with the global neo-liberal regime following the end of the Cold War. Private agents of resource-rich corporations as well as private legal experts are often important partners of states in the production of commercial law, which underscores the fact that law production today is not any longer the sole prerogative of states. The new global legal pluralism of today in fact consists in the totality of the different private and official sites of contemporary law-making that together form a transnational network of potentially cooperating or competing law-making bodies, despite the fact that, since the 2008 financial crisis, states have strived for recuperating more power from private actors to influence the national and international law production (Cohen 2013: 682-687, 693-695, 697).

The resurgence of religion in the public space of many states across the globe, the increasing vocality and sway of the international indigenous rights movement and the global migration waves have, so Martin Ramstedt (8), put additional pressure on all contemporary societies, including Western liberal democracies, to accommodate non-national and non-state normative orders. Most Western liberal democracies have usually been more successful in resisting the pressure to accommodate religious normativity, compared to non-Western ones, like Indonesia, Turkey, or Israel for example. However, religious movements in the US, like the pro-life movement or different Buddhist communities, have consciously engaged in non-legal areas, such as the therapeutic field, to recruit people outside their established constituencies, who might support the

juridification of religious norms. They have, for instance, established crisis pregnancy centres in the case of the former, and have transposed meditation as mindfulness training into public facilities, such as schools, prisons and hospitals, in the case of the latter, in order to enlist added support of the issuance of anti-abortion legislation and the integration of mindfulness training into public health regulations.(9)

The beginnings of the indigenous rights movement reach back into the 19th century and originates with First Nations in the classical settler countries (US, Canada, Australia, New Zealand, and Russia/Soviet Union), seeking autonomy and affirmative action policies from the governments they found themselves subjected to. From its foundation in 1919 onwards, the International Labour Organization (ILO) paid attention to the appalling working conditions of indentured labourers on South American plantations, many of whom were members of indigenous peoples. However, national governments started to sign into law fair treatment and suffrage for members of indigenous peoples only after World War II. Since then, the indigenous rights movement increasingly advocated cultural rights, the right to religious freedom and parental rights, as children of indigenous families were still frequently taken away from their parents and put into orphanages, missionary and industrial schools, in order to estrange them from the "primitive" and often criminalised culture of their forebears. Milestones for indigenous rights activism were a couple of ILO conventions geared towards the protection of indigenous rights, including indigenous peoples' communal right to ancestral land and its resources, particularly ILO Convention No. 169 on Indigenous and Tribal Peoples from 1989. The inclusion of "tribal peoples" in the convention did justice to the fact that during the 1980s indigenous rights started to be translated to African and Asian countries, where no ethnic group could legitimately claim to be more "indigenous" than members of the mainstream society (Ramstedt 2017: 54-55).

Robert Niezen(10) has shown that due to the increasing success of the indigenous rights movement in the international public sphere, which culminated in the United Nation's Declaration on the Rights of Indigenous Peoples (UNDRIP) from 2007, the movement today consists of highly diverse marginalised groups in both the global south and the global north. They are united in sentiments of rage, hopelessness and disappointed expectations, rooted in common long-term exposure to structural disempowerment, dispossession, discrimination and destruction. Over the past decades, these groups have brought forth from among their membership activists with the legal, organisational and digital wherewithal to harness "culture" in a common discourse for distinct political ends, including law-making (Niezen 2009: 11-18, 32-91). Moreover, they succeeded in garnering the support of a growing number of non-indigenous people dwelling in the urban centres in the global south and the global north, who share in a pervasive experience of the growing fragility of social bonds and the rapid destruction of the environment under the condition of neo-liberal

globalisation. These urban dwellers, many of whom members of the increasingly pressured middle class, have lent legitimacy to the indigenous rights movement, by linking it to the discourses of environmentalism, alternative healing, feminism, and communalism (Niezen 2009: xiv-xv).

The direct or indirect recognition of religious and indigenous norms and institutions by secular nation states throws into stark relief the necessity to investigate the issue of access to justice in “living” religious and indigenous or customary law, such as freedom of religion or gender equality and violence (Ramstedt 2016: 55, Ramstedt forthcoming). Of vital importance here is, to my mind, empirical and comparative follow-up research on the implementation of the multicultural jurisprudence model of transformative accommodation, proposed by Ayelet Shachar(11) in 2001. Transformative accommodation promises to be a viable mode of joint governance within liberal multicultural democracies, as it allows for the accommodation of plural normativities, while simultaneously fostering the entrenchment of human rights in each stakeholder group. The model entails that legally recognized groups within a certain multicultural state have jurisdiction over matters of particular concern to them, while at the same time legal protection is granted to vulnerable in-group minorities, like women, children, and so forth (Shachar 2001).

Another issue has been repeatedly highlighted by the longstanding research on actor-oriented indigenous dispute resolution since the beginning of the 20th century, namely that the accommodation of customary/indigenous/religious law in colonial as well as postcolonial state law invariably entails great changes of the former(12). This refers us back to the important reflexive question, Emma Patrignani(13) reminded us of in her 2016 contribution to the Oñati Socio-Legal Studies Series, that is, the question regarding the relationship between the concept of legal pluralism, the knowledge it helps to produce, and “the social reality it refers to” (Patrignani 2016: 709).

NOTES

(1) Professor emerita of the Anthropology of Law at the Faculty of Law, Erasmus University Rotterdam and – together with her late husband, Franz von Benda-Beckmann – Co-Chair of the Project Group “Legal Pluralism” at the Max Planck Institute for the Sociology of Law, which operated from 2000 to 2012.

(2) Senior researcher in the Project Group “Legal Pluralism” from 2000 to 2012 and tenured senior researcher at the “Law and Anthropology” Department of the Max Planck Institute for Social Anthropology in Halle, Germany.

(3) See also Benda-Beckmann and Turner 2018: 259; Moore 1972-1973.

(4) See Merry 2006: 134-178; Rottenburg 2009; Ramstedt 2017.

(5) See also Tamanaha 2011; Benda-Beckmann and Turner 2018: 260-267.

(6) Professor of Political Science, Westminster College.

(7) Professor of Political Science, Faculty of Social Sciences, University of Victoria, Canada.

(8) Senior researcher in the Project Group “Legal Pluralism” from 2006 to 2012, senior researcher at the “Law and Anthropology Department” of the Max Planck Institute for Social Anthropology in Halle, Germany, from 2012 to 2014, fellow at the Käte Hamburger Centre of Advanced Studies “Law as Culture”, senior fellow at the Humanities Centre of Advanced Studies “Multiple Secularities – Beyond the West, Beyond Modernities”, Leipzig University, Deputy Professor at the Faculty of Philosophy and Social Sciences, Halle University, from 2017 to 2019, together with Kim Economides and Leslie Ferraz global thematic coordinator for anthropological and postcolonial approaches within the Global Access to Justice Project (general coordinators: Alan Paterson, Bryant Garth, Cleber Francisco Alves, Diogo Esteves and Earl Johnson Jr.), and currently Scientific Director of the Oñati International Institute for the Sociology of Law, Basque Country (Spain).

(9) See e.g., Ramstedt 2015: 43; Ramstedt 2016: 46-47; Munson 2008: 5-6; Munson 2013: 37-39.

(10) Professor of Anthropology at the Department of Anthropology and Associate Member of the Faculty of Law, McGill University, Montreal, Canada. Niezen held the Katharine A. Pearson Chair in Civil Society and Public Policy in the Faculties of Law and of Arts between 2013 and 2020, as well as the Canada Research Chair in the Anthropology of Law between 2012 and 2019.

(11) Currently Director of the Ethics, Law, and Politics Department at the Max Planck Institute for the Study of Religious and Ethnic Diversity in Göttingen. Previously, she held the Canada Research Chair in Citizenship and Multiculturalism at the Faculty of Law, Toronto University, and the Leah Kaplan Visiting Professorship in Human Rights at Stanford University. Shachar was also Jeremiah Smith Jr. Visiting Professor at Harvard Law School.

(12) See also Ramstedt 2015: 53-54; Benda-Beckmann and Turner 2018: 258; Zenker and Hoehne 2018: 2.

(13) Researcher at the University of Lapland, Faculty of Law.

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IRC CRIMINAL LEGALITIES IN THE GLOBAL SOUTH

Law and Society Association has recently granted International Research Collaborative (IRC) status to the working group “Criminal Legalities in the Global South.” The working group was originally organized as an IRC in 2015 as “Judicial Reform in the Global South”. “Criminal Legalities in the Global South” is led by Pablo Ciochini (University of Liverpool) and George Radics (National University of Singapore). The IRC’s main objective is to produce knowledge on how criminal law, and the institutions in charge of interpreting it, operates in the Global South. It focuses on the social and political institutions that interpret and enforce criminal law to understand the level and pervasiveness of violence, both symbolic and physical, that take place in many Global South societies, as well as the apparent lack of social order that is commonly attributed as its cause.

Although the IRC’s main rationality is to highlight the diversity of conditions and social arrangements in the Global South and the inadequacy of theoretical approaches that impose universal values and logics to these different contexts, we seek commonalities such as cultural tensions and a shared colonial history, but also acknowledge how such pasts shape current societies, and how such societies take very different forms. Thus, scholarship from this IRC examines issues such as the tensions between the criminal law and local culture, institutional and social practices, and global versus local politics. These tensions can be found in every society; but the borders between the different dimensions of social life, such as the distinction between the public and private sphere, and the interrelationship between politics, religion, and the law are notoriously intense, yet paradoxically porous in the Global South. Many times this condition is interpreted from the North as chaos. However, it is important to recognize that on the one hand such an interpretation is based on an ethnocentric assumption of how societies should ideally operate; and, on the other, such porosity is the result of tensions that originated in the colonial past and continued by contemporaneous neocolonial politics—an example being the ongoing efforts to import alien legal solutions from the Global North into the Global South. Recognizing that the distance between the law and the law in practice may be significantly larger in