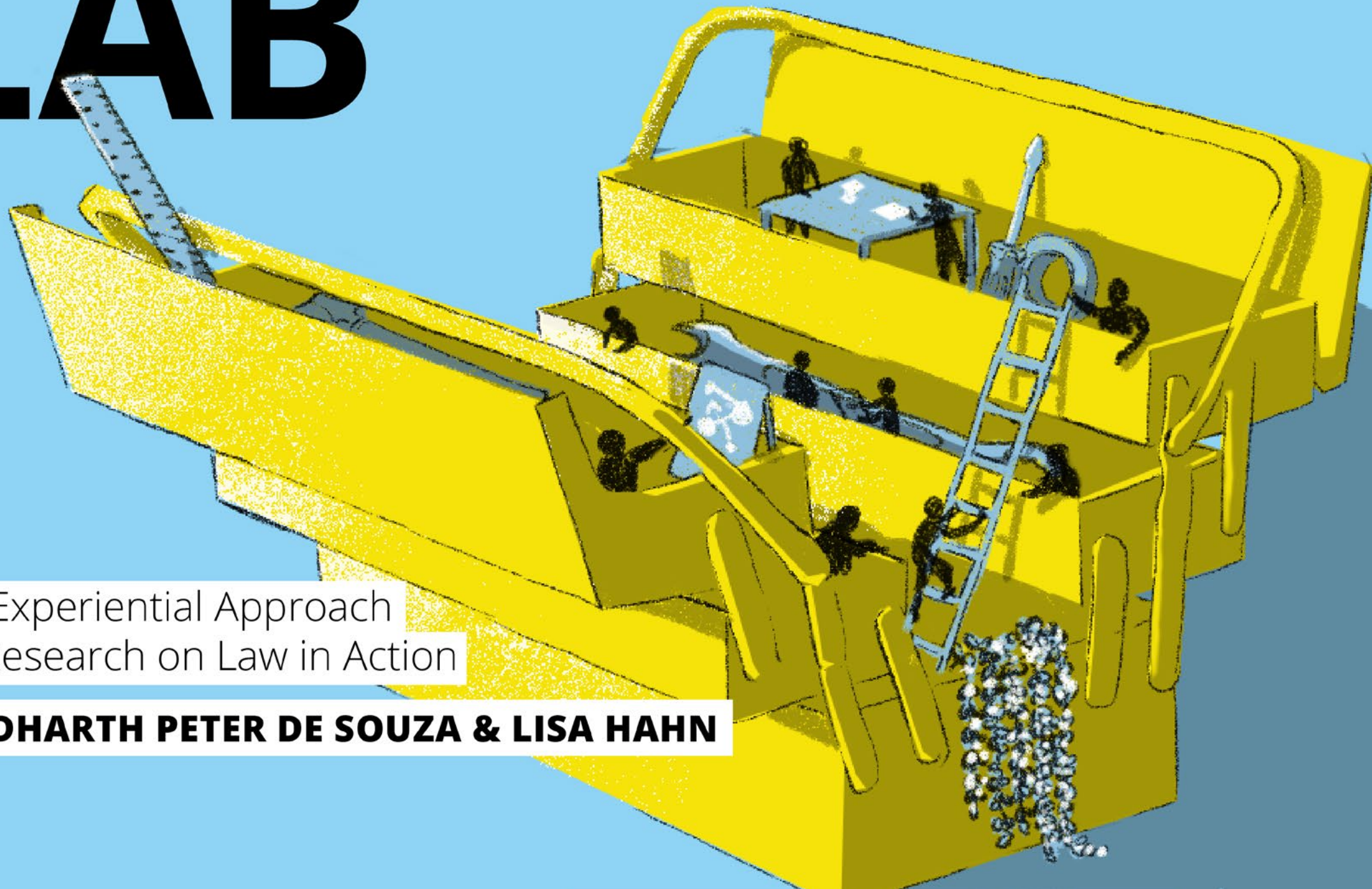


THE SOCIO- LEGAL LAB



An Experiential Approach
to Research on Law in Action

SIDDHARTH PETER DE SOUZA & LISA HAHN

THE SOCIO-LEGAL LAB: AN EXPERIENTIAL APPROACH TO RESEARCH ON LAW IN ACTION

AUTHORS: SIDDHARTH PETER DE SOUZA AND LISA HAHN

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**spitting
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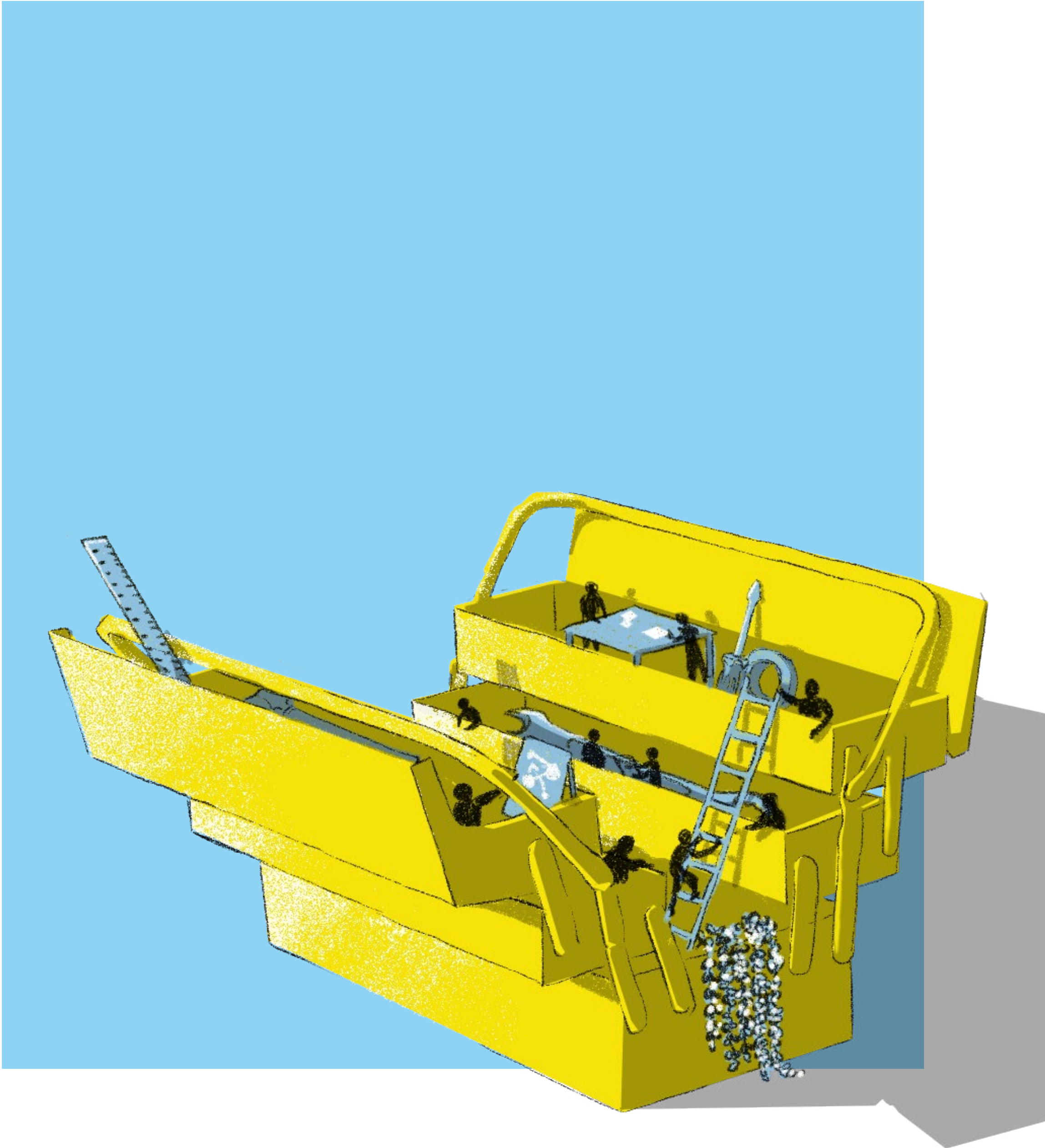
PART 01



**Socio-Legal
Research in a Lab**

CHAPTER 01

Introduction: a Lab Approach to Socio-Legal Studies





A Guide Through the Book

Locating the book

“The Socio-Legal Lab: An Experiential Approach to Research on Law in Action” is an interactive workbook for socio-legal research projects. It employs the idea of a “lab” as a space for interactive and experiential learning. As an introductory book, it addresses researchers of all levels who are beginning to explore interdisciplinary research on law and are looking for guidance on how to do so. The book can be used by teachers and peer groups to experiment with teaching and thinking about law in action through lab-based learning.

Why another book on socio-legal research? There already exist many highly regarded books about the theoretical debates and research methodologies concerning law and society. However, the research process is not only a summation of methods but also a result of the practical realities that a researcher encounters when conducting research. To address this practical reality, we designed this book as a visual and interactive workbook.

It uses a mixture of literature, case studies and games to guide readers through the different stages of socio-legal research. At the same time, it addresses the challenges they might face when they are actually designing and conducting their projects. Throughout the book, we use visualizations as a way to make socio-legal studies more approachable.

Before getting started, this first chapter will provide guidance on how to read this book, introduce what is experiential about our approach to researching law in action and explain the concept of a lab for socio-legal methods.

What to expect?

The overall aim of this book is to provide a toolkit for socio-legal research projects. It is designed to accompany and inspire researchers on their way through their project and to empower them into thinking more creatively about their methods, while also demystifying them.

The book covers different themes and questions that may arise during a socio-legal research project. This starts with examining what research and interdisciplinarity mean and in which forms they can be practiced. After an overview of the research process, we will discuss how research in action is often unpredictable and messy. As a result, we argue that it is important to consider the practical and ethical challenges of doing research, and to reflect on the processes of knowledge production and assumptions that we have as researchers.

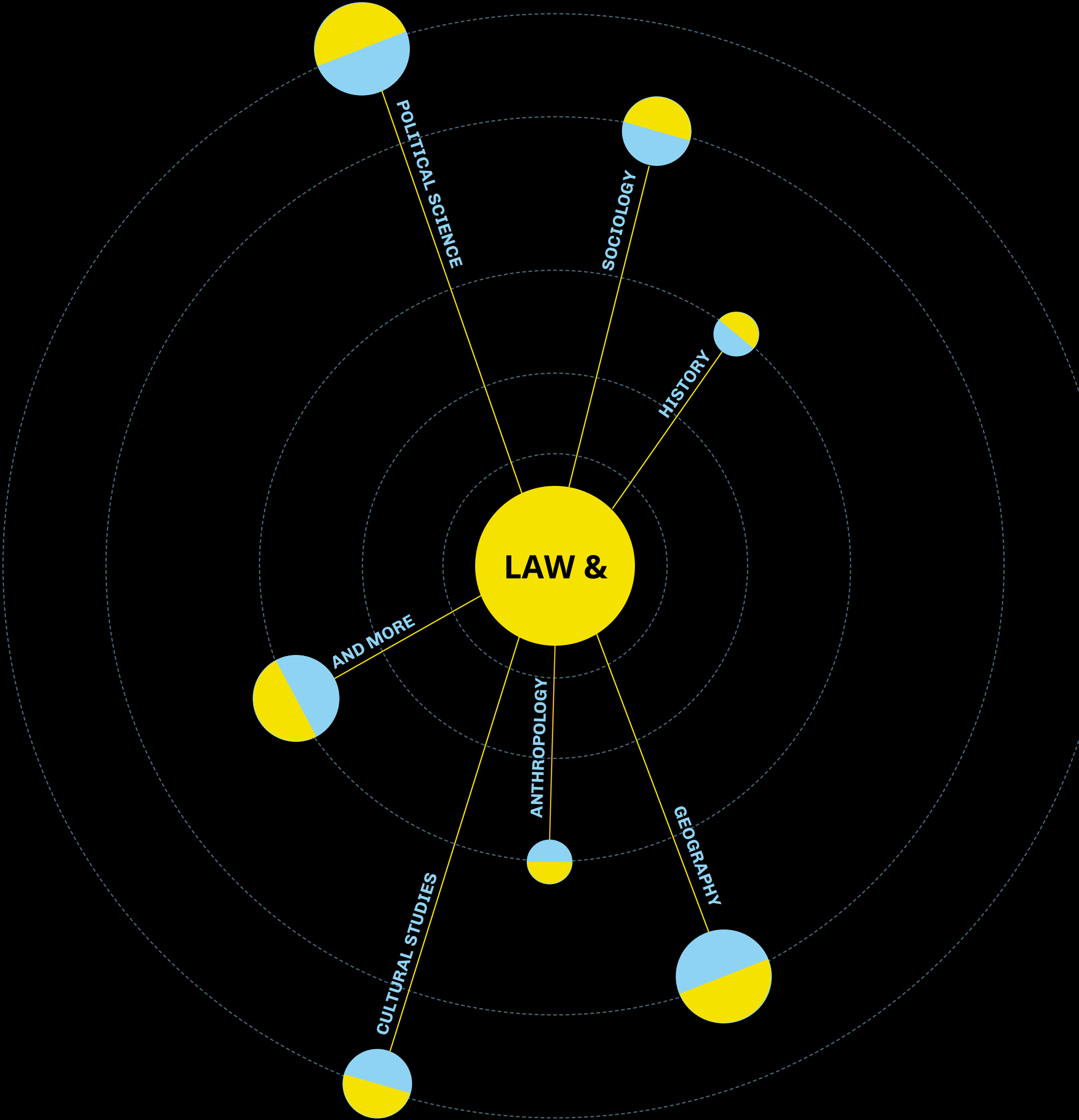
Conducting a socio-legal research project further requires an overview of the theoretical landscape. The book introduces general debates about the nature, functions, and effects of law in society. Furthermore, common dichotomies in socio-legal research such as “law” and “the social” or “qualitative” and “quantitative”, “micro” and “macro” research will be explored, along with suggestions for ways on how to bridge them.

Turning to the application side of socio-legal research, the book delves deeper into questions of data on law and society: where to collect it and how to deal with it in a reflexive manner. It discusses different methods of qualitative socio-legal research and offers ways in which they can be experienced through exercises and simulations. In the research process, generating research results is followed by publishing and communicating them.

We will also explore different ways to ensure the outreach and impact of one’s research by communicating results through journals, blogs and social media.

Finally, the book also discusses academia as a social space and the value of creating and using networks and peer groups for mutual support.

**AN INTERACTIVE &
VISUAL WORKBOOK**



Audiences

Law can be approached from different disciplinary angles: “from the inside”, with a doctrinal approach, but also “from the outside”, by examining its historical background and its social, cultural, political or economical conditions and effects. Everyone interested in engaging with an interdisciplinary perspective on law is encouraged to read this book – regardless of their disciplinary background.

As a guide to socio-legal research, this book tackles disciplinary boundaries by asking overarching questions about the interplay of law and society. These questions have long been studied in various research traditions, for example in US law & society research. However, by taking up debates and examples from both the Global South and the Global North, we hope to make the book approachable for a global audience in English speaking research contexts.

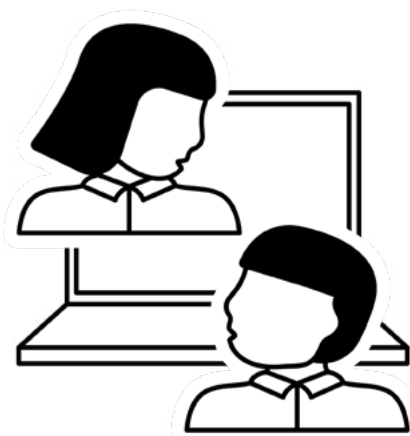
Ways to use this book

“The Socio-Legal Lab” addresses everyone who starts to empirically engage with questions on the interface of law and other disciplines. Whether you are a student, graduate or senior academic: This book aims to enable you to conduct your first socio-legal research project. It is designed as a supplementary reading to theoretical texts. The book supports students in accessing those texts and applying them through providing summaries, reading questions and exercises. It is also designed for teachers who may introduce socio-legal studies in their classrooms and require techniques and content to do so. Recurring icons throughout the book will indicate specific exercises for each of these settings and audiences.



INDIVIDUAL RESEARCHERS

Exercises for researchers working through the book by themselves.



TEACHERS AND PEER GROUPS

Inspiration on how to practice socio-legal methods by talking to your peers.



FURTHER READING

Literature to dig deeper into different research topics and methods.



What to read if you are interested in...

Learning & reflecting on design, implementation & impact of projects

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Hands-on socio-legal methods

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A Lab Approach to Socio-Legal Studies

Why a lab?

A lab is a learning space for experimentation. In the natural sciences, labs indicate *physical* spaces for testing new hypotheses, but this concept can also be applied to the humanities in a metaphorical sense. The lab then becomes a *social* space for trial-and-error. A lab approach to socio-legal studies thus involves establishing open spaces for interactive learning about law in action.

An important component of a lab is to work in groups and develop ideas in collaboration and through co-creation. Groups, however, can take different shapes: they can range from being fixed sets of people who meet often to loose collaborations of people. The emphasis of the group is to be able to test ideas, get feedback, and be willing to build alliances.

Through labbing socio-legal studies, we hope to encourage a different kind of mindset when working through key questions and challenges at the intersection of law and other disciplines. In this process, readers have an opportunity not just to study theory, but also to brainstorm and imagine how theory could be useful in their research projects and how individual projects can contribute to knowledge production in general. Demystifying socio-legal methods can empower students to overcome their methodological anxieties and make the serendipity of methodology-in-action more tangible (Halliday & Schmidt, 2009. pp.2). Building on this idea, we suggest socio-legal methods labs as pedagogical spaces for experimentation, knowledge building and community development (De Souza & Hahn, 2022).

Functions of a lab

- + To understand what kind of methods to use
- + To establish protocols for why certain methods are suitable and others are not
- + To experiment with different methods and theories
- + To review and brainstorm about what works best in conversation and dialogue with others
- + To test out different hypotheses and have a safe space to fail

Using labs for socio-legal studies

There are three steps to experiential learning: information-gathering, framing and testing. This three-step approach informs how one can study a new topic and how to structure a workshop session to build an experiential learning environment (De Souza & Hahn, 2022). Consequently, we also used these three steps to structure the chapters of this book.

01

Information Gathering

**LITERATURE,
CASES, DATA**

The first step in the lab is information-gathering. This involves reading seminal texts about a particular issue, for example on matters related to interdisciplinarity and law, in order to understand how this could be incorporated in one's own research.



Next, one can examine examples of socio-legal projects to scrutinize how related questions have been researched by others. These examples can be used to illustrate how a method can be applied, which challenges might arise, and how they could be resolved.

02

Framing

**QUESTIONS,
CONTEXT,
POSITIONALITY**

The second step is to frame overarching questions about the state of research and the kinds of issues it raises. Identify perspectives that look critically at the topic and raise questions regarding the context and position of those who are taking part.

The third step is to test the questions that have arisen in the prior steps through a series of activities. This involves exploring whether the project is feasible and what precautions need to be taken in practice to collect reliable data. It is precisely this last step that reveals the difference between research-in-the-book and research-in-action (Hahn & De Souza, 2020).

03

Testing

**FEASIBILITY,
DURABILITY,
SUSTAINABILITY**

Objectives of the lab

By creating an informal atmosphere for the lab, we hope that it can become a space to:

- + Encourage more collaboration in research
- + Allow for testing and incubation of new ideas
- + Provide spaces to communicate more flexibly and openly
- + Create communities for support and for the exchange of ideas



Implementing a Lab

Getting started

A lab is intended to be an informal yet secure space to learn about, reflect on and discuss socio-legal studies. This idea can be implemented in many ways: as a pedagogical approach to convey content (as in this book), but also when organising a workshop, teaching a class or creating a study group. In each of these contexts the conditions of a successful lab will vary.

In the final part of this chapter, we would like to introduce what it takes to start a lab – as a mindset by individuals, for teachers in a class and for researchers when engaging with their peers. We would like you to do so through the following exercises.



Conditions for a successful lab

Interdisciplinary Composition

One key element is the interdisciplinary composition of a team or group, which can be achieved by including both legal scholars and researchers from other disciplines.

In exercises where different research methods are applied, the cross-disciplinary exchange can lead to a change in perspective: it reveals the boundaries of one's own perception which, through disciplinary socialization, asks only particular kinds of questions and focuses only on certain aspects of reality.

Trust, Community and Empowerment

The second condition is a collaborative learning atmosphere where all uncertainties in the research process can be discussed openly, confidentially and in a non-hierarchical manner.

An integral part of the lab-atmosphere is to ensure that there is sufficient room for discussion and conversation among the participants. To this end, several smaller exercises like the ones on the following pages, can be used to share research interests, break the ice and create an open atmosphere for conversation.



Starting Your Own Lab

- + Get a group together; the ideal size is between five to fifteen.
- + Choose a space where you can talk freely. This can be in a garden, a park or in a classroom.
- + Get some sheets of papers, pens and pencils.
- + No need for previous knowledge: through this workbook, we will guide you on how to set up a lab and run a few activities that facilitate learning by doing.
- + We suggest to keep it light, informal and open.



Games and interactive exercises play a crucial role in gathering information and in applying content that is shared. Moreover, they can provoke moments of irritation, camaraderie, levity, and thereby support the building of communities. We would like to conclude this chapter with a couple of activities to help set the mood for the lab, and also to facilitate an open and interactive conversation. Curious? Let's try it out.

EXERCISE



two
truths
& a lie

Instructions:

Along with your peer group, take 2 minutes and think about two truths and one lie about yourself. Once you are done, begin sharing. Ask others to guess if they can identify the lie.

NOTES / SKETCHES

EXERCISE

Rev

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Brai

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ng

As we begin the process of building a socio-legal project, we would like you to do a short exercise which is called reverse brainstorming. It might be that you have doubts about the nature of your project, the skills you have or even your overall expertise. We would like you to take a few moments and think through these issues. This exercise can be a starting point for locating where you are, and can be a useful point to return to throughout your engagement with the material in the book.



This activity employs the technique of brainstorming, which involves collecting ideas and details on one topic. This can be challenging, especially if one has limited knowledge of a topic and more questions than answers.

In this situation, reverse brainstorming can help. It allows you to develop solutions by focusing on problems. There are four steps to this exercise which we encourage you to try:

01 Define the problem

Example: How do I conduct a socio-legal project?

02 Reverse the problem

Example: How will I fail in my socio-legal project?

03 Find reasons to fail

Example: "I don't understand which method to chose" or, "I will not find a publisher".

04 Find solutions

Now write down solutions for all of the problems/reasons to fail you have found.

NOTES / SKETCHES

NOTES / SKETCHES

Sources

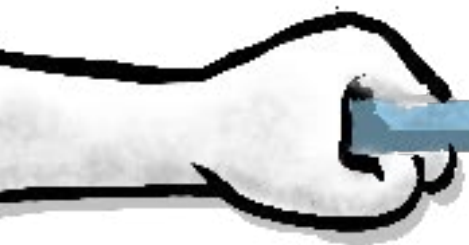
De Souza, S. & Hahn, L. (2022). Socio-legal method labs as pedagogical spaces: Experimentation, knowledge building, community development, in: Allbon E. & Perry- Kessarlis A. (Eds), Design in Legal Education. London: Routledge.

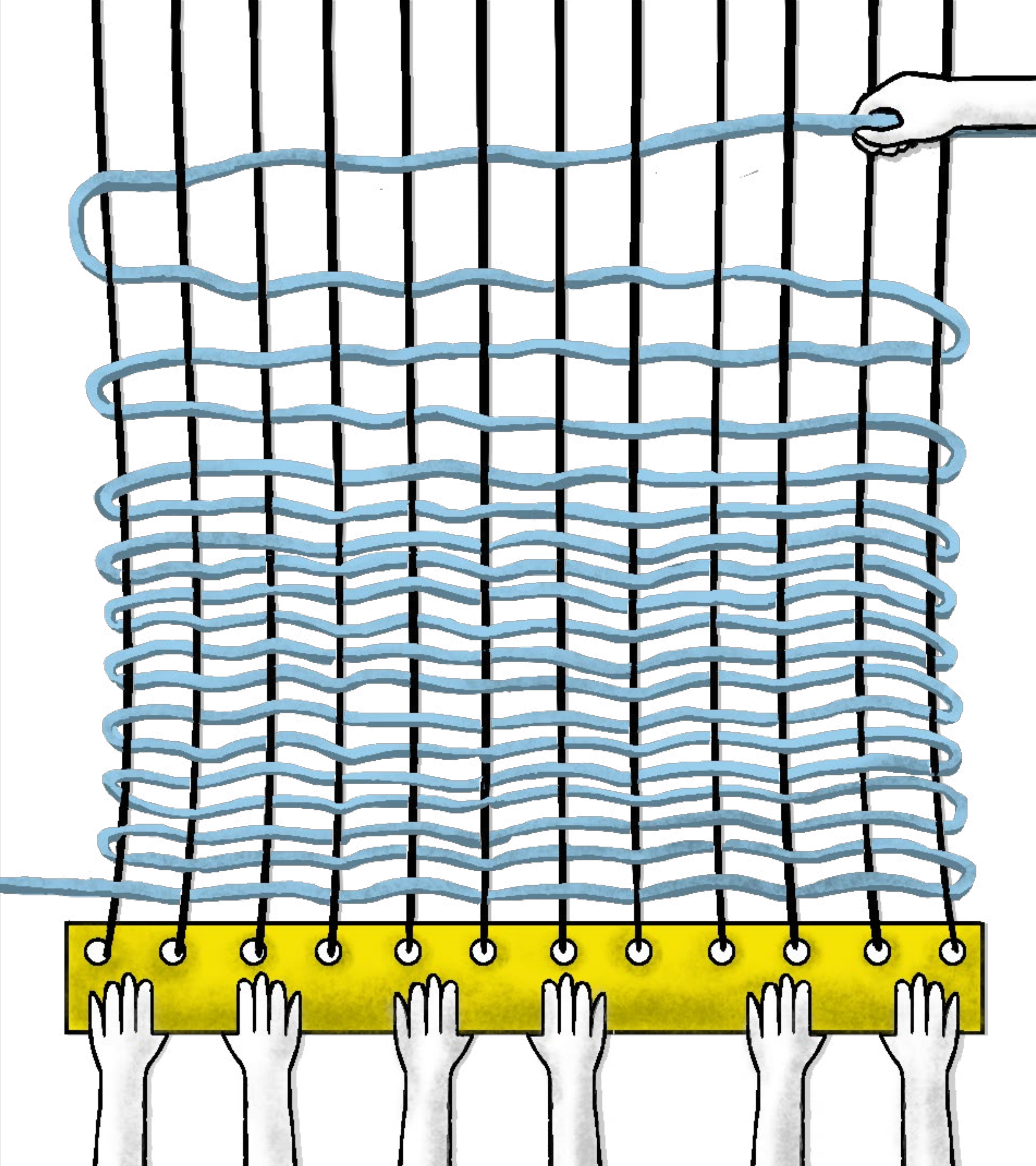
Hahn L. & De Souza, S. (2020). Introduction to the blog symposium: The Socio-Legal Lab as a didactic format, Rechtswirklichkeit, <https://barblog.hypotheses.org/3437>.

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CHAPTER 02

Interdisciplinary Research on Law







Content

Socio-legal research is interdisciplinary research: it draws from various disciplinary bodies of knowledge and methods in order to research law in action. Navigating between disciplines is very fruitful because it pluralizes discourses and fosters critical thinking. At the same time, interdisciplinarity is challenging: working across disciplines requires familiarity with disciplinary assumptions, methodologies and methods.

This chapter explores what it takes to conduct interdisciplinary legal research.

We will suggest approaches to combine different knowledge ecologies and equip the reader with an overview of the important scientific terminology.

At the end of this chapter, you should be able to address what interdisciplinarity means for your research, why it is important and how challenges to implement it can be addressed.

QUESTIONS	RELEVANCE	ACTION
What is interdisciplinarity?	Learn about basic concepts of scientific theory and how they differ depending on the disciplinary perspective.	Drafting research design and finding a common language.
What are types of interdisciplinary research on law?	To select the appropriate mode of interdisciplinarity, you need to understand which ones exist.	Locating your project
Why is interdisciplinarity important?	Understand the added value interdisciplinarity brings to the table.	Six hats – an exercise on interdisciplinary approaches.

What is Interdisciplinarity?

What is research?

All research is about increasing the stock of knowledge. There are building blocks on how to do so. Typically, research is a process with many stages:

01. OBSERVATION | PROBLEM

Research starts from an observation or a problem you encounter.

02. RESEARCH QUESTION

This step indicates the motivations for your research. The question should be focused, concise and open to debate.

03. THEORY

You will then look for scientifically grounded statements that already describe or explain the observation or problem. This is called theory.

04. METHODOLOGY

In this step, you will think about how to acquire more knowledge on your topic. You might want to verify or falsify a theory or concept. If there is no sufficient theory on your problem or observations yet, you have to develop your own theory from the bottom-up. In both cases, you need to think about the process of acquiring knowledge so it is scientifically robust. This process is called methodology.

05. METHODS

Once you have decided about a certain methodology, you require a set of suitable methods. Methods are tools and techniques to acquire knowledge. Your material can be texts which you then analyse such as through content analysis or a discourse analysis, but you might also use quantitative methods such as surveys as data.

06. RESEARCH ANSWERS

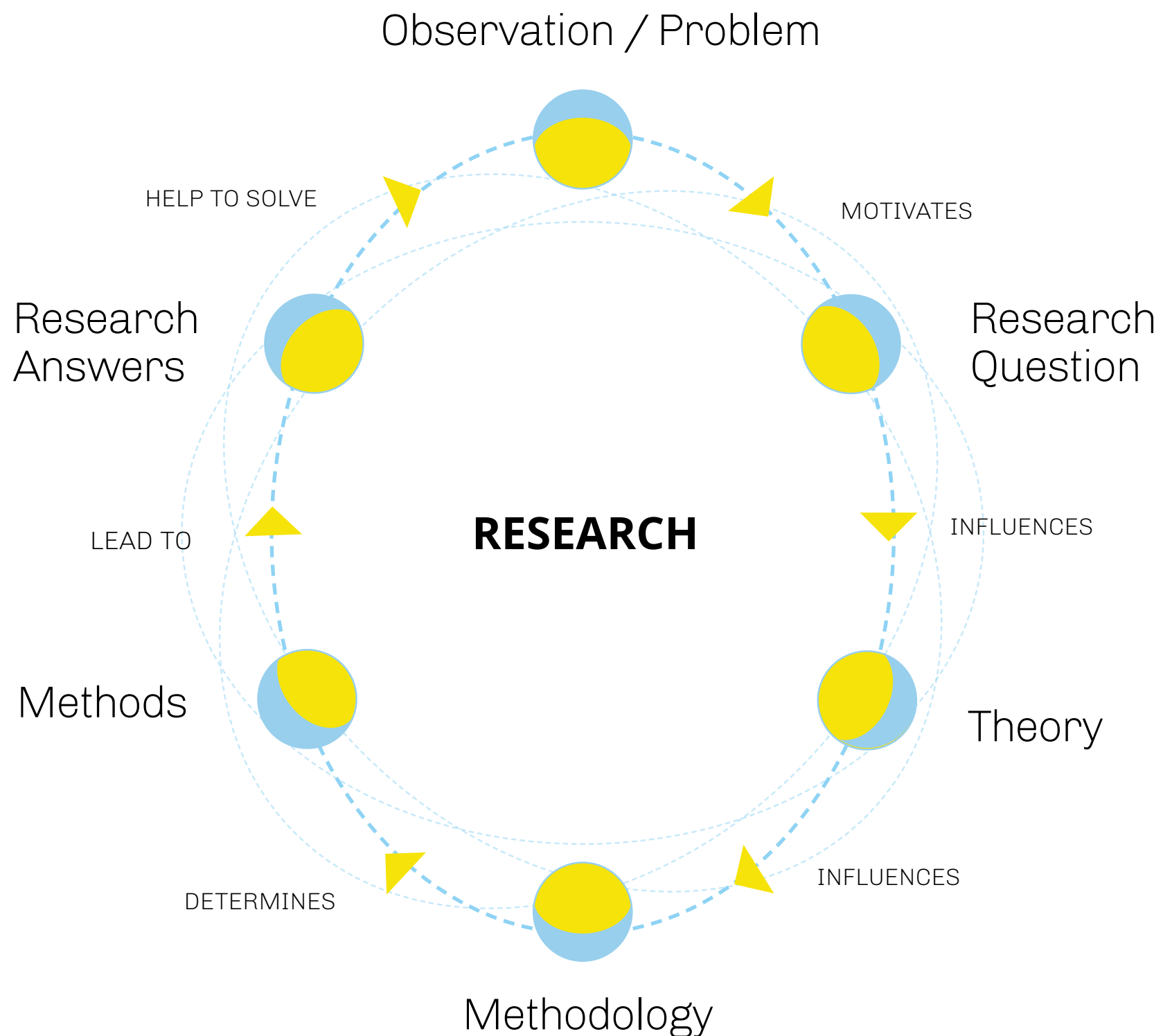
Ideally, the previous steps will give rise to initial answers to the research question. In addition, new questions might emerge.



Research rests on (implicit) assumptions about the nature and limits of science and knowledge, called ontology and epistemology:

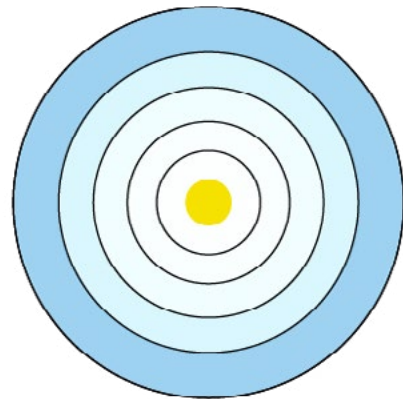
ONTOLOGY is concerned with the question “What is reality?”. It asks what the world is and whether we discover or construct it.

EPISTEMOLOGY refers to how we make sense of the world by posing the question “How do we know what reality is?”.



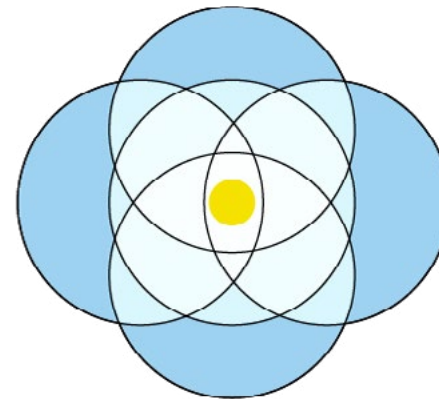
If you are curious to learn more about the building blocks of scientific research, we recommend Booth, Colomb & Williams (2008) and Della Porta & Keating (2008) as further readings, from which this overview is adapted.

What is interdisciplinary research?



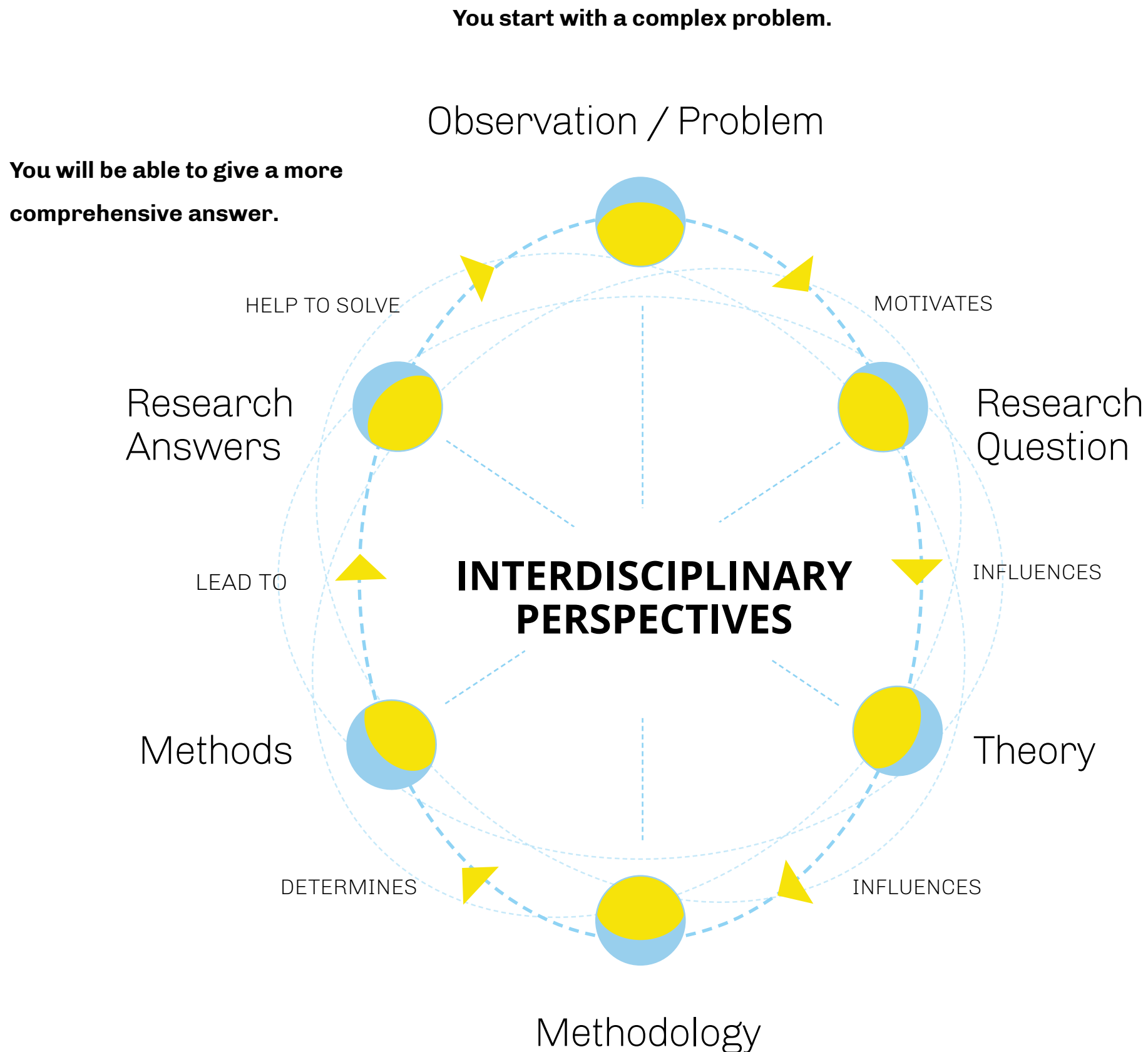
MONODISCIPLINARY RESEARCH

uses the approaches common in one discipline to frame research questions. It draws on established theories, methodologies and methods, all based on assumptions about how knowledge is produced held in this discipline.

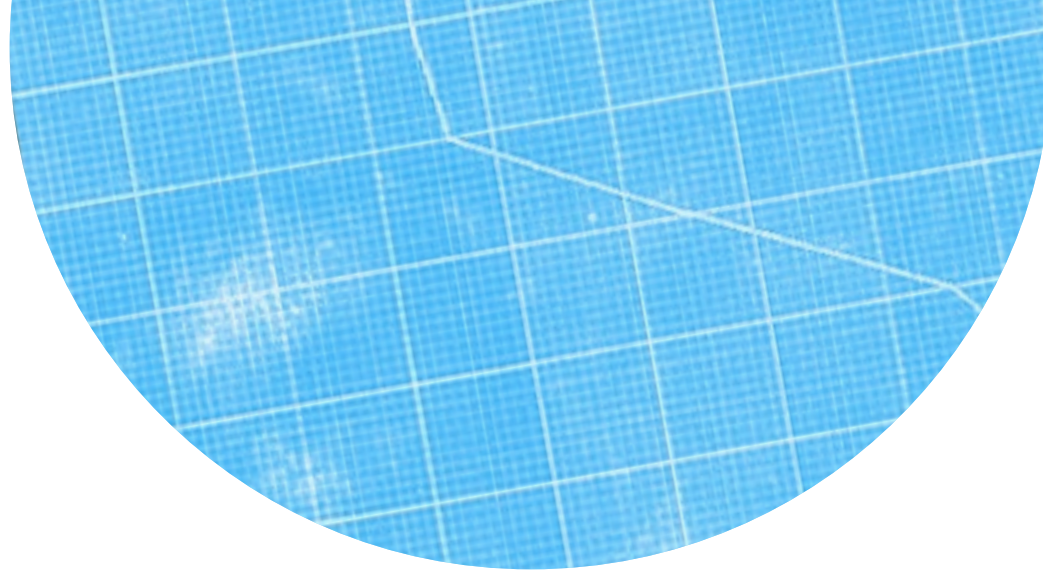


INTERDISCIPLINARY RESEARCH draws on the knowledge and tools from more than one discipline. As we will see in the following sections, the degree in which disciplinary knowledge is combined may vary. However, what is particular about all forms of interdisciplinary research is that it combines insights from several disciplines, thereby creating a more comprehensive perspective (Klein & Newell, 1996).

The need for interdisciplinary research emerges from complex problems and observations that cannot be solved or understood with just one discipline. Interdisciplinary thinking can be introduced at all stages of a research process. This may, at the same time, influence the whole research cycle, because the building blocks of the research process are intertwined. Ontological and epistemological assumptions influence how one tries to make sense of observations and problems (theory) and according to which rules (methodology) and with which tools (methods) these observations and problems should be studied. Interdisciplinary research is therefore more than just adding knowledge from two or more disciplines.



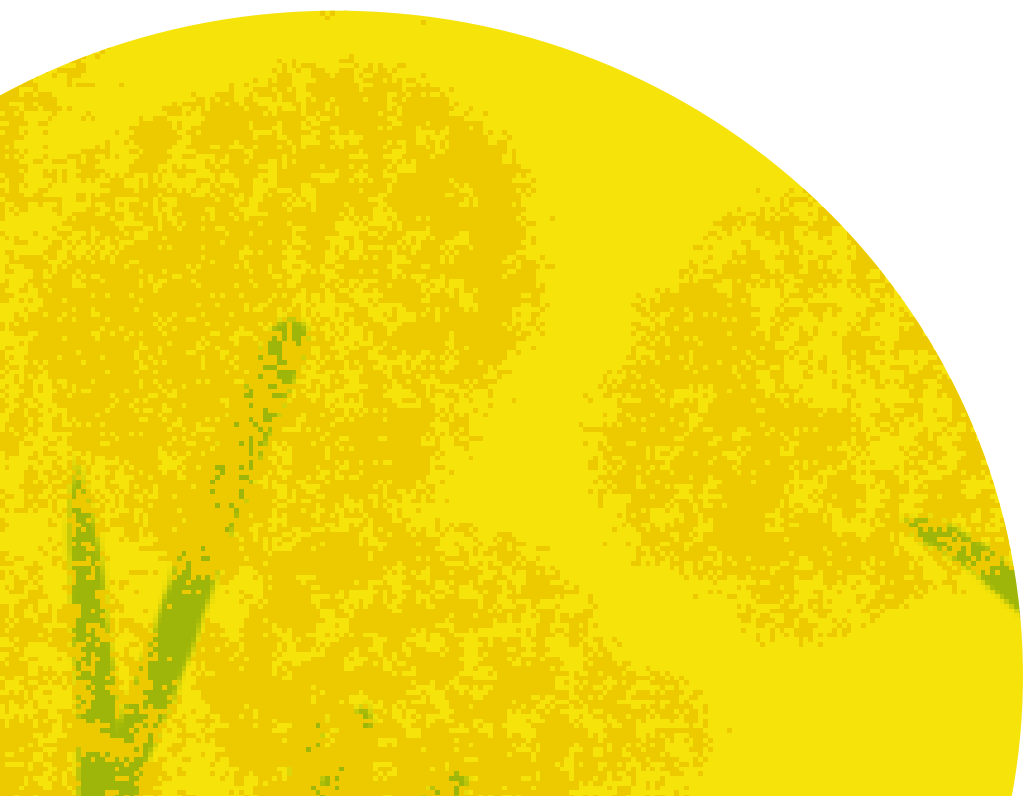
As we will see throughout the book, challenges may emerge within this process. For example, there are epistemological, theoretical and methodological tensions between the legal and sociological images of law and society that may complicate the research process (Banakar, 2015. pp.36).

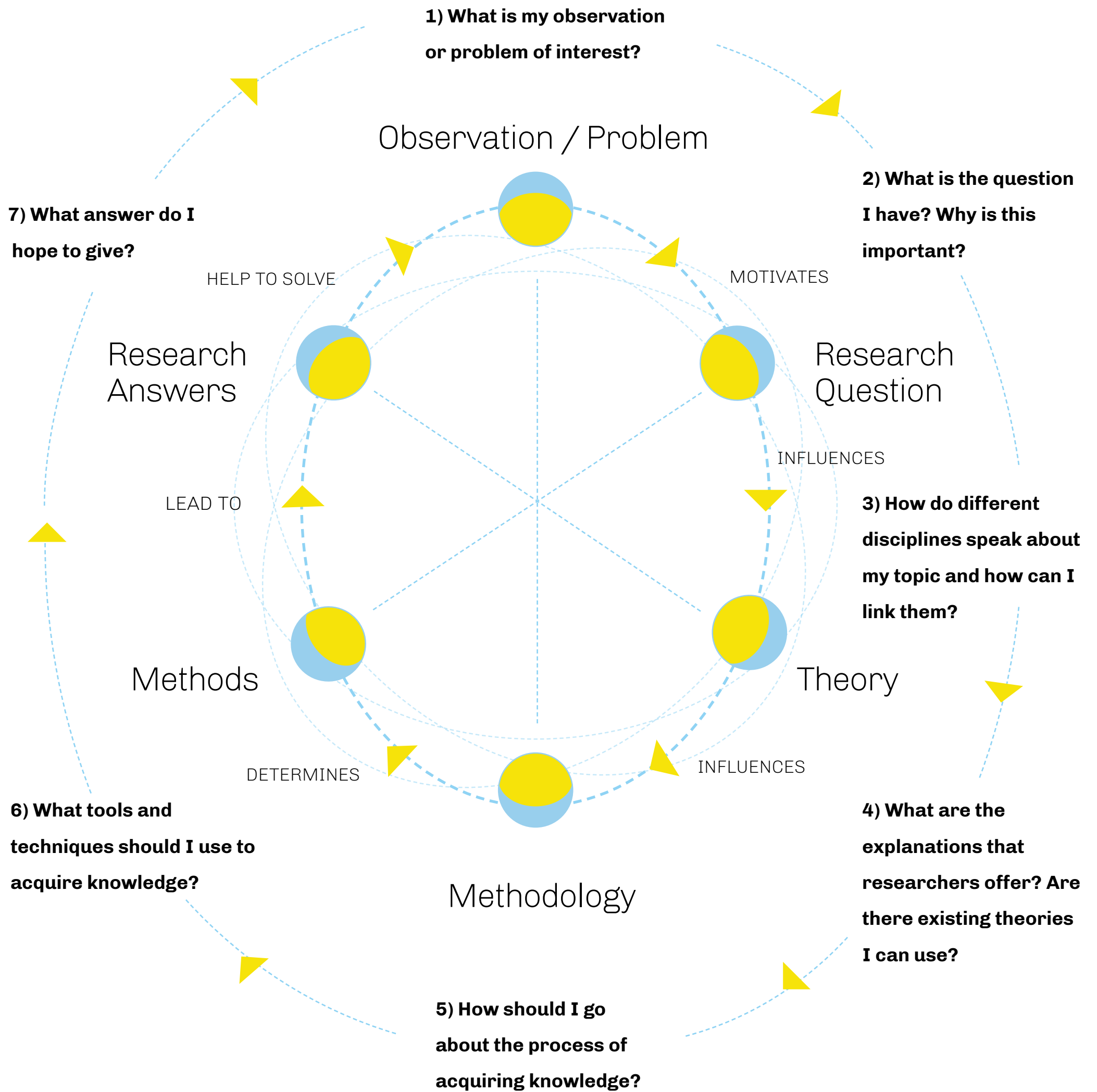


EXERCISE

My interdisciplinary project – Part I

Now it is your turn: Think about the various disciplinary perspectives that could be relevant for your project. Collect ideas on how they might come into play in each of the stages of the research process. If you have questions rather than answers do not hesitate to write them down as well.





Tips: developing a research question

One challenge in research is finding a precise and interesting research question that is feasible but at the same time within the limitations of your project (concerning time, expertise, funding, etc.). This applies to all research but is particularly difficult in interdisciplinary projects that analyze multilayered problems that require the integration of various perspectives. This makes techniques for moving from a topic to a specific question an important asset.

MOVING FROM RESEARCH TOPICS TO PROBLEMS

Booth, Colomb and Williams (2008, pp. 35) suggest formulating a sentence with three elements:

TOPIC:

“I am interested in/
working on ...”

QUESTION:

“Because I want to find
out why/how/who/
when/where...”

SIGNIFICANCE:

“In order to...”

NARROWING DOWN A RESEARCH TOPIC

CHOOSE AN INTERESTING TOPIC:

- Ask ‘why’ and ‘how’ questions.
- Think of why it matters to you and why it should matter to others

FIND OUT MORE:

- Look at sources that may be useful
- Ask yourself what potential sub-topics there could be.
- Do these further topics raise new kinds of sources?

THINK ABOUT YOUR AUDIENCE:

RESEARCH QUESTION EXAMPLE:

- Why is the internet undemocratic?
(unclear)
- How is fake news damaging young adults on platforms like Twitter? (clear)

If you want to know more on how to frame your research question, check out this article by the George Mason University Writing Center from where the above information is adapted. (2018):



Scan this to know more on how to frame your research question.



EXERCISE

Finding a Common Language

This is a warm-up exercise for interdisciplinary teams. The aim is to compare different disciplinary approaches, interests and ways of thinking by discussing single terms.

One person suggests a term that is to be discussed. This can either be an everyday term or a scientific term (power, gender, environment, airplane, etc.).

Every participant describes how the discipline they are trained in would examine the term.

EXAMPLE: 'DATA'

LAW:

Are data “things” in the legal sense and is there a concept of data ownership? How is data protection regulated? Which body has the legislative competence? How can laws on data regulation be compared across legal systems?

COMPUTER SCIENCES: ...

POLITICAL SCIENCES: ...

SOCIAL SCIENCES: ...

PSYCHOLOGY: ...

OTHER DISCIPLINES: ...



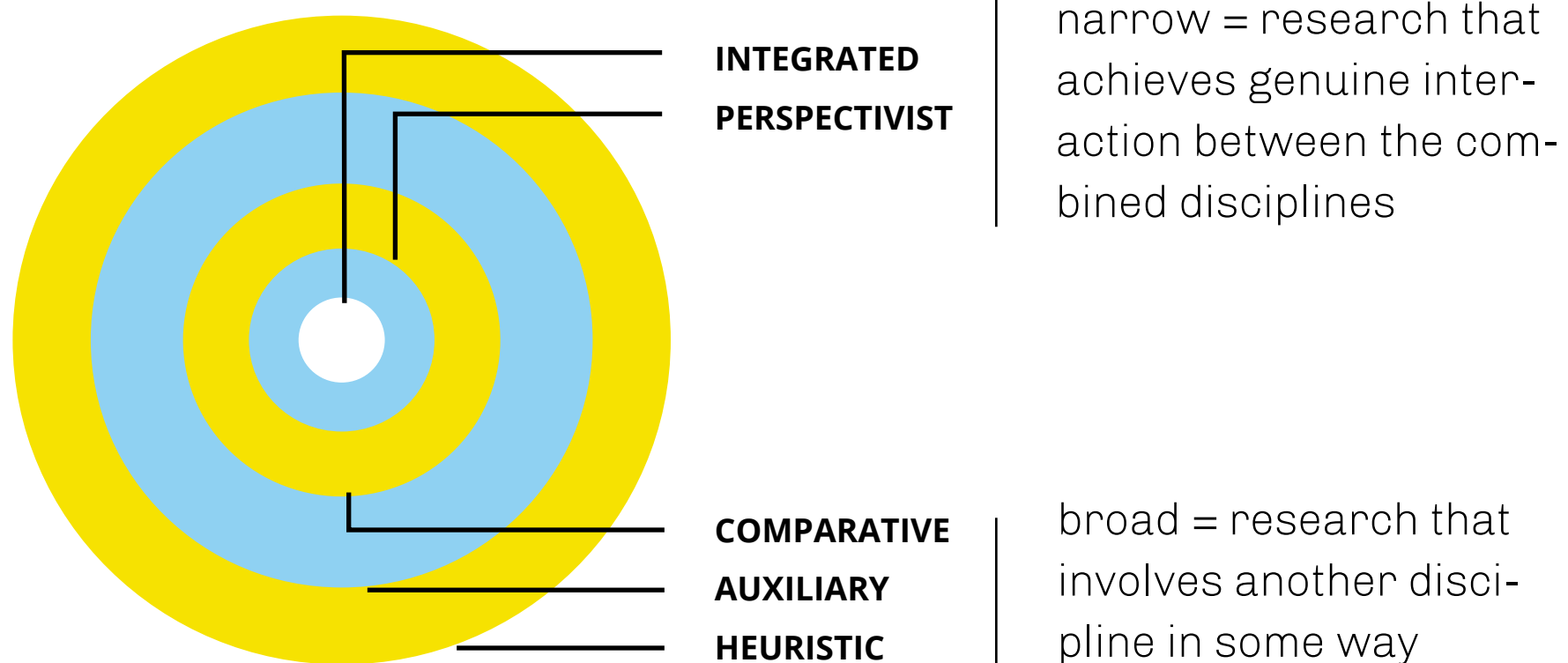
Interdisciplinarity in Legal Research

What is interdisciplinary legal research?

So far, we have learned what interdisciplinary research is generally about. But what is special about interdisciplinary research on law? Most research on law is doctrinal research. It asks what the law is and applies it to a real-life situation to solve a legal issue. In contrast, interdisciplinary research moves beyond the text of the law. It explores 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”(Webley 2019. pp.59). Thus, law is examined from two sides: how it affects social forces (as an independent variable) and how it is being affected by other social forces, processes and institutions (Menkel-Meadow 2019. pp.39). Either way, interdisciplinary perspectives have to take into account the specialties that come with law as a normative science.

Typology of interdisciplinarity

Taking into account the particularities of law requires one to reflect upon the degree in which different disciplinary perspectives on law can or should be combined or integrated. In order to do so, van Klink and Taekema suggest a typology with five types of interdisciplinary research approaches to law (2011. pp.10):



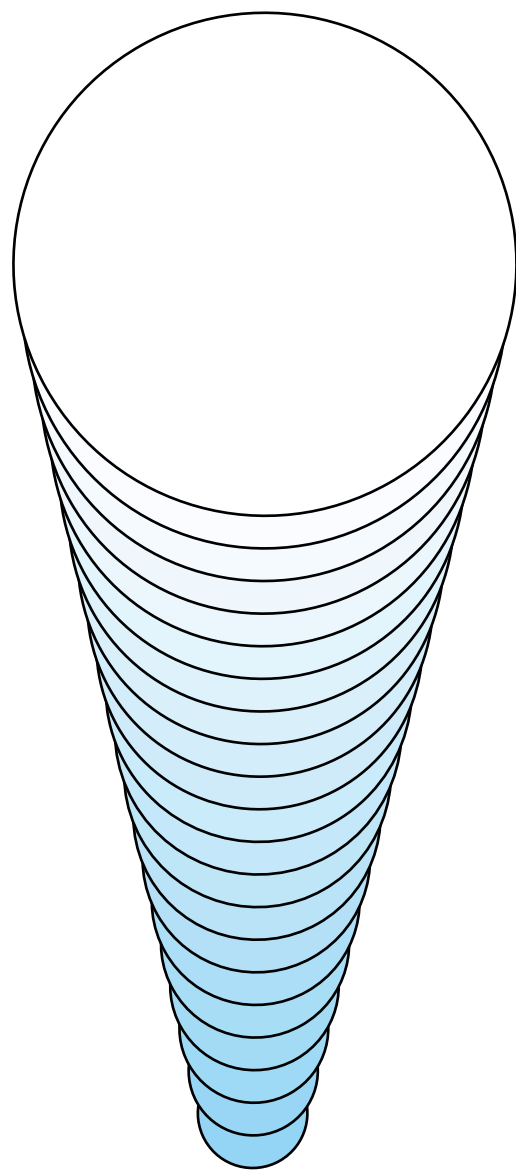
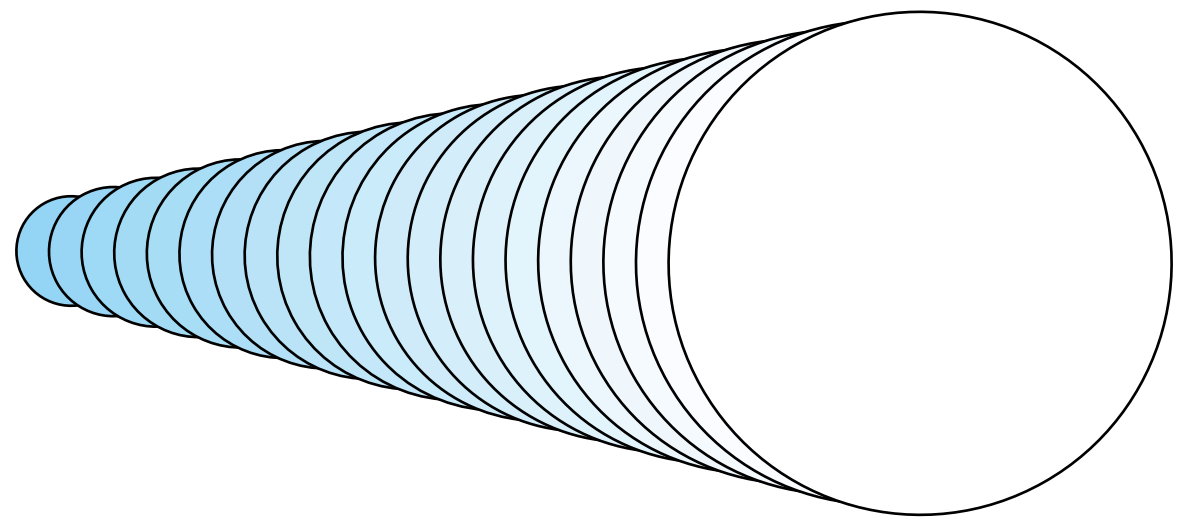
	WHEN APPLIED?	DEGREE OF INTEGRATION	ARGUMENT	CONCLUSION	EXAMPLE
HEURISTIC	Legal problem	Heuristic use of other discipline for inspiration in law	Legal	Legal	Figures of literature in law
AUXILIARY	Problem, that cannot be solved with legal methods only	Incorporates data, arguments and/or findings from other disciplines into doctrinal reasoning	Legal	Legal	Natural science insights in environmental law
COMPARATIVE	Problem, to which many disciplines have a definition/solution	Comparison of two or more disciplinary approaches: the research process is carried out by each discipline on their own terms and brought together at the end	Legal + ... Discipline 1 + ... Discipline 2 + ...	Legal + ... Discipline 1 + ... Discipline 2 + ...	Legal, social and political impact of climate litigation
PERSPECTIVIST	Joint problem definition	Co-existence, switching between disciplines	Multiple coexisting arguments	Multiple coexisting answers	Violence as a legal, psychological or sociological phenomenon
INTEGRATED	Joint problem definition	Research process contains elements from different disciplines	New methodology, transdisciplinary	A new discipline may arise	Gender studies

A summary from van Klink and Taekema (2011).



EXERCISE

Locating a project together



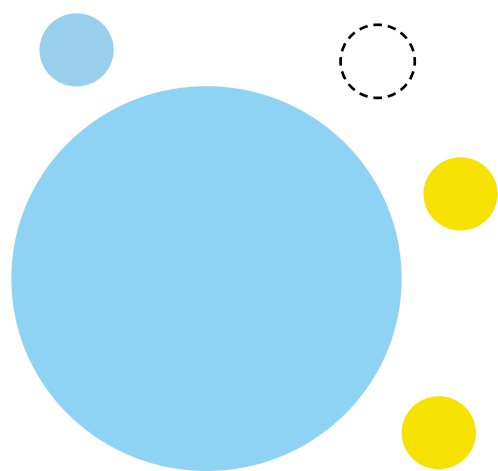
The aim of this exercise is to reflect upon which form of interdisciplinarity you would use or which might be suitable for your research project.

- Write your research question, theories, methodology and methods on a piece of paper.
- Take a second piece of paper. Write down in which model of interdisciplinarity described above you would locate your approach, or where you would position it along the scale of interdisciplinarity.
- Keep the second paper to yourself and exchange the first one with your partner or the group.
- Now your partner or the group reflect upon your approach and locate your project.
- Afterwards, start discussing whether the self-perception of your approach and the external perception correspond. Think together about which approach would be best suitable for your research question and interest.

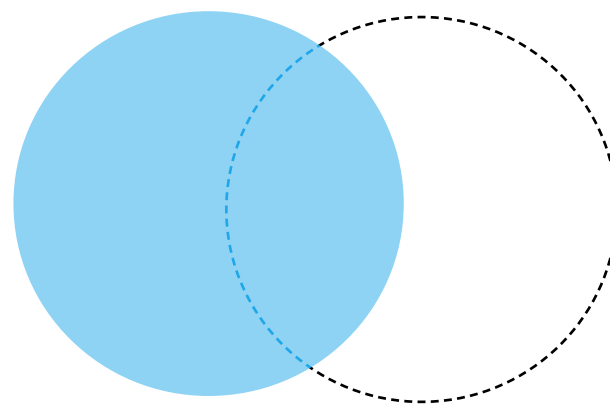
NOTES / SKETCHES

NOTES / SKETCHES

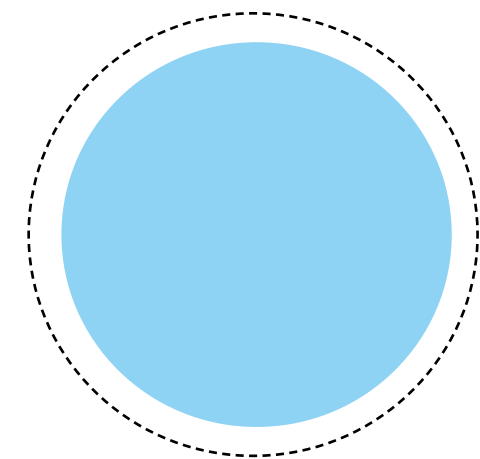
Why Interdisciplinary Research?



PLURALISE DISCOURSE



FOSTER REFLECTION



**HOLISTIC PICTURE OF
LAW & SOCIETY**

Advantages and added value

Generally, interdisciplinarity fosters reflection upon implicit disciplinary assumptions as well as the validity and limits of scientific conclusions. It acknowledges that there are power imbalances in systems of knowledge.

In research on law, this is particularly valuable: Using multiple disciplines allows for more holistic “theories, concepts, testable hypotheses and robust empirical findings to understand the interaction of laws, legal actors (judges, lawyers, policy, juries, litigants and lay people) and legal institutions with the people and other institutions that are affected by law” (Menkel-Meadow, 2019. pp.39).

Let us now look at two examples that illustrate the added value of an interdisciplinary approach:

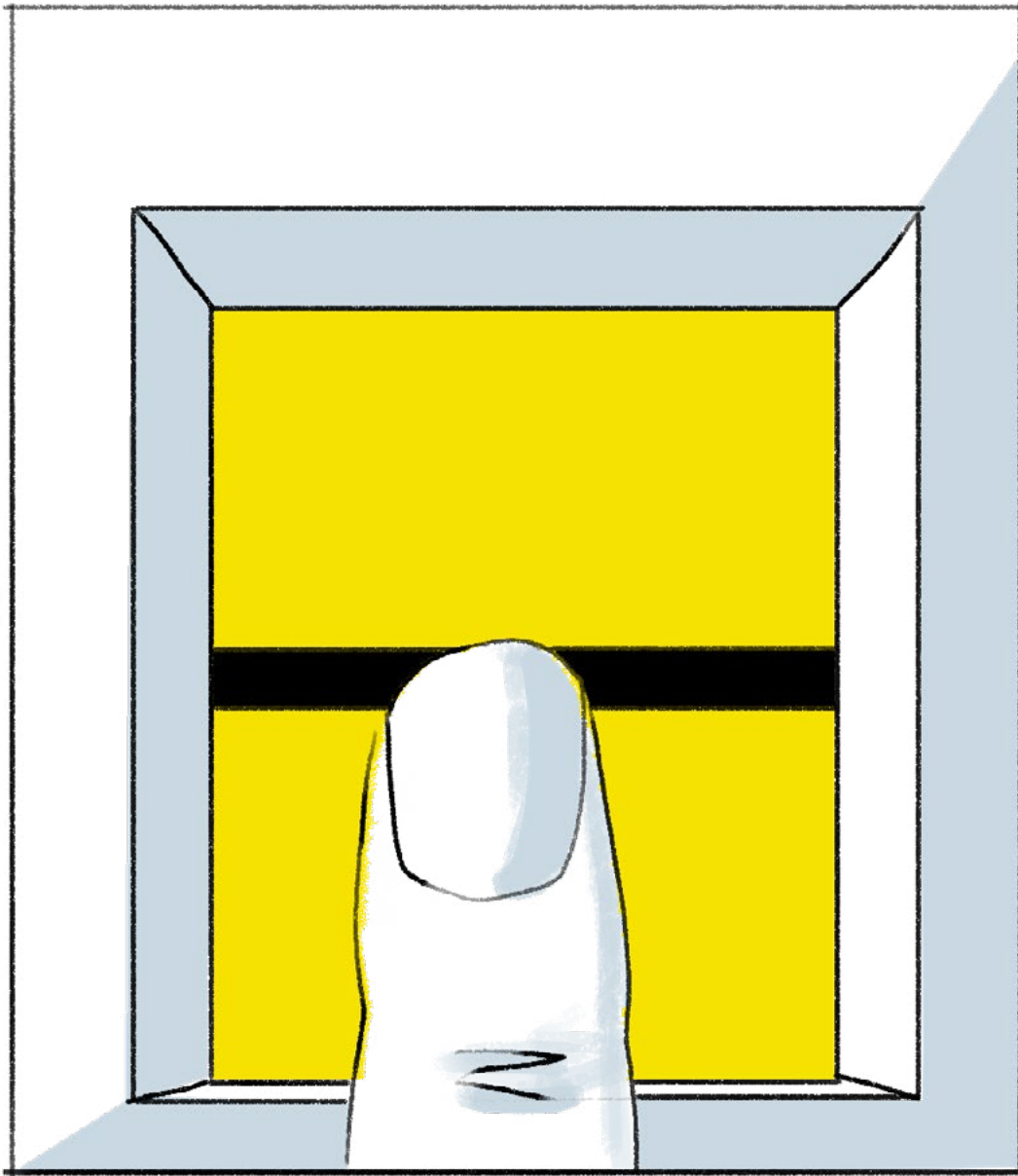
EXAMPLE 02

The Aadhaar project

In India, a twelve digit Unique Identity is assigned to all Indian residents. The alleged uniqueness is through biometrics (fingerprints, iris scans and photographs) and demographic information. The project was positioned by the government to enhance administrative efficiency of welfare programs – reducing duplication and corruption and increasing inclusion. The argument put forward was that having such a unique identity would help in improving delivery of welfare services and preventing leakages.

This claim was studied by both legal researchers and developmental economists to ascertain whether the project actually met its stated objectives. The legal researchers found that due to the lack of regulation when the project was first rolled out, there was a lot of ambiguity in regard with its stated purpose. For instance, it was observed that there was a continuous expansion in the functions of Aadhaar without taking into account people's consent. In the last few years its initial purpose was completely expanded from providing poor people with an identity to being a basis for access to different state services. It is an example of what Ramanathan (2017) has called "function creep".





There were also various kinds of challenges that emerged in terms of the delivery and access to services, including challenges of data connectivity, inconsistencies of data entry, an industry of middlemen who became gatekeepers to access services and a challenge in the technology regarding the authentication of identity (Khera, 2019).

These different studies demonstrate how researchers explore diverse aspects when they study the claims of this biometric ID project. Some explored the implications that the lack of a regulatory framework had in terms of the increasing scope of the project without the necessary protections, whereas others explored the project in terms of the impact it had for the lived reality of people.

Adopting interdisciplinary approaches in this instance are valuable because they are able to highlight different kinds of regulatory, social and economic challenges. This demonstrates the multifaceted nature in which socio-legal issues can be studied.

Challenges

Interdisciplinarity does not only bring added value, but also multifold challenges on at least three levels:

RESEARCH

- Disciplinary cultures of framing questions.
- Finding suitable “entry points” for integrating knowledge from different disciplines.
- Varying assumptions of how to prove something true or false.
- Difficulty to be comprehensive in each domain and translate concepts between domains.

INSTITUTIONAL

- Universities are mostly mono-disciplinary.
- So are journals, publishers and review processes.
- Deciding on an audience can be challenging.

INDIVIDUAL

- Mono-disciplinary education.
- Time constraints: acquiring and publishing interdisciplinary findings takes more time so you might publish less.
- Lack of support from a supervisor.
- Challenges from a job market perspective because one does not easily “fit” to one faculty.

Have you already experienced one of these challenges? In chapter 8 we suggest an exercise to reflect upon such instances by writing a CV of failures.

Addressing challenges

There are various strategies that can be used to address the challenges of interdisciplinary socio-legal research in terms of how to conduct it, in which institutional setting to do so and how to navigate disciplinary structures as an individual researcher. In this section, we present suggestions developed by participants in a workshop on “Navigating Interdisciplinarity” that we organized in Berlin in 2021, as well as in a text by Nikitina (2006).

RESEARCH

Contextualising:

- Draw on other disciplines to contextualize your topic, e.g. history, political developments.
- Collect, integrate & consolidate information: look for real life problems to solve, bring together competing perspectives and offer new ways of understanding the problem.

Conceptualising:

- Identify concepts that are well-developed in other disciplines and transfer or connect them.
- Ask people from different disciplines about their perspectives on your topic.

Reflection and Explaining:

- Keep a running protocol of your choices (methods, research questions, etc.).
- Explain (and defend!) your choice of method or case.
- Make the limits of your data and findings transparent.

Failing:

- Research is a process which can fail: It is okay to re-formulate questions and adapt topics.

INSTITUTIONAL

Use existing opportunities:

- Visit summer schools or workshops on interdisciplinary topics and method trainings.
- Attend conferences from other disciplines to familiarize yourself with different academic styles, cultures and discourses.

Develop new opportunities:

- Encourage institutional organization at your institute or university, and demand method classes and training.
- Organize a method workshop yourself.

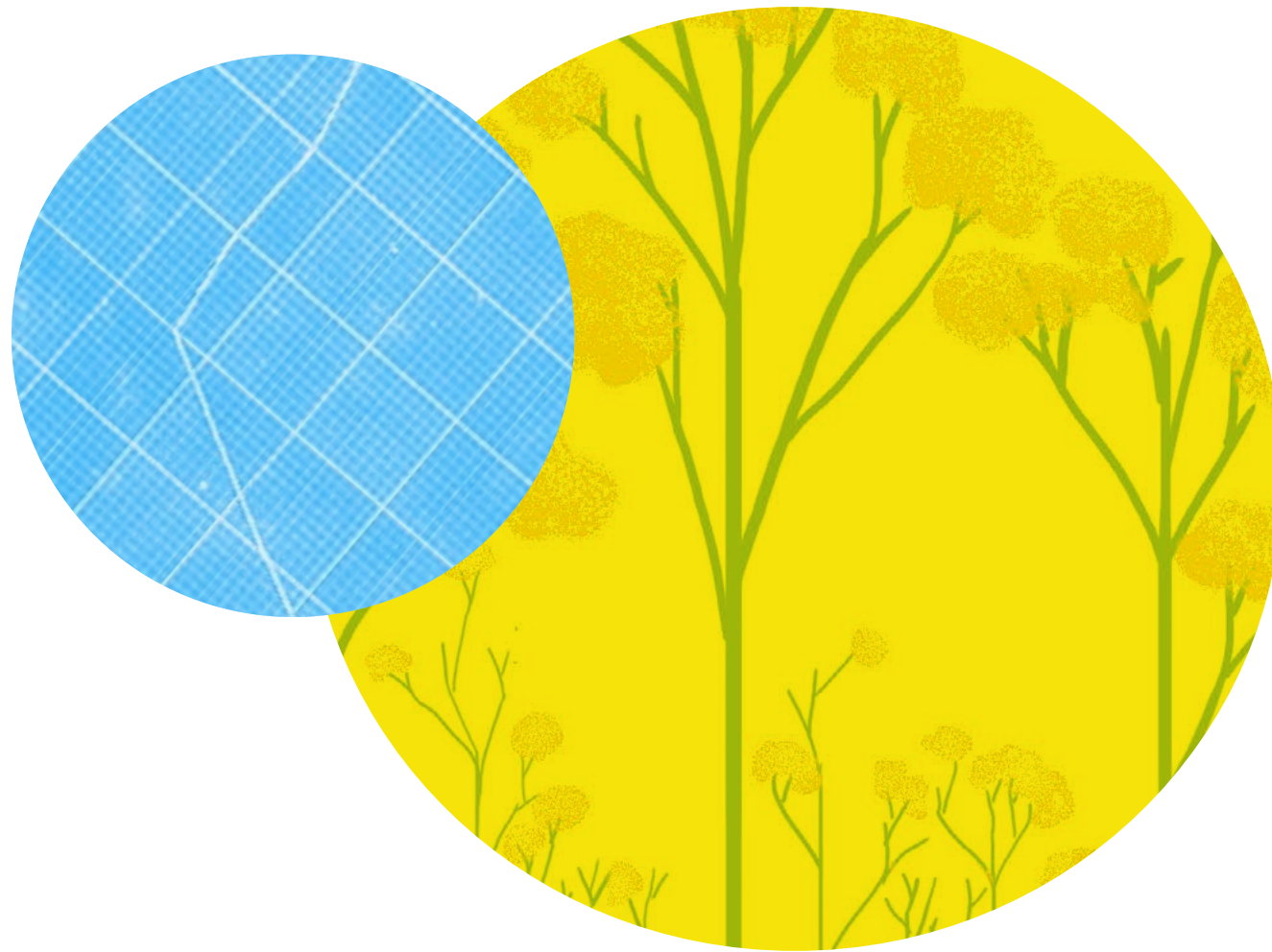
INDIVIDUAL

Build confidence:

- Cultivate confidence that interdisciplinarity as your expertise.
- Learn how to navigate between expectations.

Build relations:

- Others encounter similar problems, so build up networks or peer groups for exchange.
- Institutionalize cooperations with other interdisciplinary scholars who could give you feedback.



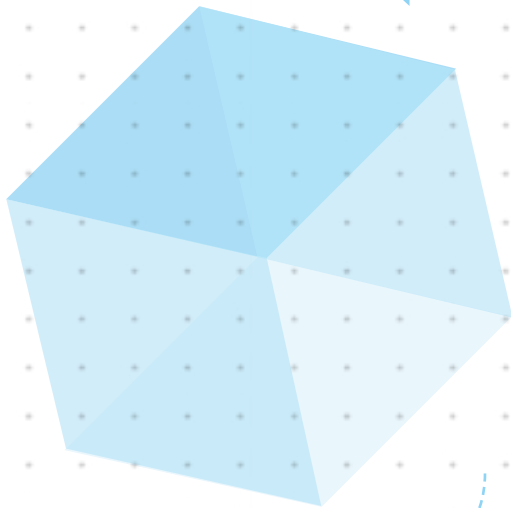
EXERCISE

My interdisciplinary project – Part II

Now that you are familiar with interdisciplinary choices throughout the research process as well as different ways in which interdisciplinarity can manifest, think about where you would locate yourself.

Depending on the type of interdisciplinary research you undertake:

- What kind of questions would you ask?
- Which theories and methodology would you draw from?
- Which methods would you choose?



EXERCISE

Six perspectives on interdisciplinarity

The purpose of this exercise is to discuss interdisciplinary research on law from six different perspectives. You need at least six people for this. Each person (figuratively) puts on a different hat and argues from their respective roles. Colour in the hat of your choice in the following page.

**BLUE HAT**

Process

Thinking about thinking. What thinking is needed? Organizing the thinking. Planning for action.

The research process will be more challenging.

**WHITE HAT**

Facts

Information and data. Neutral and objective. What do I know? How will I get the information I need?

There is a tension between the sociological and legal pictures of society, and the functions of law.

**RED HAT**

Feelings

Intuition, hunches, gut instinct. My feelings right now. Feelings can change. No reasons are given.

I am excited to learn how other disciplines think. I am afraid to fail.

**GREEN HAT**

Creativity

Ideas, alternatives and possibilities.

It produces a richer and more nuanced notion of law.

**YELLOW HAT**

Benefits

Positives, plus points. Why an idea is useful. Logical reasons are given.

It brings a better understanding of social conditions of law and is a corrective of doctrine.

**BLACK HAT**

Cautions

Difficulties, weaknesses, dangers. Spotting the risks. Logical reasons are given.

You need to be aware of different disciplinary scientific reasoning and academic traditions.

This exercise is directly taken from the one day design challenge by Roca (see sources).

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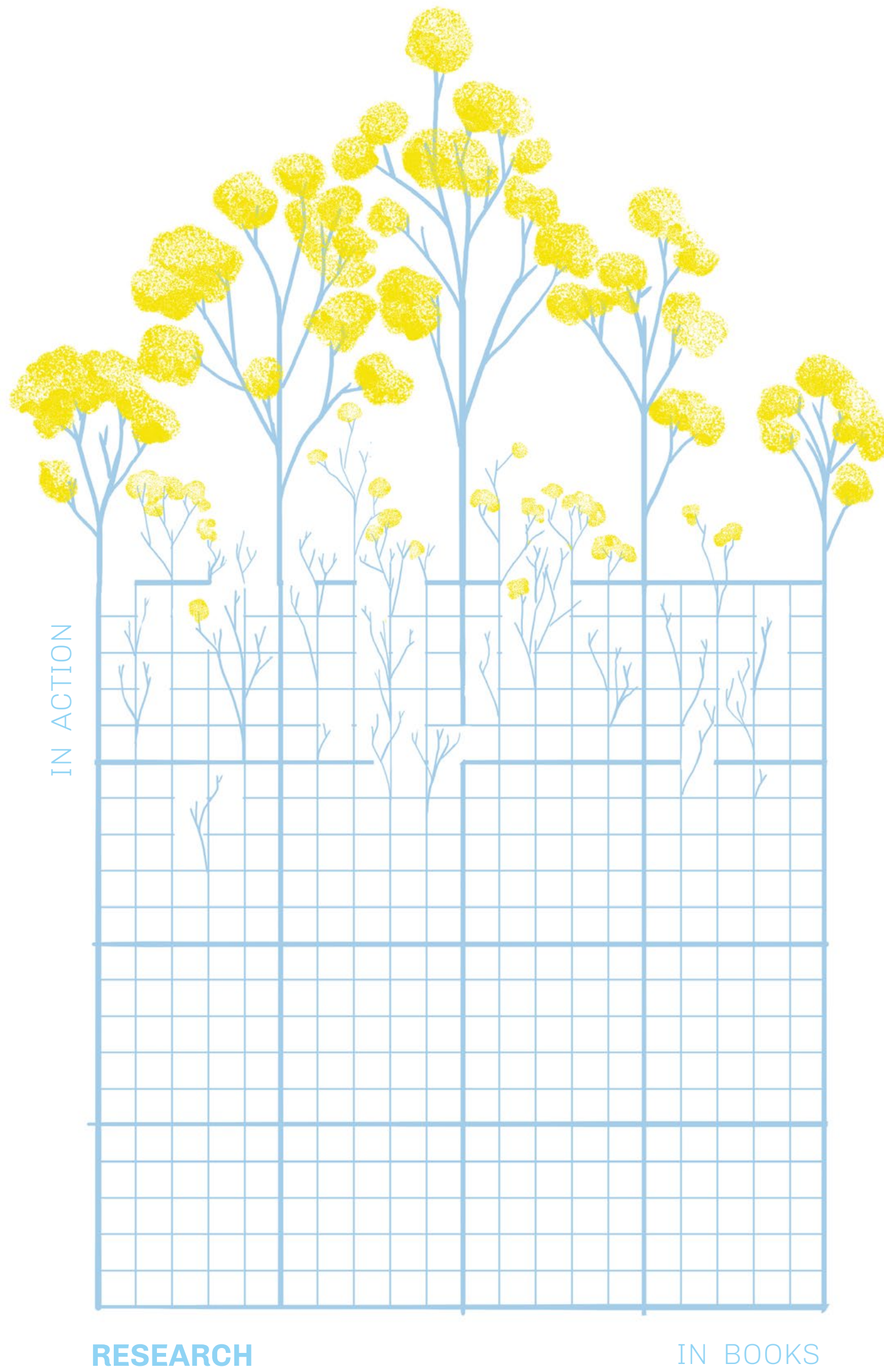
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CHAPTER 03

What Happens to Research When put Into Action?





Content

In the previous chapters we have examined what research and interdisciplinarity are about. In this chapter, we look at how to be prepared for the practical realities of conducting research.

This includes thinking about how to deal with methodological anxieties that emerge in the research process as well as the spontaneous encounters that may lead to new research opportunities.

All research is about accumulating and extending knowledge. Thinking about research in action is an invitation to engage with the structures that permeate our knowledge ecosystem.

Learning about the practicalities of research through a lab means reflecting on the ways in which knowledge is produced, consumed, and engaged with. Readers will be encouraged to examine their positionality as well as their ethical obligations.

QUESTIONS	RELEVANCE	ACTION
<p>How can we be more reflective when conducting research? What does such reflection entail?</p>	<p>Deal with anxieties in choosing a research design as well as in preparing and executing it.</p>	<p>Demystifying research</p>
<p>How can we be prepared for the realities of research? How does fieldwork play out and how does this correspond to the preparations in research methods seminars?</p>	<p>Recognise the 'serendipity' in fieldwork: dealing with frustrations, unexpected roadblocks, opportunities.</p>	<p>Research diary</p>
<p>How do we position ourselves in the research process and make this visible in our work?</p>	<p>Acknowledge that the knowledge we produce is not value free and that our identities and views influence how we see the world. Understand the implications of our work, the narratives we are writing and the way we (re)present research participants and partners.</p>	<p>Epistemological reflections and reflective memo writing</p>
<p>What are guidelines for ethical research?</p>	<p>Ensure good scientific practice by becoming aware of potential ethical conflicts in research and the best practices of solving them.</p>	<p>Anticipating dilemmas and the dilemma game</p>

Methodological Anxieties

The methodological gap problem

Research manuals and handbooks guide researchers on how to conduct a socio-legal project and ensure the quality of their work by drafting a rigorous research proposal.

While these formal research manuals are important for drafting a research design and understanding quality criteria in empirical research, they rarely prepare researchers for the messy reality of the research process.

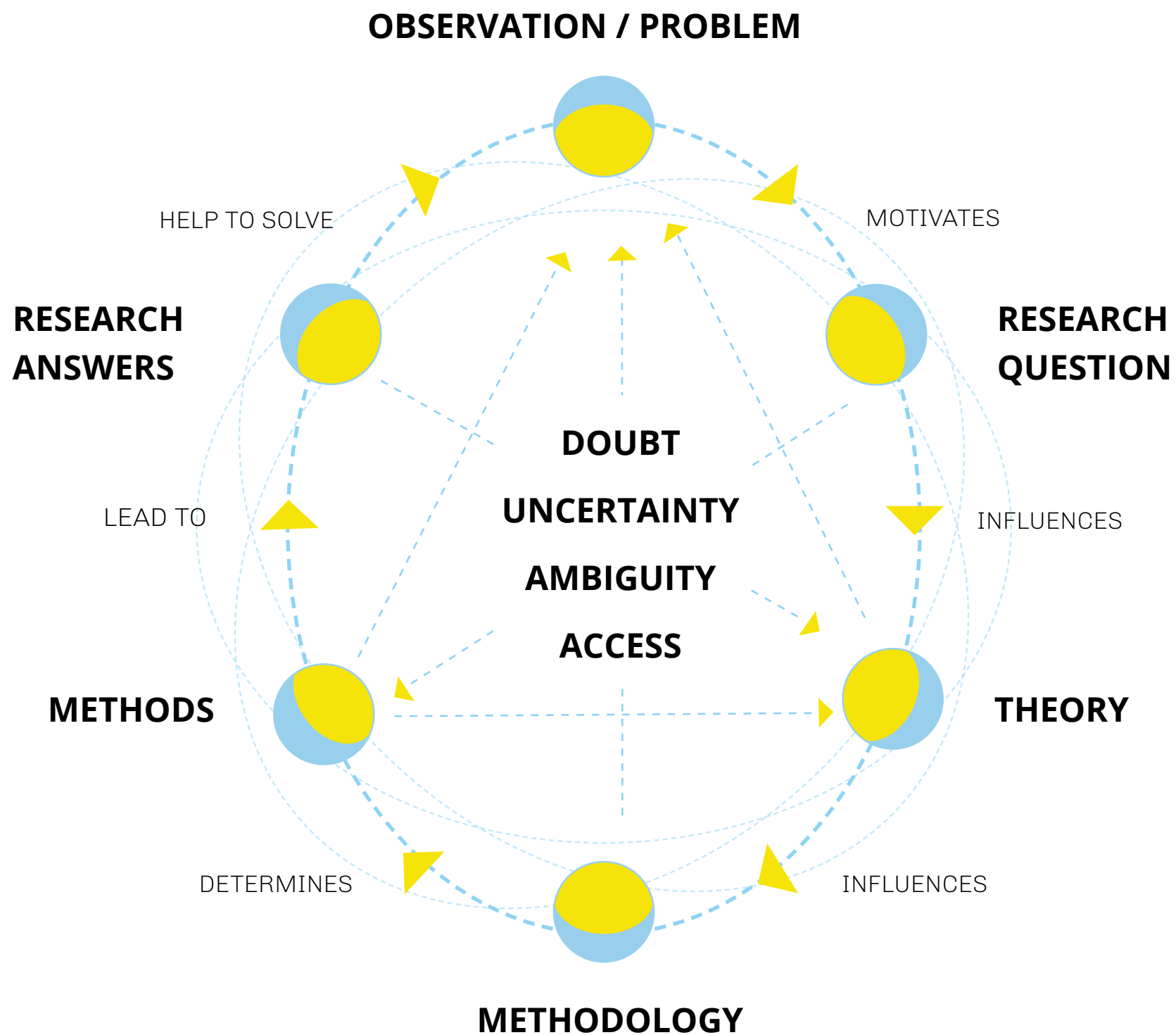


Research in action

Research in action is often accompanied by unexpected obstacles as well as opportunities. In practice, research is seldom a linear process, but rather a constant wandering back and forth between different stages of the research design.

Thus, research is best understood as a fluid process that is shaped by unpredictable factors like (a lack of) access, recurring doubts, ambiguities and uncertainties.

THE FLUIDITY OF THE RESEARCH PROCESS





READING:

Conducting Law and Society Research

REFLECTIONS ON METHODS AND
PRACTICES

HALLIDAY AND SCHMIDT, 2009

The unpredictability of research in action leads to feelings of uncertainty. Halliday and Schmidt (2009) call this the “Methodological Anxiety Syndrome”. The term describes the fear of lacking the methodological skills for empirical socio-legal research.

One cause of methodological anxieties is the lack of a comprehensive methods training. One cure suggested by Halliday and Schmidt is promoting an extended notion of research methods: Understanding them as both formal rules and social practice can demystify the “mystery of research methods” (2009. pp. 3).

DEMYSTIFYING RESEARCH

DEMYSTIFYING RESEARCH

EXERCISE

**EXERCISE****Demystifying research**

There are several ways to reflect upon your methodological anxieties:

BY YOURSELF

Take your research proposal and brainstorm for each stage of the research process:

- Which steps depend strongly on other persons or circumstances?
- Which obstacles did or could occur?
- How did or could I approach such obstacles?

IN CLASS

Sharing our anxiety without words:

- Draw a representation of your anxiety with respect to your research.
- Show the drawing to another person in the group. Ask them if they have been in a similar situation and whether they have experiences to share.

IN CONVERSATION

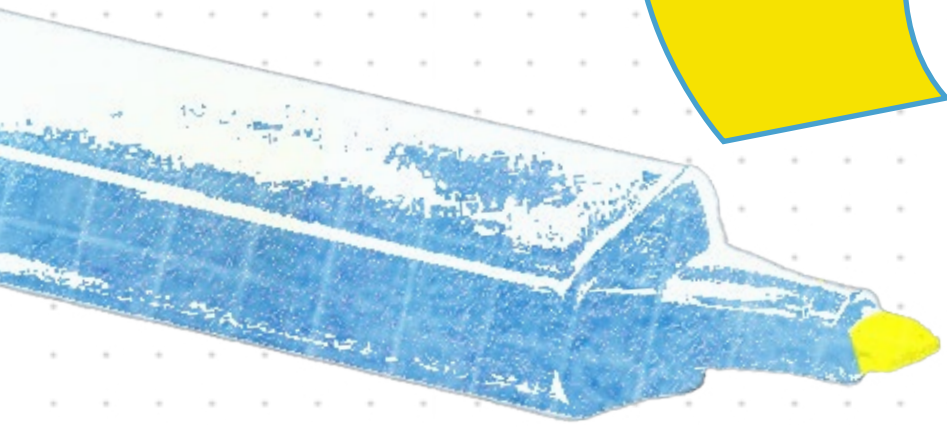
Talk to your supervisor or other researchers about their experiences with research in action:

- In how far have you experienced the disjuncture between research plans and the lived reality of the research process?
- At which points did you have to deviate from your original research plan?
- Why and how did you reframe your research design?

NOTES / SKETCHES

EXERCISE

KEEP A RESEARCH DIARY





EXERCISE:

Research diary

Documenting all research design decisions is part of a process that ensures the quality of research (Webley, 2019. pp.66).

This becomes more important when the research is hypothesis-driven and when it generates theories from the empirical material.

One strategy to use methodological anxieties productively, is to document them in a research diary. The process of writing creates awareness of these challenges. Such notes are essential to the genesis of a project. A research diary can form the basis for the later methods of your project.

The diary may include:

- Methodological anxieties
- Research design decisions
- What has worked
- What has not worked

NOTES / SKETCHES

NOTES / SKETCHES



What is Scientific Knowledge About?

Methodological rules and methods are tools to generate knowledge in a structured manner. However, as we have seen, challenges may arise when these rules are applied while actually conducting research.

This insight now raises an even more fundamental question: If the research process is always to some extent unpredictable, how is science even possible? Who determines the rules for “good science”, what kind of knowledge is taken into account and which isn’t? What power structures determine the flow of knowledge? And what is the role of individual researchers in all of this?

These questions relate to what we have introduced in chapter 2 as epistemology, the theory of knowledge. The following section delves deeper into questions of knowledge production, because depending on the assumptions one follows, the focus on law shifts. Traditionally, legal research that uses a doctrinal approach assumes that law is objective and can be discovered with heuristic methods. This is challenged if one assumes that there is no objective truth or value-free research but that there are multiple subjective interpretations of the world around us. This shift, which is popular in socio-legal studies, allows us to understand the effects of social construction in and through law (Mertz, 1994). Thus, let us now focus on the key question of epistemology: how to obtain knowledge about the world?



How to obtain knowledge

There is a broad spectrum of approaches to the “how” of knowledge production. In the following, we focus on a selection of classic schools in the social sciences in order to illustrate how the role of research varies accordingly:

POSITIVISM

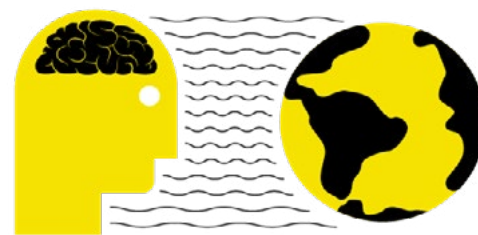
The world exists as objective reality external to the human mind.



The researcher's task is to discover reality, in social science and natural science alike.

INTERPRETIVISM

The world and reality exists of the interpretations that people give to it.



The researcher's task is to analyse how people interpret the world around them.

CONSTRUCTIVISM

The world exists as multiple, relative realities: it is what we make of it.



The researcher's task is to analyse the socially constructed, multiple realities.

For more information on these and further approaches see Della Porta & Keating (2008. pp.24).



EXERCISE

What is research to you?

We have now seen that there is not just one understanding of science and research, but that assumptions of what knowledge is and how it is produced vary. But what is research to you? Strickland and Lawrence (2015) developed a quiz for researchers to answer this question. Its aim is to foster a reflection of your epistemic assumptions and implicit understandings that shape knowledge production.

- Take the quiz [at this link](#).
- Spend the next day reading about the person who you have been identified with, as well as their epistemological assumptions, and discuss this with a peer.



Read more about
the experiment here.

NOTES / SKETCHES

NOTES / SKETCHES

**READING:**

Decolonizing Methodologies

RESEARCH AND INDIGENOUS PEOPLES

SMITH, 2017

Research in a positivist tradition claims to be universal. This notion is criticized by scholars as “white logic, white methods” (Zuberi and Bonilla-Silva, 2008), and as “research through imperial eyes” (Smith (2017. pp.42). To learn more about these critiques, please read an excerpt of the book “Decolonizing Methodologies” by Linda Tuhiwai Smith:

EXPLORING ASSUMPTIONS

Developing a critical understanding of assumptions, motivation and values that influence research in the West.

REPRESENTING IN RESEARCH

Examining how indigenous communities continue to be viewed from the lens of the “other”.

Exploring how knowledge hierarchies continue to perpetuate distinctions between “the West” and “the rest”.

AGENDA FOR ACTION

Reflecting on methods used by indigenous researchers and how they clarify and justify their positions and communities of interest.



EXAMPLES:

Reflecting methodologies

FEMINIST STANDPOINT THEORY

This theory proposes to take the woman's experience as the point of departure, and questions dominant forms of knowledge production.

Central ideas:

- Knowledge is socially situated.
- Marginalized groups have special access to knowledge that is not available to those belonging to a privileged group.
- Research, particularly research focused on power relations, should begin with the lives of the marginalized.
- See: Sprague (2016. pp. 46).

After having discussed critiques of universal claims of truth and reality, we would like to suggest two approaches which address these ideas methodologically: the feminist standpoint theory and ideas of decolonisation.

FEMINIST JUDGMENTS PROJECT

- The Feminist Judgments Project is a series of judgment writing projects that have taken place around the world.
- The purpose of these projects is to bring together feminist academics, practitioners and activists to take a look at significant cases across jurisdictions, and embark upon re-writing them.
- Through this, the project seeks to go beyond critiquing judgments to show how the judiciary could have been different when using different points of views.
- See: Hunter, McGlynn and Rackley (2010).



DECOLONIZING METHODOLOGIES

Decolonizing methodologies is the process of examining the nature and formation of knowledge and to critically and reflectively study of what is being researched and who is researching. It raises questions including:

- How do existing knowledge power structures impact how we identify our research problems?
- Does this impact our research resources and thereby its purposes?
- What is the relationship between the researcher and those being researched?
- Who conducts the research? Is knowledge being distorted? What are the effects of dominant traditions?

DECOLONIZING THE CURRICULUM

- SOAS, a leading university in the UK, put together a toolkit to help teachers and academics decolonize their curriculum.
- The questions ranged from whether the curriculum presumed a particular kind of student to whether it cultivated diverse viewpoints around particular issues, whether it encouraged critical thinking, whether the syllabus has potential to cause trauma for certain students and whether the sources of the literature are wide and include different epistemic traditions.
- See: Decolonising SOAS (2018).



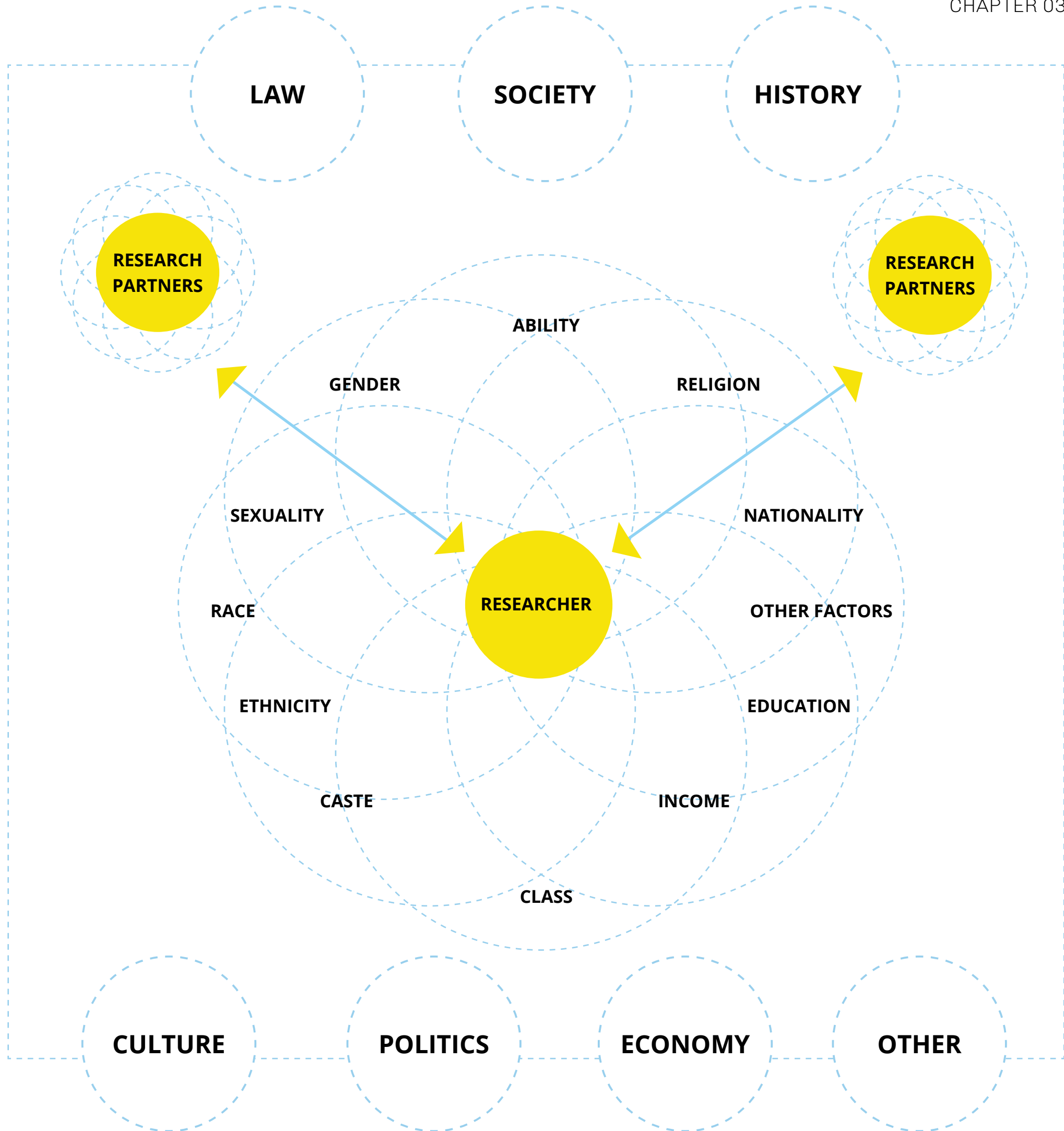
Reflect on your Positionality

So far, we have discussed basic ideas of epistemology as well as institutional aspects of knowledge production. But all of this has an individual dimension too. It can be captured with the term “positionality”. Positionality refers to “the role a scholar’s background and current (socially constructed and perceived) position in the world plays in the production of academic knowledge”(García, 2014. pp.794). Recognizing positionality builds on a constructivist or interpretivist tradition by challenging the notion of value-free science. Knowledge, instead, is seen as a “product of a specific position that reflects particular places and spaces” (Sánchez, 2010).

Irrespective of whether one shares the notion of subjectivity in knowledge production, reflecting upon one’s positionality is valuable and can be practiced by answering these questions:

- In how far does the motivation for a research project and the decisions taken during it derive from personal experiences and worldviews?
- What is the degree of privilege one holds and which power relations exist between the researcher and his or her interlocutors?

By reflecting upon your positionality, you might even discover that the personal experiences you have had with law influence how you conceive its role in society, its pitfalls and potentials.



There are multiple factors that may influence a researcher's positionality. These factors can be ascribed or self-ascribed, and result from one's interaction with others as well as the context one navigates in.

REFLECTIVE

MEMO

MEMO

MEMO

MEMO

MEMO

WRITING

EXERCISE

MEMO

One way of becoming aware of your positionality as a researcher is through reflective memo writing (Derry, 2017).

Memo writing is an essential part of a reflective research process. You can write a memo for yourself as a research diary, share and discuss it with research partners or even include it in the methods section of your research project.

Example from Bourke (2014. pp.2):

“I am a White, heterosexual, cisgender male, and I have lived in the southern United States for most of my life. Prior to conducting the research study upon which this reflective work is based, I worked in undergraduate student housing for several years, all in the southern United States. My experiences working with (...). Through conversations with students of color in the residence halls and other facets of campus life, I heard (...). Following the initial completion of the research project, I began to reflect more deeply on the experience beyond the written page. Specifically, I asked myself questions about the experience:

1. What role did my positionality as a White man studying issues of race in higher education play?
2. How did I use my positionality in different spaces?
3. Did my positionality influence the interactions that I had with student participants?”

Depending on the research phase you are in, you can ask yourself the following questions when writing a reflective memo:



01

BEFORE THE PROJECT

- Which personal and/or professional experiences motivated me to pursue this project?
- What is my research goal and how do I want to contribute to change?
- Which social, cultural and political factors and legacies influence the way I approach the project and develop research questions?

02

DURING RESEARCH/ FIELDWORK

- How does my positionality converge or diverge from that of my research partners'?
- How do I problematise and/or acknowledge intersectional notions of difference (gender, race, class, religion etc.)?
- How has my positionality changed during the research process? Why or why not?

03

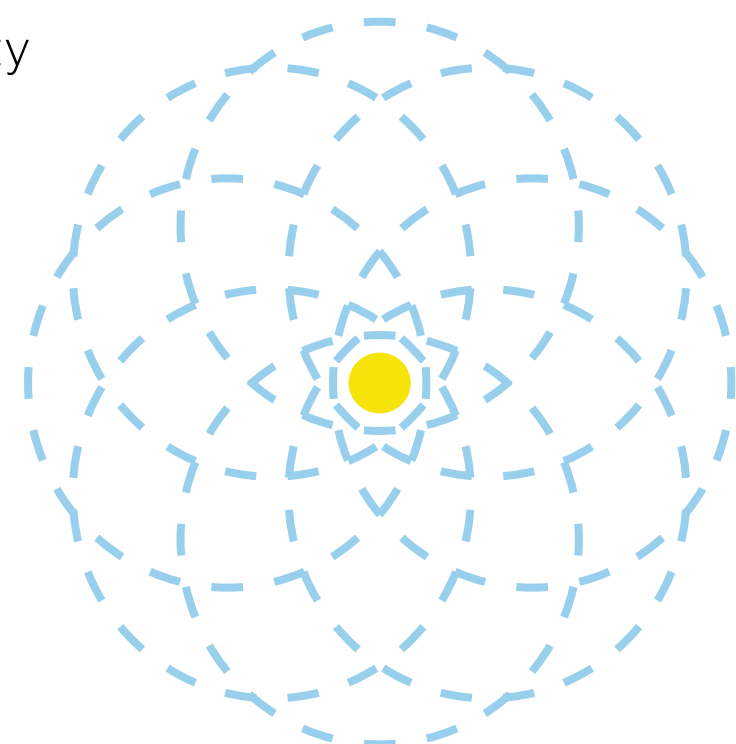
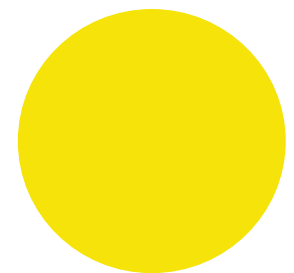
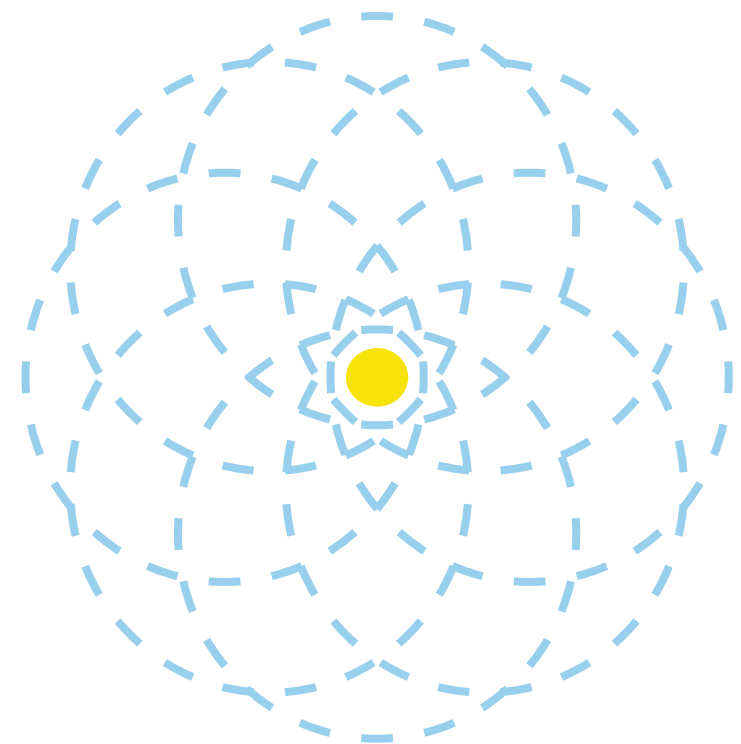
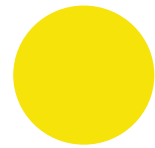
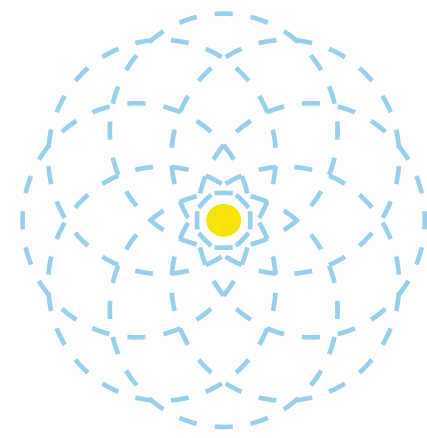
WRITING UP

- Which perspectives and experiences become visible or invisible through my writing?
- Who should my research speak to and whose experiences or worldviews are not reflected? Why?

Making positionality explicit?

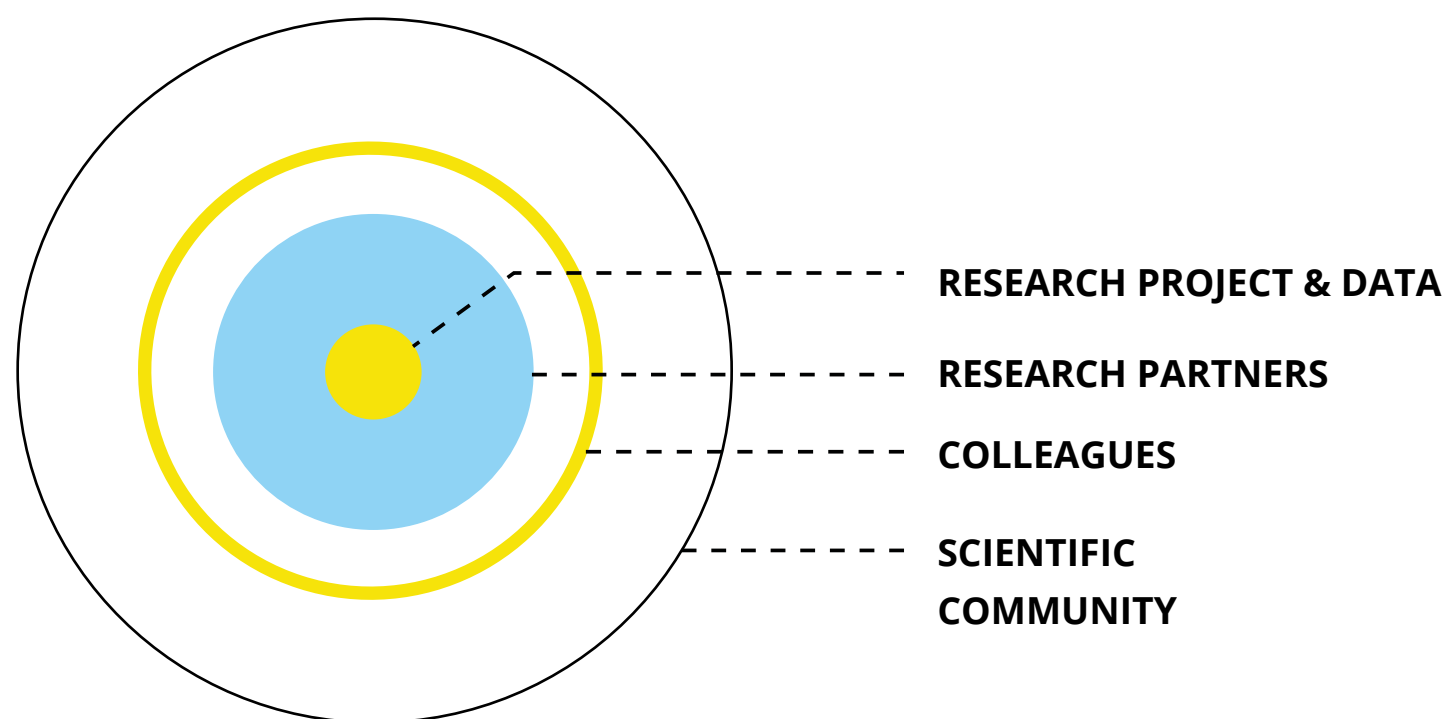
The exercises mentioned above allow for a reflection on positionality while conducting research. Whether or not to make this explicit in publications of research results is yet another question, and depends on many aspects such as disciplinary traditions or power structures in the field of research. A risk in emphasizing the subjectivity of research is that the validity of the results might be questioned. Keeping this in mind, there are different ways of reflecting subjectivity in publications:

- In the methods section of a book or paper it is required to reflect upon methodological choices as well as limits of the approach chosen. Here, potential subjective biases can be discussed, too.
- Writing a text in the first person (“I”) instead of the third person makes subjectivity explicit. To learn more about the narrative, epistemological, moral, and methodological aspects of using “I”, see (Sardan, 2015. pp.103).
- The most explicit form is including a section in your publication where you reflect upon your positionality (like in the reflexive memo).



Research Ethics

Reflecting practical challenges of research also means developing an awareness for research ethics. Ethical issues in research concern the responsible treatment of research partners and research data and the scientific standards of writing up research results. It also concerns your integrity as a researcher when interacting with colleagues and when promoting your research in the scientific community.



In the following, we focus on ethics in research relations. There is also a practical and institutional aspects of dealing with research data, which we will discuss in chapter 6.

Ethics in research relations

One fruitful way to explore law in action is through interactive, qualitative methods such as interviews or observations (see chapter 7). As with all research that involves human beings, this requires an ethical treatment of research partners during data collection as well as data analysis. Singleton and Straits (2018, pp. 47) suggest a number of ethical aspects that should be reflected when planning and executing a project:

- Carefully collect data, weigh the potential harm your research might do to your interlocutors and think of ways to minimize it. Ask yourself: Is the time required and the potential personal stress caused justified? What measures might reduce it?
- Inform your research partners about the project in order to enable them to exercise informed consent. This can encompass:
 - The purpose of the research.
 - A clarification of their rights (privacy etc.).
 - A statement that participation is voluntary and can be withdrawn at any time.
- Be honest when analyzing and reporting your findings. Document how you proceeded and make this procedure transparent.

Depending on the institution, country or even region, there are strict guidelines for many of these issues. For example, researchers in the EU must comply with the General Data Protection Regulation. Research projects in some jurisdictions must pass a research ethics committees or board. Find out whether there is a code of ethical conduct in your profession, institution or region.

We close this chapter now with two exercises that are helpful for reflecting upon ethical issues during the research process as well as in research relations.

EXERCISE

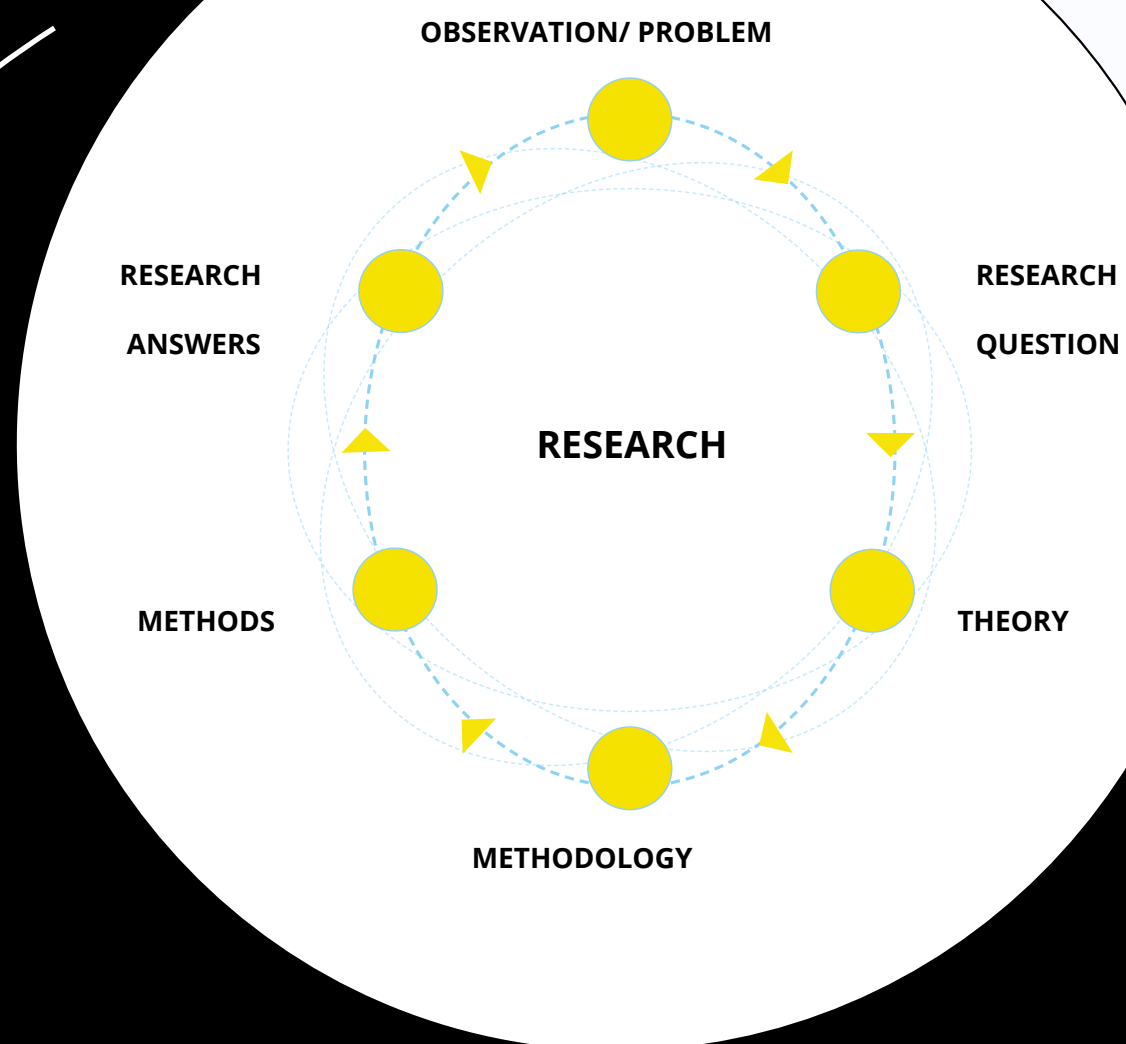
Anticipating ethical dilemmas

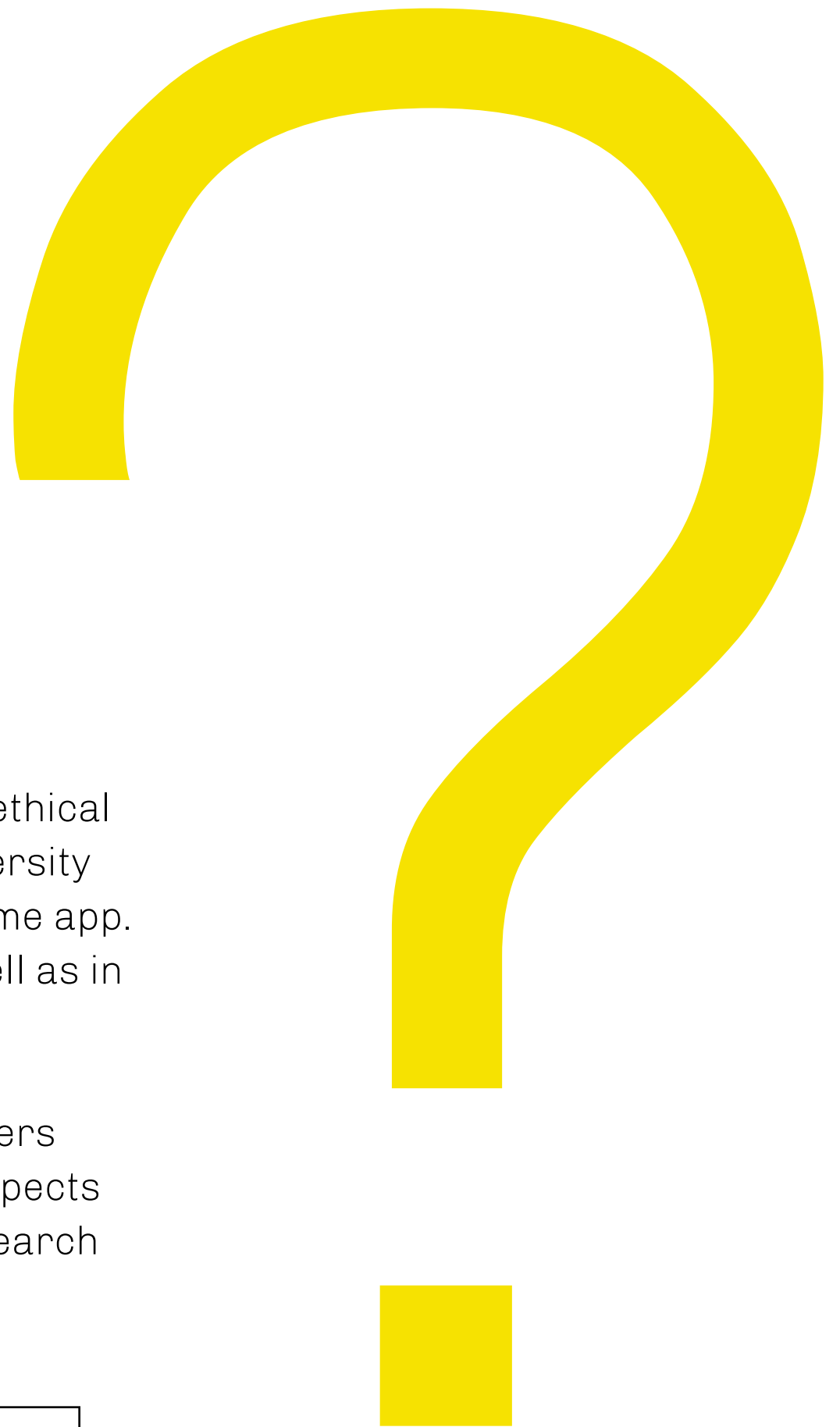
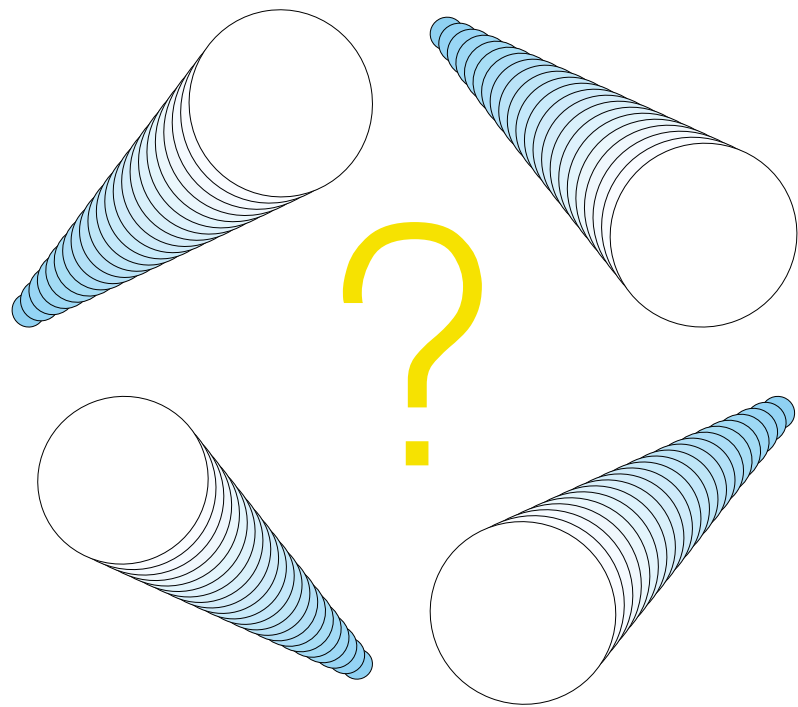
Please review each step of the research process through an ethical lens and discuss:

What ethical conflicts can occur during each phase?

How are you (ethically and legally) obliged to protect and interact with your research partners?

Does your institution have any guidelines on integrity and ethical behaviour?





EXERCISE

Dilemma game

To test and train researchers' awareness for ethical requirements and integrity, the Erasmus University Rotterdam (EUR) has developed a Dilemma Game app. It can be used by individual researchers as well as in groups and lectures.

The game simulates ethical challenges and offers solutions. In 75 dilemmas, it covers various aspects of professional integrity from dealing with research data to conflicts with colleagues.



The game can be downloaded via the QR code.

NOTES / SKETCHES

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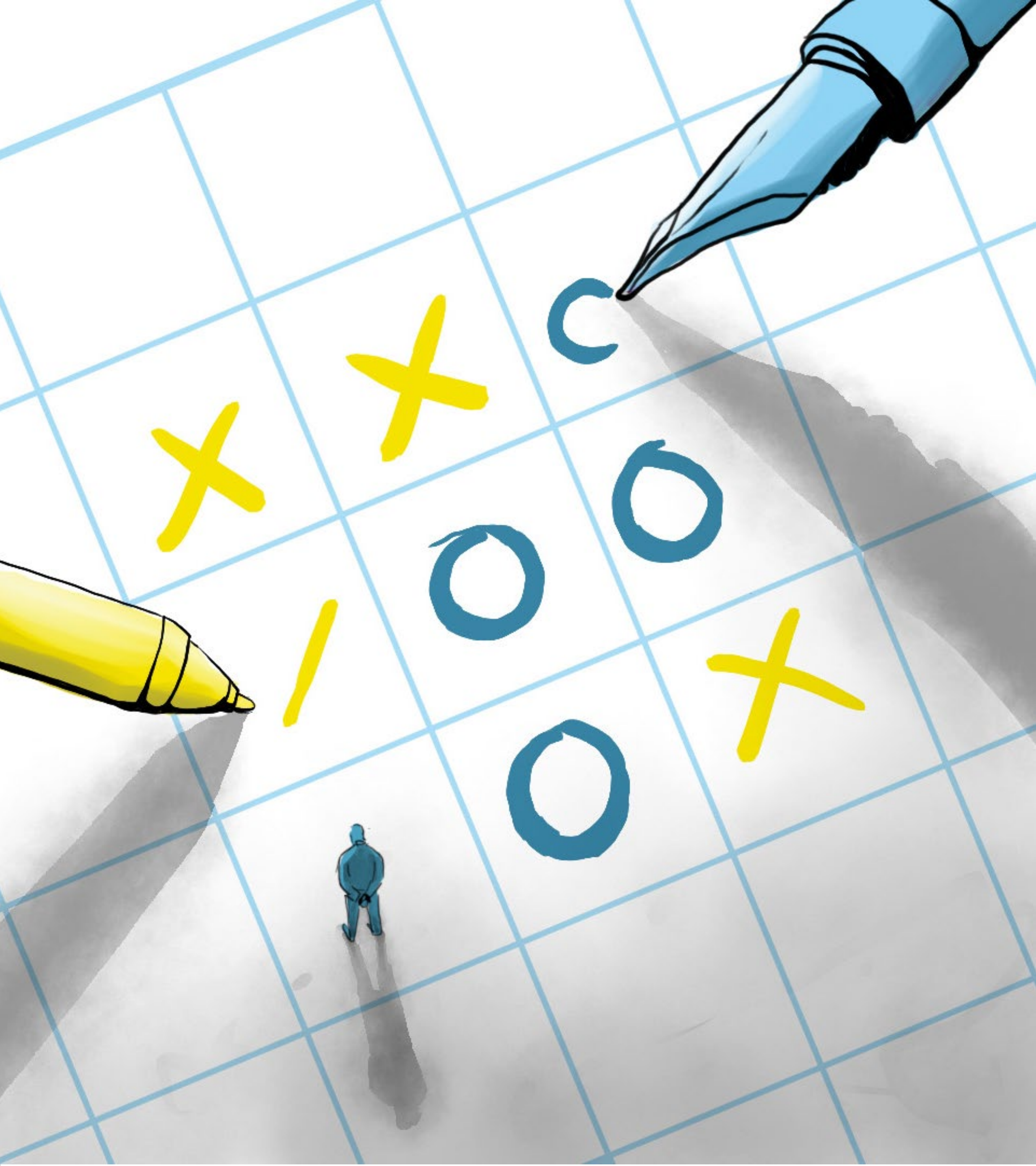
PART 02



Theory

CHAPTER 04

Mapping General Debates in Socio-Legal Studies





Content

What are the interrelations between law and society? How do they influence, shape and transform each other?

This chapter offers an inductive way to examine these key questions of socio-legal research. It introduces different schools of thought in the literature and their approaches to general debates about the nature, functions and effects of law in society.

Thinking about general debates in socio-legal studies in a lab format means going beyond presenting their foundations. “Labbing” theories is about making tangible how they apply to various themes and cases. Through mapping and brainstorming exercises, readers will be encouraged to develop their own understanding of the field and identify theoretical approaches suitable for their research interests.

QUESTIONS**RELEVANCE****ACTION**

What is law?

The subject of research varies depending on what we consider as law and its relation to society.

Mindmap & role play

What are the functions of law in society?

Using strands of research that think about these questions helps to find your own approach.

Socio-legal lexicon



The Many Faces of Law

What “is” law?

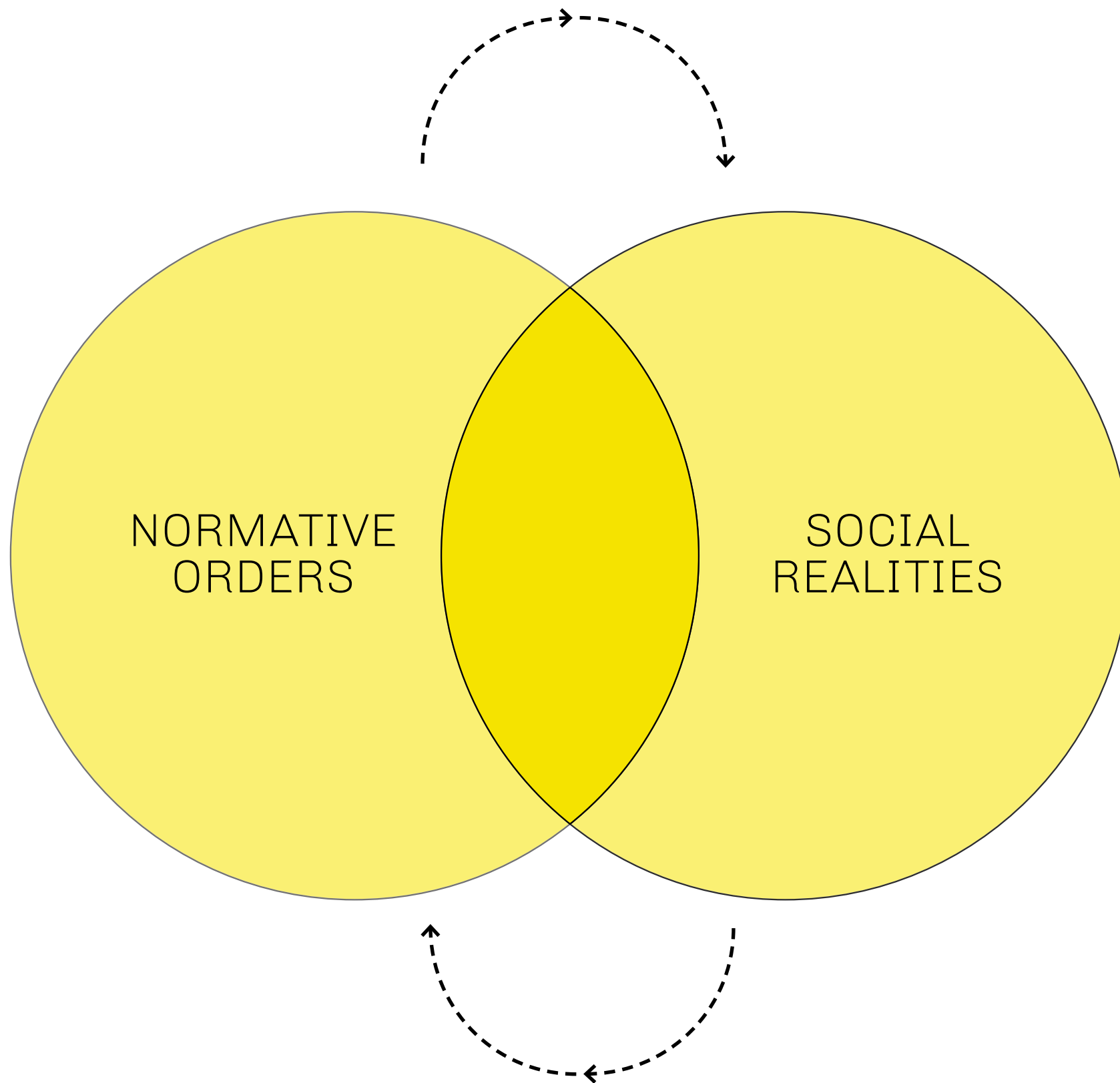
There are multiple ways to think about law and what it “is”. Answers to this question vary depending on if you conceive of law as a normative order or as situated within a social reality.

LAW AS RULES AND NORMATIVE ORDER:

Law can be understood as a particular normative order and as a system of rules. When following a narrow understanding, which is shared by most legal positivists, law is limited to codified state law. Within this view, law is characterized as objective and neutral, operating with an internal logic and being distinct from other norms like morality. The question of what law “is”, is answered here with reference to the legal system itself. However, such a narrow understanding reaches its limits in plural normative settings, where non-state law exists and governs behaviour.

LAW IN SOCIAL REALITIES:

What law is can also be studied by observing “what is going on in reality” (van den Bos, 2020. pp.3). Inductive approaches like these take societal realities as their starting point in their exploration of law (Baer, 2021. pp.27). Considering law as a sociocultural phenomenon answers the question of what law “is” with reference to its role in society. However, this raises follow-up questions on what is meant by “society” and “reality”, and on the nature of our knowledge about these concepts: can it be discovered or is it merely constructed?



LAW & / = SOCIETY:

These two perspectives alone show that law and society can be seen as either independent, as one being dependent on the other or as interdependent (Banakar, 2015. pp.53). What law “is” can be discovered by examining it from the inside, in its normative universe, or from the outside by looking at how it manifests in the world. It is also possible to use both perspectives concurrently.

Tracing appearances of law in society

How law and society are interwoven and co-constitute each other can be observed in all areas of life. From this broad variety, we will now take a closer look at three areas that have traditionally been the focus of socio-legal studies. Taking an inductive approach, the aim is to trace debates in law and society and examine the questions that emerge in them.

Through examining law in the everyday and public spaces, in disputes and in plural legal orders, we would like you to respond to what you observe on how law emerges in ordinary and everyday instances.



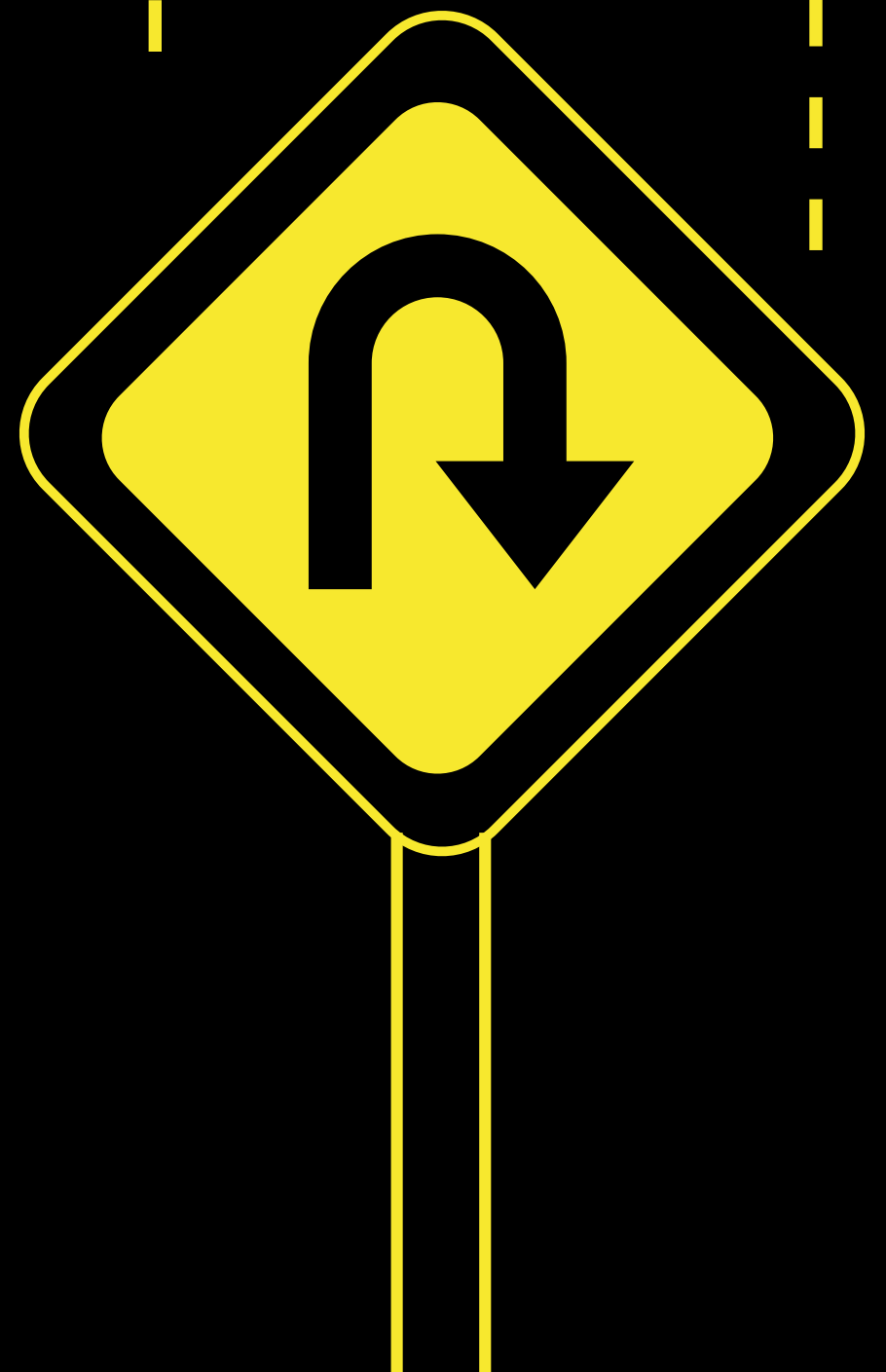
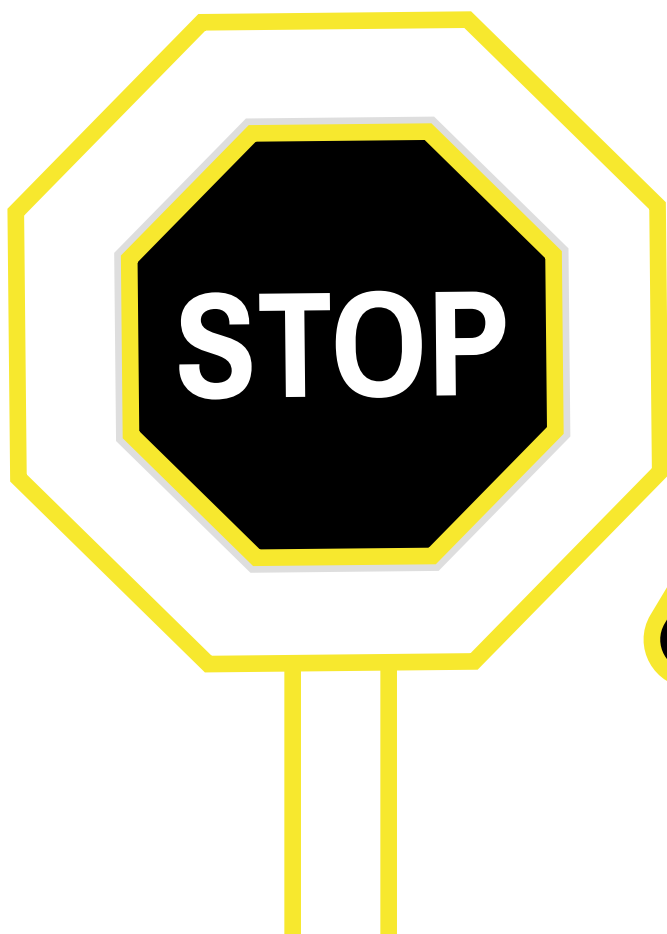


Law in the everyday

Law does not only manifest in complex ideas like the rule of law, it also regulates and rules the everyday. It is habitual and appears everywhere in public space. Sibley and Cavvichi (1998) explain how law manifests in everyday interactions from going to public spaces, driving or registering a new car to paying a bill. In many of these instances, legal facts have become natural for people, for example when they stop for a red light or drive on the right side of the road.

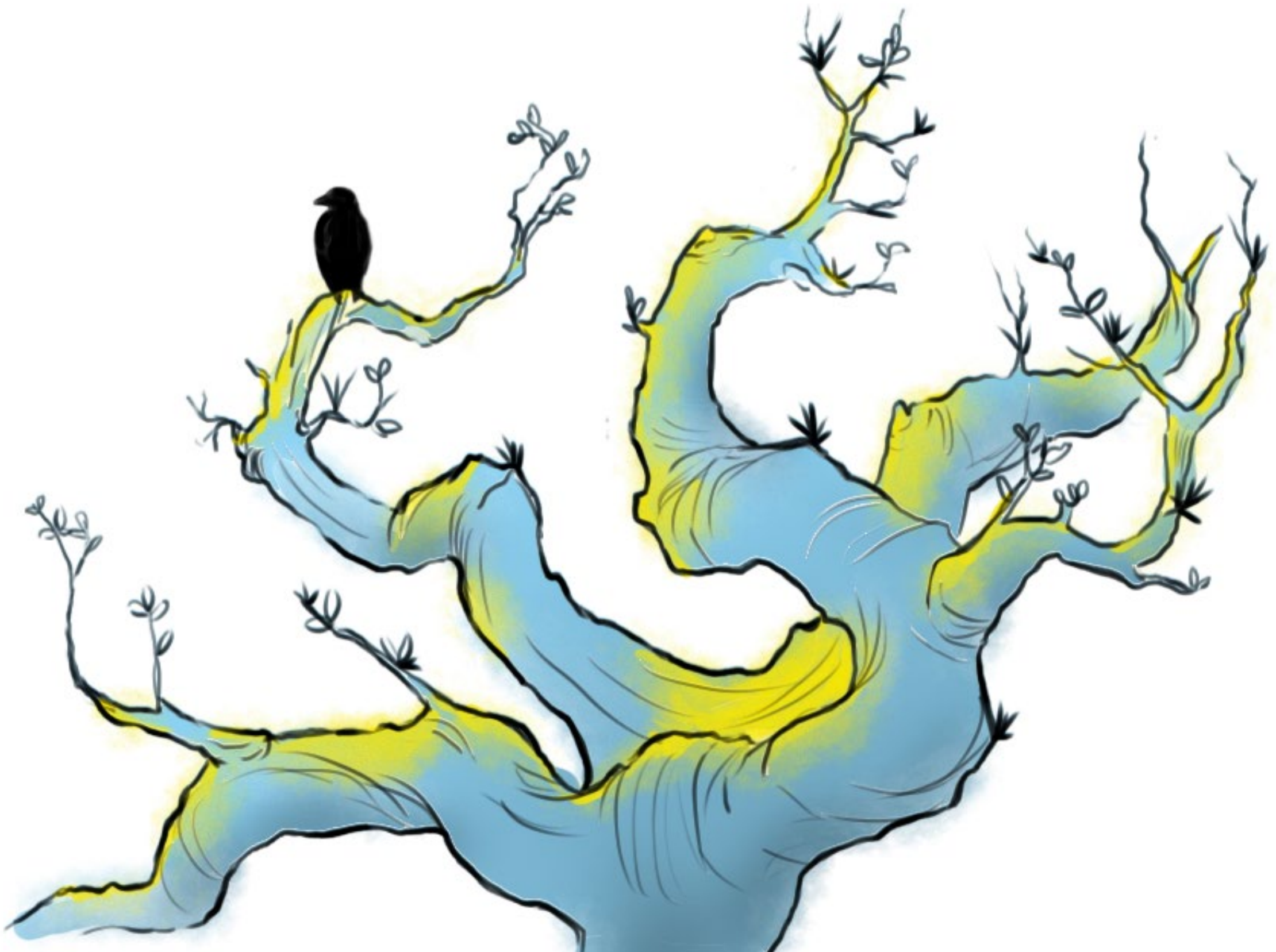
After reading the text please discuss:

- How does law manifest in daily life? What further examples can you think of?
- What implications do these have for social relations?



Law in conflict resolution

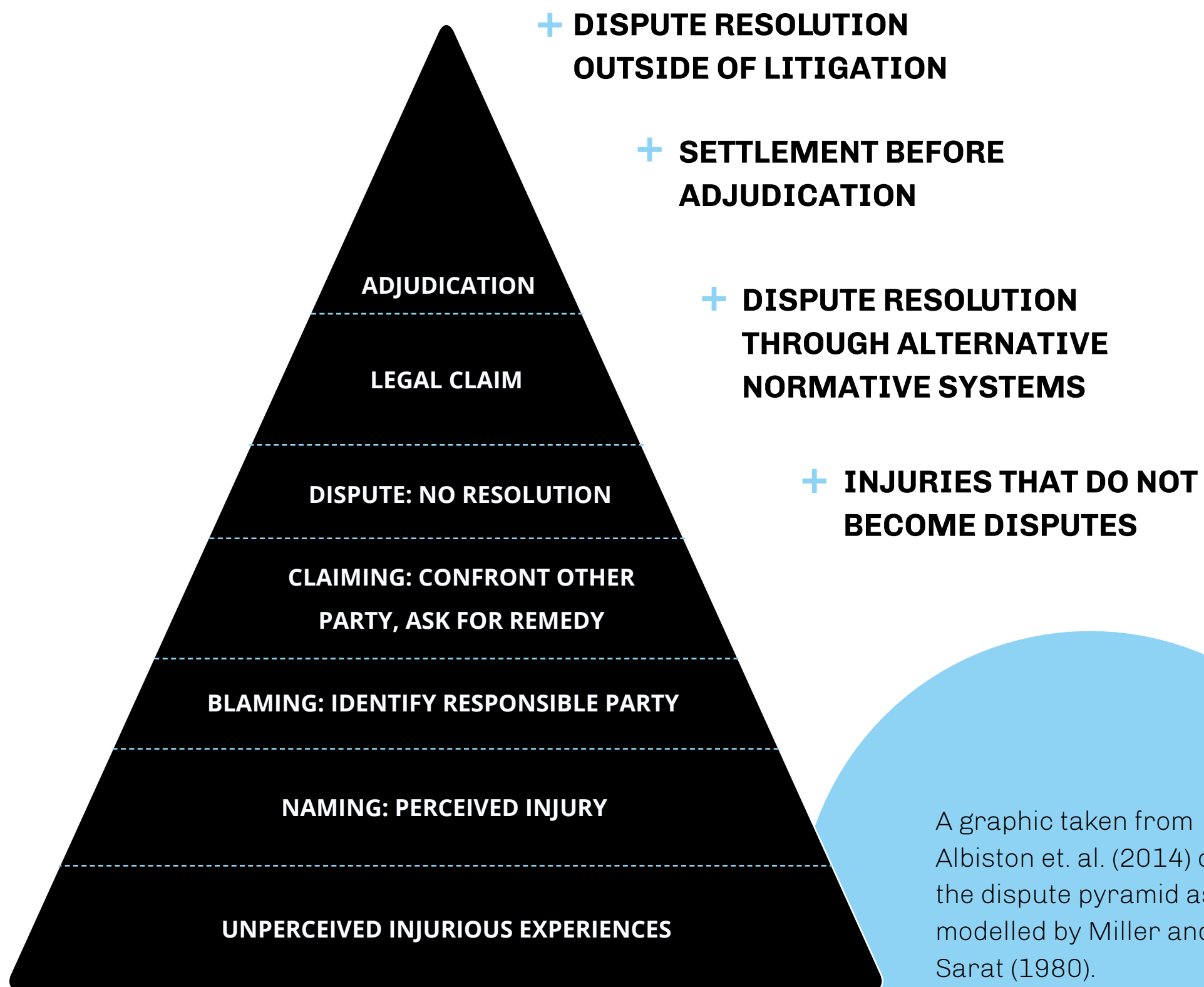
Law is a tool to settle conflicts, and transforms social conflicts into legal ones. What do we know about this process of transformation? Before, scholars have argued that conflicts evolve in stages or phases, or in the form of a dispute pyramid - as argued by Miller and Sarat (1980). Albiston et. al. (2014) have extended the pyramid metaphor into a “dispute tree” that stands in a legal forest” in order to capture what happens when people mobilize the law. This metaphor suggests that conflicts are not linear and that some branches of the legal system may bear fruits (substantive outcomes such as compensation) or flowers (symbolic results).





After reading the text please discuss:

- What is the nature of disputes?
- How are disputes resolved?
- Which factors restrain people from mobilizing law?
- Who enforces court decisions?



A graphic taken from Albiston et. al. (2014) on the dispute pyramid as modelled by Miller and Sarat (1980).

Law in plural legal settings

Law is multifaceted, and there are other normative settings in addition to state law. One example of this are Jamaats in India. They settle family disputes by applying Sharia law. For many years, these institutions only existed for men. In 2004, a group of women established the first women's Jamaat.

The film “Invoking Justice” by Deepa Dhanraj documented this process. Please watch the trailer in the link provided and think through the following questions:

- What role do institutions play in the relations between law and society?
- Do institutions determine the rules of society or is it vice versa?
- What role does the state play in ordering a society?
- How is law generated in contexts of legal pluralism?



Scan this to
watch the video.



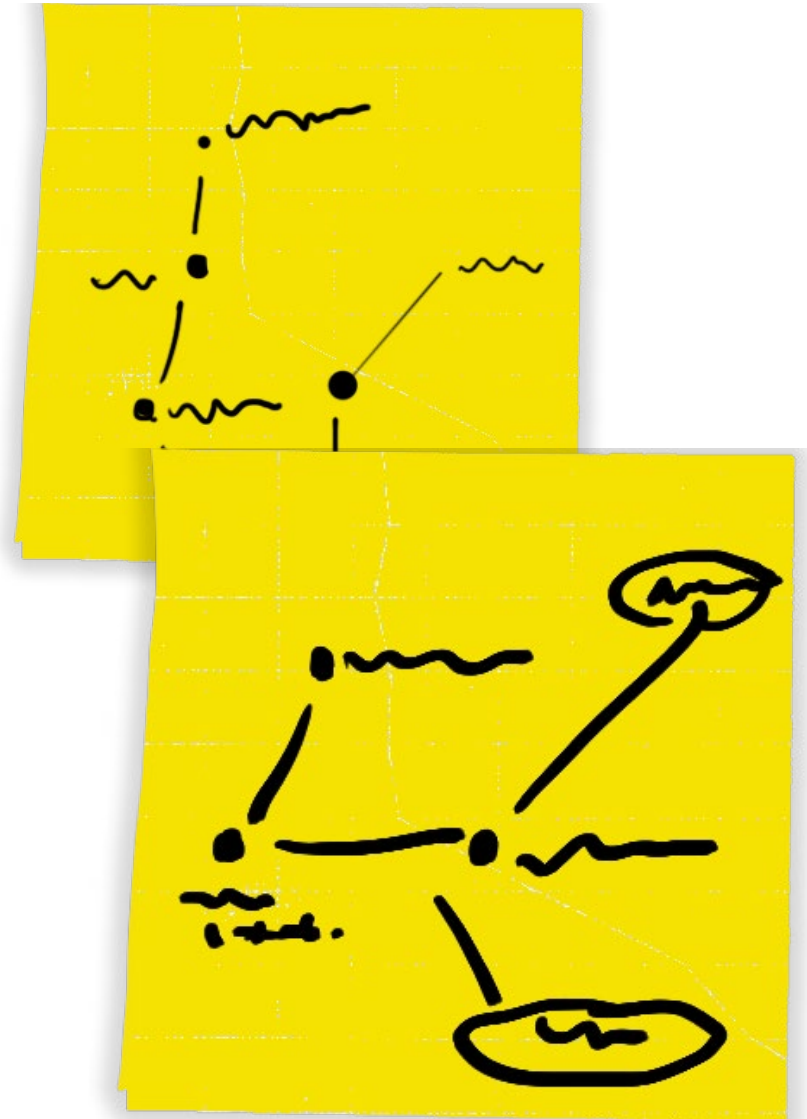


EXERCISE

Mindmapping questions in law and society

The examples above have introduced different spaces where the law interacts with people in society. In this exercise we would like you to summarize your ideas and reflect on the following questions through a mindmap:

- What is law and how does it relate to the social, economic, ecological, digital sphere?
- How can the study of law benefit from other disciplines?
- What are the socio-legal questions that animate your work?



In class, please discuss in groups of 2–3.

There are a number of methodological principles which can guide a socio-legal mindmapping exercise (Galligan, 2006. pp.34):

- Identify and describe the relevant legal order from the perspective of officials as well as ordinary people.
- Examine the meanings attributed to such orders and the actions that follow from them.
- Focus on how law is socialised by examining the role of law in social interactions.
- Think about the distinctions between how the law is, and how it ought to be.



EXERCISE

Role play

What "is" law is a question that can also be approached by thinking through hypothetical scenarios. Tejani (2019, pp.21) suggests the following question as a starting point for such a scenario:

SHOULD INDIVIDUALS BE ALLOWED TO "TALK OUR WAY OUT" OF A TRAFFIC TICKET?

Please get together in groups of three and engage with this question in a role-play setting. Imagine that one of you is a person who was fined while the other person is the police officer. The third person is an observer. You could discuss:

- What are good reasons for someone to be allowed to talk their way out of the fine?
- When and why should it not be allowed?
- Should there be an exception for certain situations, for example when the fined person is poor?

THERE SHOULD NOT BE DISCRETION, BECAUSE...

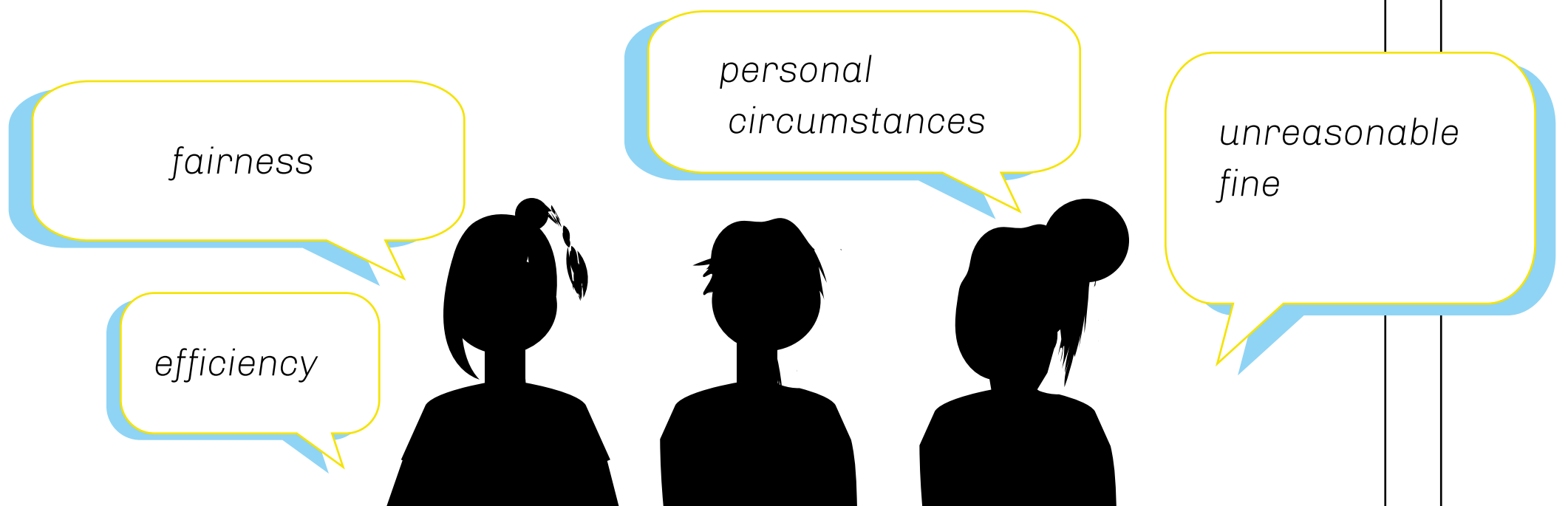
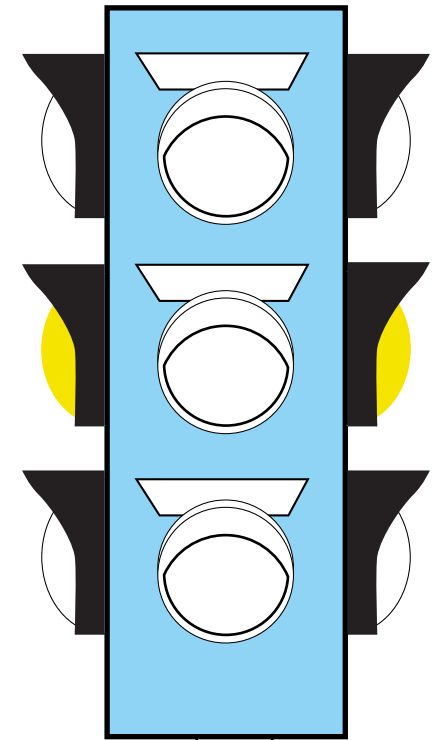
fairness

efficiency

THERE SHOULD BE DISCRETION, BECAUSE...

personal circumstances

unreasonable fine



NOTES / SKETCHES

NOTES / SKETCHES



Perspectives on Law: a Theoretical Review

Mapping general debates

Theoretical frameworks offer explanations on how the world works (Webley, 2019. pp.62). This also applies to socio-legal research, which is concerned with theoretical questions about the nature and functions of law in society. Answers vary depending on the theoretical lens one applies. Accordingly, multiple international approaches and “schools” of social scientific studies of law have emerged over the past decades (Banakar, 2014. pp. 41). Because of their cross-fertilization and overlap, there is no clear distinction between these schools, but the perspectives they offer on law in society are still very insightful.

In the following section, we present a review of theoretical perspectives and their implications. We suggest that these perspectives can be categorized according to the three core interests that they focus on: the conceptualization, application and evaluation of law. The first approach seeks to examine law and how it co-produces social realities. The second is to examine how law is applied in different contexts and how it is mobilized in everyday life. The third is to understand whether law meets its intended effects and how it can be improved.

Of course, these core interests overlap and are fluid rather than fixed categories. A critique of law can emerge from all of these approaches. It can be theoretically grounded, arise during the application of law, or be empirically based in its lack of efficacy.



conceptualise and
theorize law

evaluate and
improving law

apply and
generate law

Applying theory: climate litigation

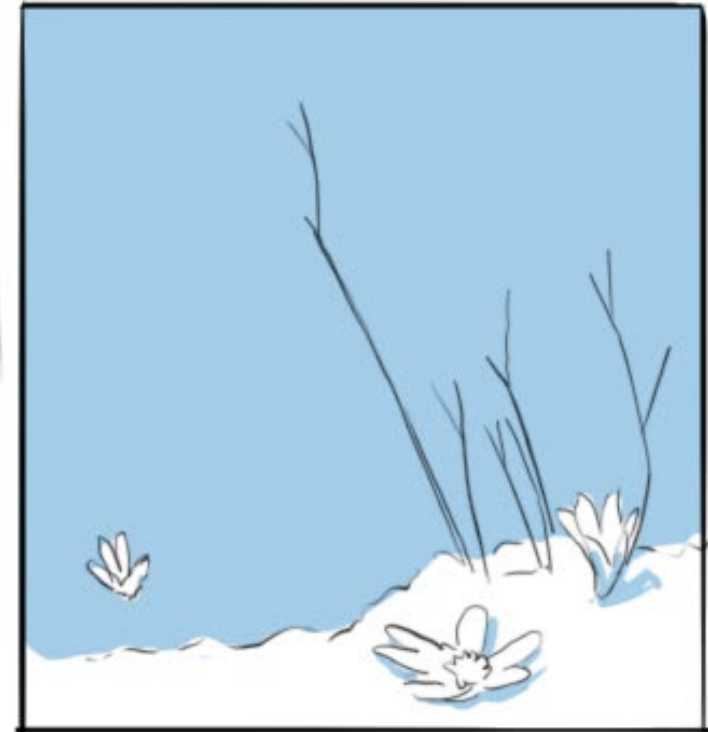
To illustrate how these three perspectives on law lead to different questions and interests, we apply them to the example of litigation on a topic with implications for everyone: climate change.

- Climate litigation all over the world brings cases before courts in order to hold governments or companies accountable for their climate-damaging behavior and in order to demand more ambitious climate goals. Here, law is a means to counter environmental, social, economic and other consequences of climate change.
- A collection of cases worldwide can be found in the Climate Change Litigation Database provided by the Sabin Center for Climate Change Law (Columbia University).



One of the many climate litigation cases is the People's Climate Case, which was initiated in Europe by a network of lawyers, plaintiffs, NGOs and scientists in 2018. It proved to be a prototypic example of strategic litigation for climate change.

The case was filed by ten families from all over the world against the European Parliament and the Council of the European Union. They challenged the EU's 2030 climate targets as inadequate to protect their fundamental rights and to prevent climate change.



In 2021, the EU Court of Justice dismissed the case on procedural grounds due to a lack of legal standing. The Court was not convinced of an individual concern of the plaintiffs, as every individual worldwide is likely to be affected one way or another by climate change (ECJ, 25.3.2021, C-565/19 P).



Scan this to find out more about People's Climate Case.

To find out more about the People's Climate Case, including its aims, the course of the legal proceedings and the individuals and organizations that engaged in it, please visit the initiative's website by scanning the QR-code and watch the video that introduces the case.

Conceptualising and theorizing law

An important focus of interdisciplinary research on law involves the creation of theories and concepts about law in society. When doing so, the key question is: what do we take into account when we conceptualize law to understand its nature and how it manifests in the world?

Approach

Law can be conceptualized by for example drawing on sociological theory, which approaches law from the “outside” by examining how it emerges in practices, processes, systems or institutions. Through this, theory is tested and further developed to generate generalizable insights.

Schools of thought in line with this interest are legal sociology, law & society research (Banakar, 2014. pp.42) as well as critical legal studies. Through the lens of these sociological theories and discourses, a variety of functions of law in society become apparent: as a system (Luhmann), as enforced rules (Weber), as a form of oppression (Marx) or as an instrument of power (Foucault) which is constructed from a male standpoint (MacKinnon). All of these approaches contain critiques that are theoretically grounded.

The nature and effects of law can also be conceptualized using a bottom-up approach by referring to law as it is used in daily life. This is suggested by legal anthropology, which understands law as a system of meanings embedded in social practices (Pirie, 2013).

Application

In order to conceptualise law in the context of climate litigation, one can consider its relation to social realities:

- How are global inequalities negotiated in climate litigation?
- To what extent can law and litigation be a tool to remedy climate change as a global crisis of modernity? Or does law only perpetuate this crisis because it is based on an anthropocentric worldview with a narrow understanding of legal subjects?
- What are the locations and sites from where an understanding of the legitimacy of law in climate cases can be observed? How does this account for local practice and tradition?

Applying and generating law

A second interdisciplinary research interest in law is understanding the process of legal application and how law is generated. Here, the key questions are: What do we and what should we take into account if we apply the law? And how do we account for different receptions of law from a state and non-state perspective?

Approach

The process of applying law can be grasped by linking an outsider and insider view. This requires examining legal doctrine and what the law is as well as how it is experienced by those who apply it and those who are affected by it. In doing so, it examines how law is generated and orders everyday life.

One school of thought with this research interest is sociological jurisprudence (Banakar, 2014. pp.46). It emerged from the criticism that a purely technical understanding of law as “law in the books” neglects the social and cultural reality in which law is created - the so-called “law in action”. This critique gave rise to the vision of developing a new scientific conception of law and transforming legal education and practice.

Application

With regard to legal application, climate litigation can be examined in terms of knowledge that is or should be included in the laws that aim to respond to climate change and the legal professionals applying such laws:

- How do scientific findings on climate change find their way into legal rules and application?
- Who shapes these processes (judges, activists, NGOs or individuals), and how do they do this? Do they go through formal mechanisms like litigation or informal mechanisms? And how is law generated in these cases?
- What are the boundaries in which courts – through judges as socialized human beings in a particular society – operate doctrinally when applying the law, for example when dealing with the question of who is affected by climate change?

Evaluating and improving law

Finally, a third interdisciplinary research interest in law is the evaluation of its effects on society, often by offering a critique of its functioning and suggesting where the implementation of law can be improved. The key questions here are: What do we take into account when we study whether law fulfills its intended effects? And what are the ways in which we can critique the nature and function of law?

Approach

Evaluating law in action entails looking at the impacts of legal regulation, its enforcement and its implementation. It puts into focus whether law fulfills its intended goals or – if it fails to do so – how it can be improved. It also offers an empirically grounded critique of law, its functions and its effects.

One school of thought with this interest is legal policy research (Banakar, 2014, pp.48). It engages in socio-theoretical debates, but with a focus on evaluation rather than on generating theory.

Application

From a policy perspective, climate litigation can be investigated in terms of regulatory processes they respond to and the ways they alter them:

- Why does the EU and its member states fail to reach the goals set out in the 2030 Climate Target Plan? How are political, social and legal factors related to this failure?
- How can increased climate compliance be enforced through courts?
- What are the gaps in the enforcement of court decisions on climate targets? How can law, in addition to the state, enforce responsibility on private actors?



EXERCISE

Building your own socio-legal lexicon

Moving from questions to answers, one way of understanding the interrelations of law and society is by looking at concepts that appear often in socio-legal research literature. Sometimes these concepts arise from terms that are central to the field, for example “law” and “society”. These terms can be the starting point of new concepts and can become pivotal within debates. The point of this exercise is to build a lexicon of socio-legal concepts that are relevant for your research. In order to find out more about these terms, please start with a literature review. When doing so, consider at least two different disciplinary perspectives on the following terms.



STEP 1:

For a first overview, begin with a literature search on one of the following broad terms, or pick a term that is specifically relevant for your research:

- Law
- Dispute
- Conflict
- Society
- Regulation
- Policy
- Justice
- Equality

STEP 2:

To trace how debates have evolved over time, continue your research by reviewing more specific terms and concepts that are particularly controversial, for example:

- Is versus ought
- Implementation gap
- Legal consciousness
- Judicialization/Judicial activism
- Legal pluralism
- Radiating effects of courts



Consult handbooks

Now that you are familiar with some theoretical frameworks, consult handbooks on socio-legal studies and discover further approaches.



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Tip: how to review literature

Literature review is an essential part of every research process. However, there is more to it than just reading. Literature review is a focussed process guided by a research question or interest. It aims to determine the state of research, to systematize knowledge and to identify questions that remain unanswered. There are several techniques for doing so (Webley, 2019). Here are some tips on steps to consider:

SEARCH

- Use multiple sources like library catalogues, WorldCat, Google Scholar and research networks like ReseachGate or Academia.
- Search for a review article in journals or handbooks that offers an overview of the state of research. Follow the sources it gives and the authors it highlights.
- Identify key words and synonyms used in the literature and continue your search.

STRUCTURE

- Save your sources in a folder or within your favourite bibliography management software.
- Arrange the sources according to priority, ranging from 1 (most important) to 3 (least important).

READ

- Read introduction and conclusion of all texts you have classified as priority 1.
- Look for answers they found relevant, to help you answer your own question.

NOTES

- Create a document with your research question as a header.
- Version 1: Take notes for each source and include references.
- Version 2: Re-arrange all notes according to recurring themes and create subheadings
- Conclude for each subheading how this answers your question.

REPEAT

- Repeat the steps of reading and taking notes for priority 2 sources.
- Skim priority 3 literature.

REFRAME

- Redraft your research question focusing on those aspects that have not properly been answered.

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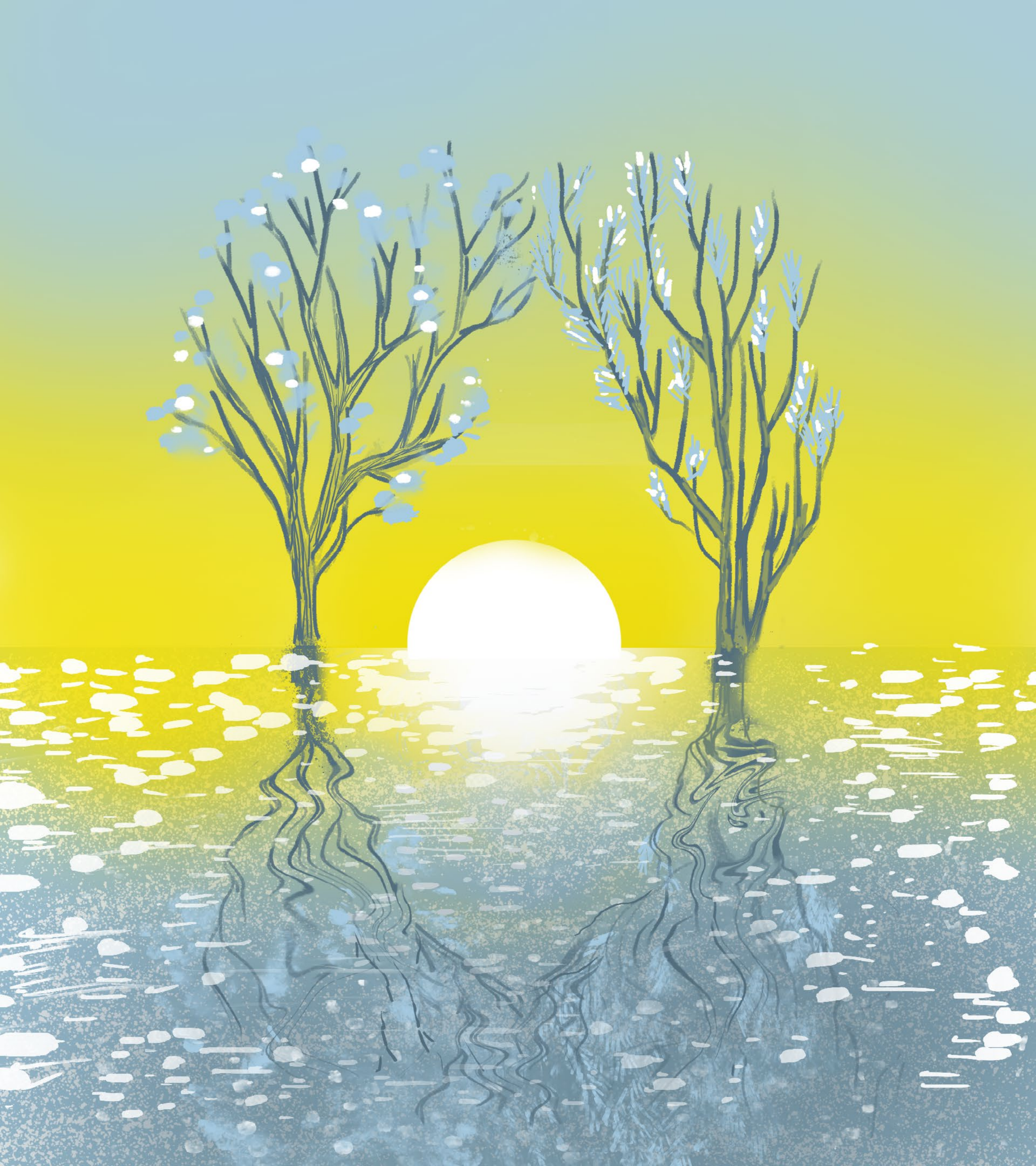
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CHAPTER 05

Dichotomies in Socio-Legal Research





Content

In the previous chapters, we have encountered many dichotomies in socio-legal studies. Take for example the juxtaposition between “law in the books” and “law in action”, or “qualitative and quantitative research”.

This chapter explores the use of these dichotomies as theoretical tools to understand socio-legal research, and offers suggestions on how to bridge them. It uses examples from literature and policy to demonstrate the ways in which the reader can explore and find their paths between these different positions.

QUESTIONS	RELEVANCE	ACTION
<p>What are common dichotomies in socio-legal research?</p>	<p>Socio-legal research invites working with dichotomies such as law and the social, formal and informal law.</p>	<p>Brainstorming</p>
<p>Why are dichotomies used as a frame to study law and society? Why is this problematic?</p>	<p>Dichotomies are ambivalent: They help to structure knowledge, but also oversimplify the complex reality.</p>	<p>Framing Dichotomies</p>
<p>How can these dichotomies be bridged?</p>	<p>Deconstructing dualities can help thinking about how they could be bridged.</p>	<p>Scamper Method</p>



Identifying Dichotomies

What are dichotomies?

Dichotomies are a way to structure and thereby construct reality in law as well as scientific research. Take the dichotomy between formal and informal law for example.

Formal law is law that has the backing and sanction from the state. For instance, judgments delivered by courts or legislations from parliament.

Informal law is one that emerges from non-state sources like community, religion, caste and customary practice.

Purpose: The purpose of this dichotomy could be to systematise the ways in which people determine which rules to follow in plural legal settings (see chapter 4).

Problem: There are myriad ways in which people resolve their disputes. Formal and informal law and forums co-exist, complement and sometimes conflict with each other.

Purpose of dichotomies in socio-legal studies

Dichotomies are also used in socio-legal studies because this form of research is located at the intersection of two or more disciplines that hold different understandings of terms like “law”, “society” and “politics”. Dichotomies are a useful way of breaking down and ordering the challenges in interdisciplinary legal research along multiple axes. However, one should be aware that these presumptive juxtapositions have consequences for how research is conducted.

DICHOTOMY

01 The framing as “law and society” or “socio-legal” suggests that these two are distinct spheres.

02 The German tradition of sociology differs between the research objectives of explanation (Erklären) vs. understanding (Verstehen).

03 How law manifests “in action” can be examined with qualitative or quantitative research methods.

AND ITS CONSEQUENCE FOR RESEARCH

If we assume that the normative order is to be strictly separated from the social order, both the disciplines and methods of law and sociology are also to be strictly separated. The opposite applies if we assume interdependence.

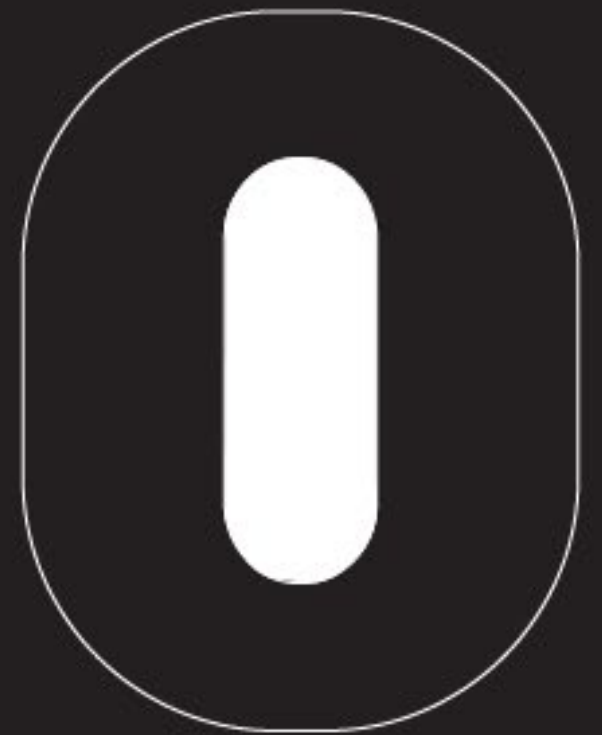
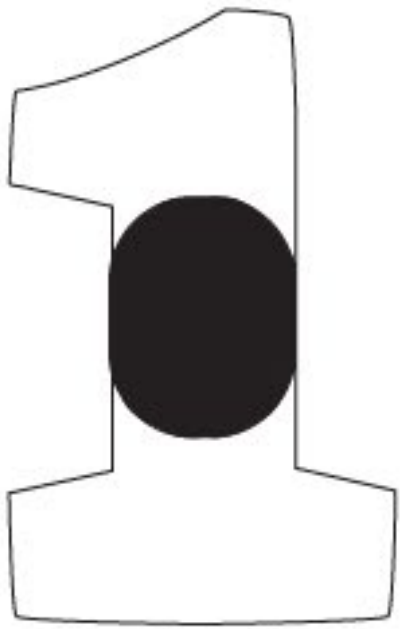
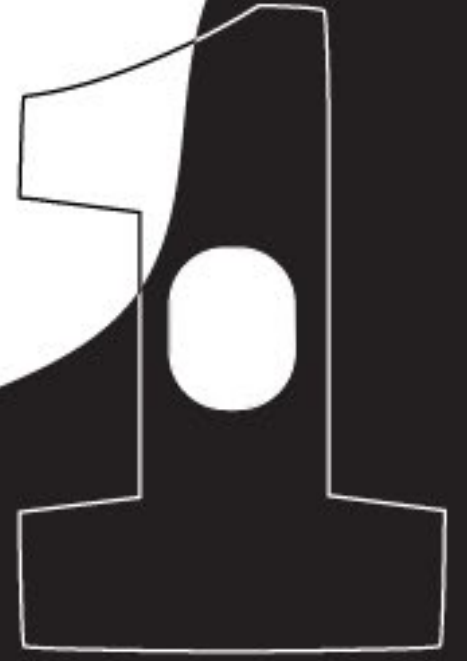
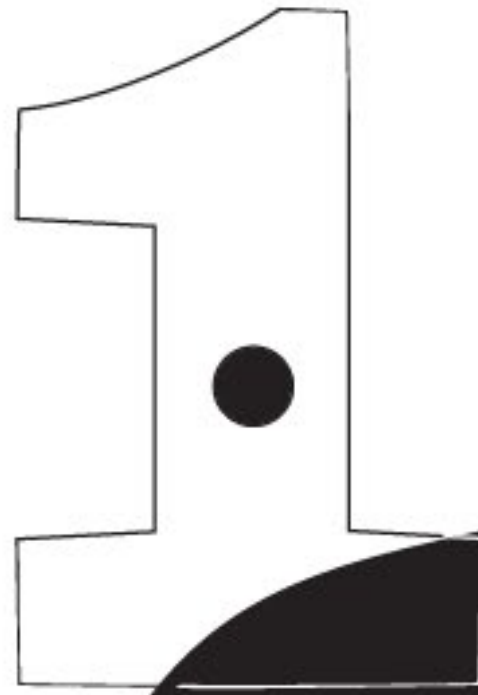
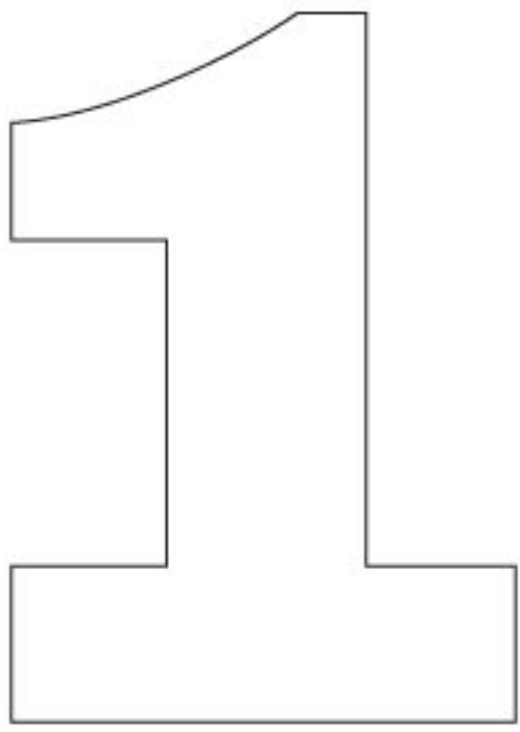
If we aim to explain (Eklären) the causes of human behavior, we will choose experiments or quantitative methods; if we want to understand (Verstehen) its meaning we will more likely choose ethnographic methods such as participant observation.

Whether law in the books and law in action deviate can be determined quantitatively. For example, a numerical evaluation of violations of Covid-19 rules can determine how many people adhere to the law. However, in order to find out why they do so, qualitative interviews are a more appropriate method.

Pitfalls of dichotomies

Dichotomies can be useful tools, but they also have their pitfalls. Reality is complex and cannot be assigned to rigid categories. Dichotomies suggest a clear distinction where there is none. Thinking about the world in binary terms can have real-life consequences for groups, ideas or concepts assigned to one category or another.

Binary constructions of supposed differences can lead to exclusions and inequalities. In gender studies, for example, it has been shown that thinking in terms of binaries is insufficient to account for gender fluidity. These binaries lead to exclusion of those who do not identify with these binary categories.



**EXERCISE:**

What dichotomies do you see in your work?

The next exercise is designed to help you identify dichotomies for your research. It is called the “Sailboat exercise” and has been borrowed from the world of agile programming. Typically, a team uses it to look back and identify what aspects worked, and did not work in their project. In this adaptation, we would also like you to think retrospectively about a dichotomy that you have encountered in your work. Think about what role this dichotomy has played, what aspects have been useful in terms of using it as a theoretical tool, and what aspects have been challenging.

For doing so, please:

1. Draw a sailboat that represents one dichotomy in your research.
2. How does the dichotomy help you move forward with your research?
3. How does the dichotomy hold you back?
4. What is causing the most issues?
5. Take one of the negative aspects you identified and turn it into a positive challenge of how you might work with this dichotomy in the future.



Scan this to find out more about the “Sailboat exercise”.

**EXERCISE:**

Specifiying dichotomies

Once you have identified a dichotomy relevant for your research, the next exercise can help you clarify the core of the problem by formulating a problem statement and a purpose statement. This exercise is called “Defining The Problem Statement” and is developed by the Applied Doctoral Center of the Northcentral University in the US. It is designed for formulating research questions and objectives but it can also be used for framing dichotomies. It can be conducted by yourself as well as in a class setting or with your peer group.

Problem statement

Formulate a specific, evidence-based, real-life problem connected to your dichotomy.

Reflect on its consequences of not solving the problem.

Write a problem statement of up to 300 words that follows a three-part outline, that explains the context of the problem, the consequences of not addressing the problem, and ways in which there is a gap in the research.

Purpose statement

The purpose statement explains the contribution you aim to make.

Address the problem and describe the methods available to solve it.



Scan this to find out more about the exercise.

NOTES / SKETCHES

Bridging Dichotomies

How to bridge dichotomies

Having collected examples of dichotomies and considered their positive as well as negative consequences, we will now suggest ways to bridge them through examples. To do so, we will focus on three dichotomies that are common in socio-legal studies: doctrinal versus non-doctrinal, micro- versus macro-structures and critical versus applied. The next section draws from ideas developed during a workshop we held in Berlin (see De Souza & Hahn, 2019).



MICRO

MACRO

DOCTRINAL

NON-DOCTRINAL

CRITICAL

APPLIED

Dichotomy: doctrinal versus non-doctrinal approaches

One dichotomy that poses a key challenge to interdisciplinary research relates to the different epistemological backgrounds of legal and social sciences. Legal science is a normative science. It deals with what ought to be (normativity) and the system of rules which guide the application of law. Legal research is doctrinal research and uses hermeneutic methods to understand the meaning of norms through interpretation. In contrast, social sciences aim to understand or explain social phenomena, systems or codes such as law on a descriptive-analytical level. Here, concepts of normativity are often anchored in empirical observations. This can be called non-doctrinal research. The dichotomy here raises fundamental questions on methodology: How can social scientists approach legal questions and legal researchers social ones? And how to engage with forms of normativity that are distinct from one's own normative universe?

Doctrinal

Legal science

- Data: legal texts like constitutions, statutes and jurisprudence.
- Examines what ought to be (normativity) and the system of rules which guide the application of law (doctrinal reasoning)
- Normativity: a system of rules
- Normative core: justice

Non-doctrinal

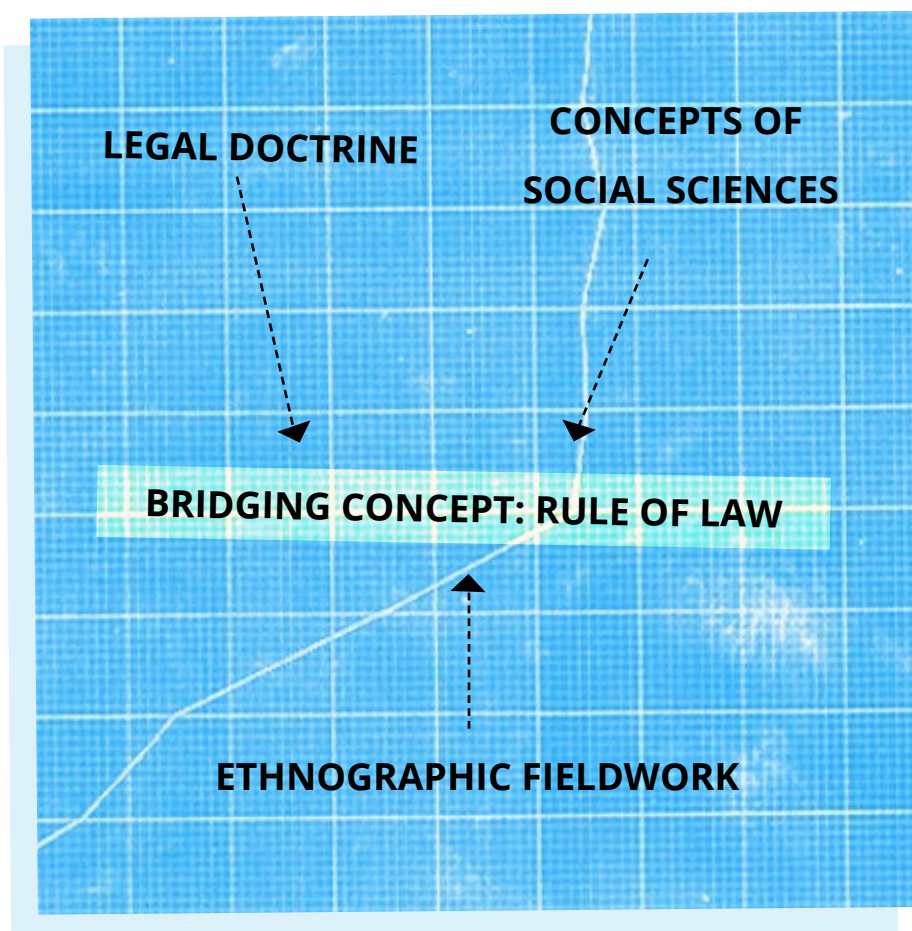
Social, political and cultural sciences

- Data: empirical data derived from observation.
- Tries to understand social phenomena like systems and codes such as the law on a descriptive-analytical level
normativity: social/moral values
- Normativity: social and moral values.
- Normative core: is in empirical observations.

Take the example of the preambles of constitutions. A doctrinal approach would interpret a preamble as a legal text in order to understand the provisions of a constitution. A non-doctrinal approach would interpret the preamble as a text, for example by analyzing the narratives it tells about the state or justice.

Bridge: doctrinal and non-doctrinal research

One option to link knowledge about law from different disciplines is by using bridging concepts. In an interdisciplinary study on German administrative law and migration, for example, these bridging concepts were used to juxtapose doctrinal ideas with certain concepts that had emerged from previous ethnographic research (Vetters, Eggers & Hahn 2017. pp.17). This allowed to integrate theoretical, doctrinal and empirical perspectives.



Research project: Migration and the transformation of German administrative law

EXAMPLE

The rule of law is a central legal concept which manifests itself in rules and procedures. However, ideas of legitimizing state power can also inform the social sciences. Ethnographic research allows to observe and investigate how all parties involved in a court trial – migrations, lawyers or judges – understand the rule of law differently when it is in action. Such manifold notions of the rule of law then come together in one bridging concept.

Bridge:

doctrinal and non-doctrinal research: a case study

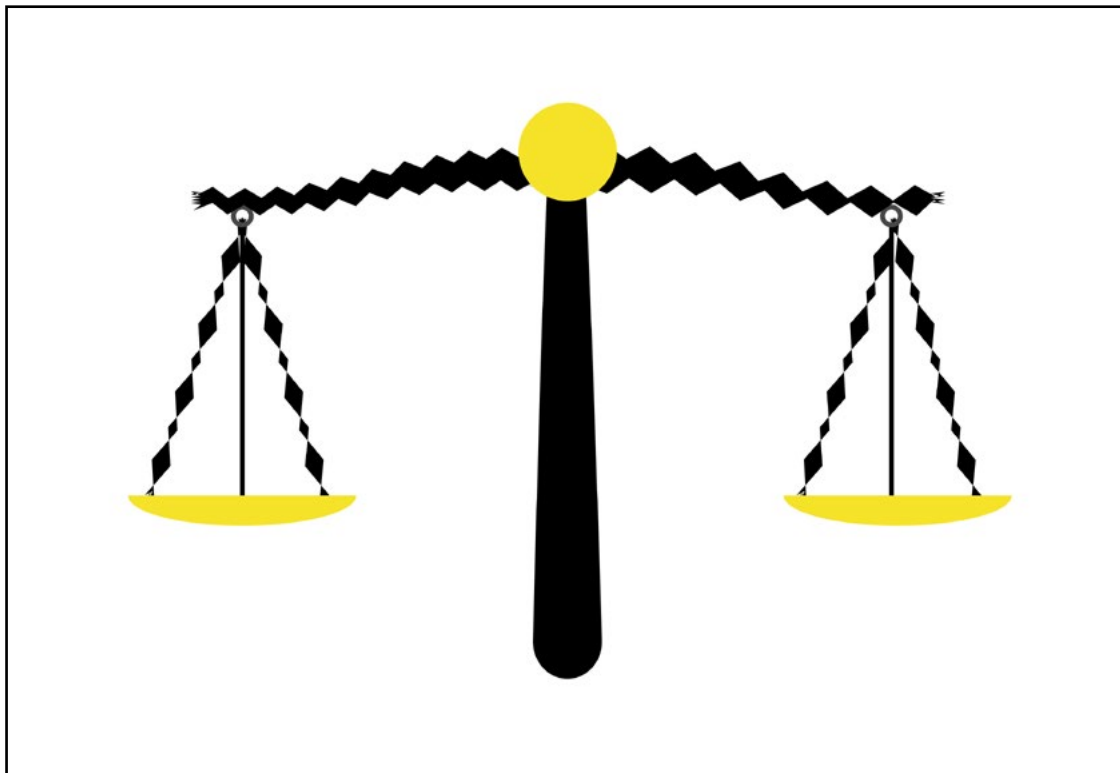
One example that illustrates well how courts incorporate empirical knowledge into legal practices is found in US jurisprudence. In a famous decision concerning racial segregation in schools (*Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954)), the US Supreme Court built an equality argument from psychological evidence. It held that racially separated schools have negative psychological effects and lead to unequal educational opportunities that thus deprive kids from the equal protection of the laws guaranteed by the Fourteenth Amendment of the US Constitution.

The Fourteenth Amendment holds that: *“To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.”*

This case can be seen as an early example of legal realism in action, a school of thought according to which social facts play an important role in legal decision making.

Today, the scientific study of legal arguments is no longer the domain of legal scholars. A growing number of social scientists engage in examining knowledge practices of lawyers, thereby developing an ethnographic understanding of law as a technique (Michaels & Riles, 2020). This builds yet another bridge between doctrinal and non-doctrinal approaches.

Example: bridging doctrinal vs. non-doctrinal



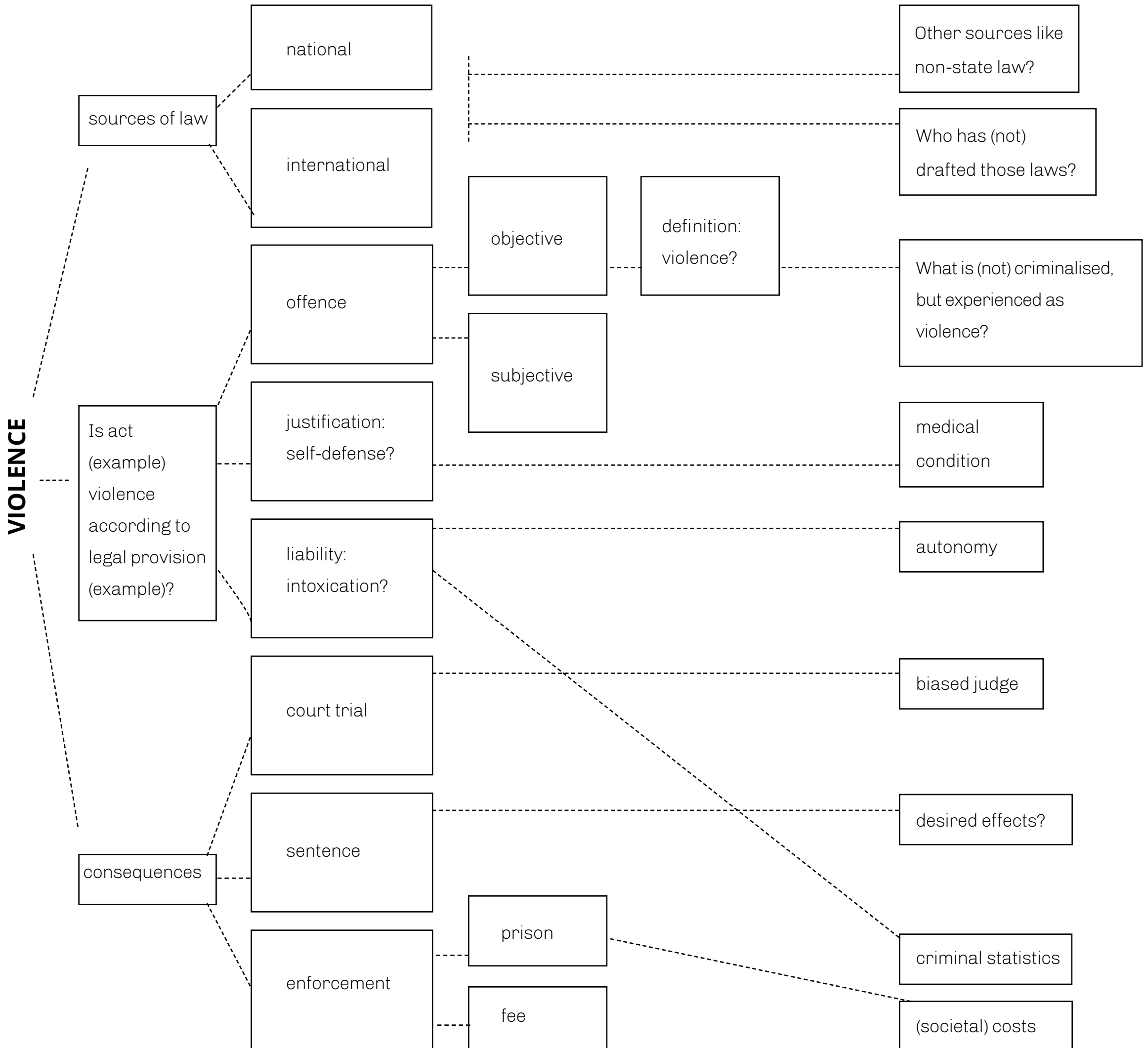
Drawing from the distinctions made between doctrinal and non-doctrinal research, let us take another example by looking at questions surrounding 'violence'.

If we look at violence from a doctrinal perspective, we would look at definitions within the law, the ways in which offenses, liability and consequences are defined. The non-doctrinal view of law goes beyond the text and can encompass ways of looking at how the law was created and how often it is applied according to criminal statistics. In addition, it could look at its social consequences or psychological effects by using interviews to gather the statements of victims or sentenced people.

In practice, however, both approaches are intertwined and can co-construct each other. For example, if there are new psychological, medical or ethical insights on human autonomy based on criminal statistics, the law might have to adapt its legal notion of liability for a particular offence.

DOCTRINAL

NON-DOCTRINAL



NOTES / SKETCHES

Dichotomy: quantitative versus qualitative research

Another dichotomy that emerges in socio-legal research is situated in the research design. Traditionally, researchers distinguish between qualitative and quantitative research.

Quantitative

Quantitative research is seen as an approach in which data is collected, analyzed and displayed in numerical rather than narrative form (Given, 2008. pp.713). Here, data is generated through experiments, surveys, polls or crowd-sourcing. Mathematically based methods are used to analyze the data.

It has the following characteristics:

- A deductive approach.
- Testing theory.
- Researchers controls the research process.
- Outcome: “true” conclusions about facts, cause-effect relations.

Qualitative

Qualitative research in contrast is seen as an empirical inquiry which seeks to understand, describe, and explain social phenomena through data from sources like observation, interviews or focus groups (Flick, 2018. pp.5). It is characterised as:

- An inductive approach.
- Generating theory.
- Research is subjective investigating multiple realities and values.
- Outcome: exploratory models.

This juxtaposition is by no means rigid and has been controversial in the social sciences for many years (Tarrow, 2010). There are at least two ways to bridge this dichotomy: One is a mixed method approach which comes into play when choosing one or more methods. The second one is to find a way to theorize from data that recognizes the overlap and value of both approaches (Grbich, 2013. pp.28).

Bridge: mixing qualitative and quantitative research

A mixed methods approach uses both quantitative and qualitative methods. This provides a way to more comprehensively understand the interrelations of law and society by including multiple realities (Nielsen, 2010. pp.951). To do so, one can combine qualitative data from for example interviewing lawyers or judges or analyzing court documents, with quantitative data such as case outcomes or the frequency of legal norms being mobilized.

- One way is to start with a qualitative approach and generate a theory which is then tested on a quantitative level.
- One might also start with a quantitative approach by first describing the bigger picture and then adding an in-depth analysis on the “why”.

An example of where the mixed methods approach is popular in socio-legal research, is the topic of access to justice in different countries. Here, a mixed approach is used to determine the accessibility of legal systems and the quality of service provided (for an overview see Nielsen, 2010. pp.956). On the next page, we have illustrated an example of such a mixed method approach.

Quantitative

How many....

- grievances turn into claims?
- claims turn into legal disputes?
- people contact lawyers?
- people litigate?

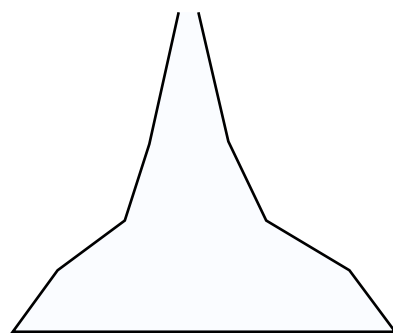
A DISPUTE PYRAMID: THE GENERAL PATTERN NO. PER 1000 GRIEVANCES



DISPUTE PYRAMIDS: THREE DEVIANT PATTERNS NO. PER 1000 GRIEVANCES

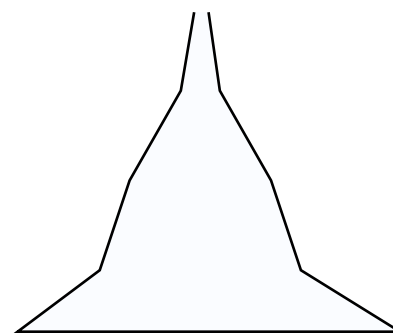
Tort

38
116
201
857
1000



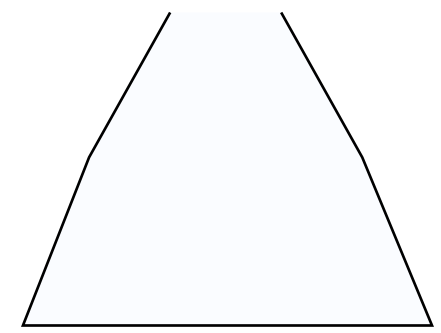
Discrimination

8
29
216
294
1000



Post Divorce

451
588
765
879
1000



Qualitative

- Why do people not litigate?
- Why does the process of litigation differ by the type of problem?
- How come some people have lawyers and others don't?

The graphs and the numbers displayed are based on findings from Miller and Sarat (1980. 544).

Bridge: two ways of generalizing

One methodological anxiety in interdisciplinary legal research concerns the generalizability of research findings. To what extent are the results from one study, which only examines a snippet of reality, generally applicable? In the search for an answer, the dichotomy between qualitative and quantitative research creates ambiguity because there seem to be two conflicting positions:

QUANTITATIVE RESEARCH: LARGE SAMPLE = EXTERNAL VALIDITY?

- Quantitative research is commonly associated with equating the social sciences with the natural sciences. It rests on the epistemic assumption that there is one objective reality that people are able to discover and agree on.
- According to such a positivistic view of reality, the generalizability of research results is established via a large, representative sample.

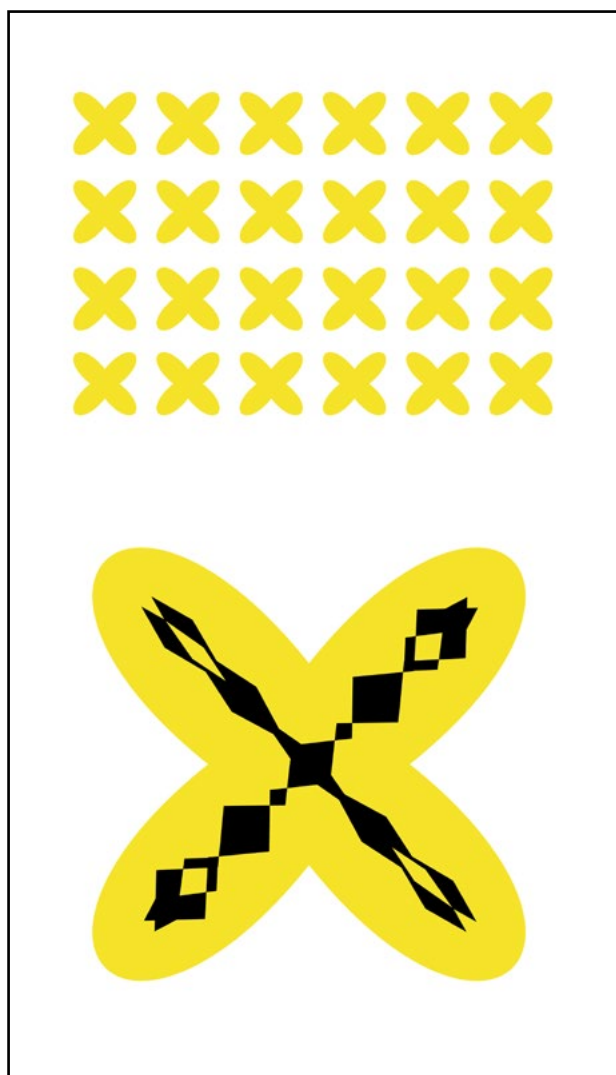
QUALITATIVE RESEARCH: SMALL SAMPLE = LIMITED TRANSFERABILITY?

- Qualitative research tends to use rather small samples, which makes it seem like they are hard to generalize.
- This is in line with its underlying epistemology, which embraces different subjectivities and recognizes that there are multiple realities. This aligns with the constructivist and interpretivist traditions.

Problem: This dichotomous juxtaposition neglects the fact that a large and random sample alone does not necessarily make a study representative. A quantitative study on access to justice in the US, for example, does not allow conclusions on how people mobilize law in India.

Bridge: One way of dissolving this dichotomy is by recognizing that there are multiple ways of generalizing while being transparent about the limits of one's research. Qualitative studies are "generalisable in a different sense" (Rubin, 2021, pp.22). They are not generalizable through features of their sample, but through theorizing about concepts and identifying mechanisms which reach beyond the specific case, time or people examined in the study.

Dichotomy: micro- versus macro-structures



Another dichotomy in social science is that between micro- and macro-structures as different levels of analysis. Micro-analysis, on the one hand, is the study of small-scale patterns such as interactions between individuals or the actors' points of view. Macro-approaches, in contrast, start from a theoretically conceived model of social structure and explore bigger patterns in society. To examine this dimension, quantitative methods such as surveys or experiments are commonly used, whereas qualitative methods like interviews or observations are applied on the micro-level. But are these approaches really fundamentally different forms of knowledge production? Or can one do both – come to an understanding of macro-structures through micro-analysis?

Micro

Study of small-scale patterns like interactions between individuals or actors' point of view.

Qualitative methods: interviews and observations.

Macro

Study of bigger patterns of society.

Starts from a theoretical conceived model of social structure.

Quantitative methods: surveys or experiments.

Bridge: micro- and macro-structures

Micro

Example: The World Justice Project Rule of Law Index (2022)

The index examines how the rule of law is measured internationally through creating commensurable measures that examine aspects such as criminal and civil justice institutions, aspects of open government and fundamental rights.

Macro

Example: Access to anti-discrimination law

A study in Germany investigated the enforcement of anti-discrimination law by courts and in alternative dispute resolution. For this purpose, in-depth empirical case studies were conducted which examined individual legal cases brought before different dispute solution forums (Beigang et. al. 2021).

Other approaches aim to combine macro- and micro-perspectives:

Example: Legal needs surveys

These are studies that examine the need of people to be able to participate in and have access to dispute resolution systems. These studies combine macro- and micro-perspectives by building more contextual approaches to measure justice. For example, check out the Justice Needs Interactive Dashboard by the The Hague Institute for Innovation of Law (2022).

Dichotomy: critical versus applied approaches

When it comes to the motivation of researchers and the overall objectives of research, legal researchers distinguish between critical-engaged and applied-analytical approaches. While applied science is considered to aim for impacts on policy and the solution of concrete problems, critical approaches above all uncover and undermine power structures behind such problems. An important text that reflects on this dichotomy is one by Sarat and Sibley (1988), which discusses the separation of policy from politics, and the implications of creating such a dichotomy.

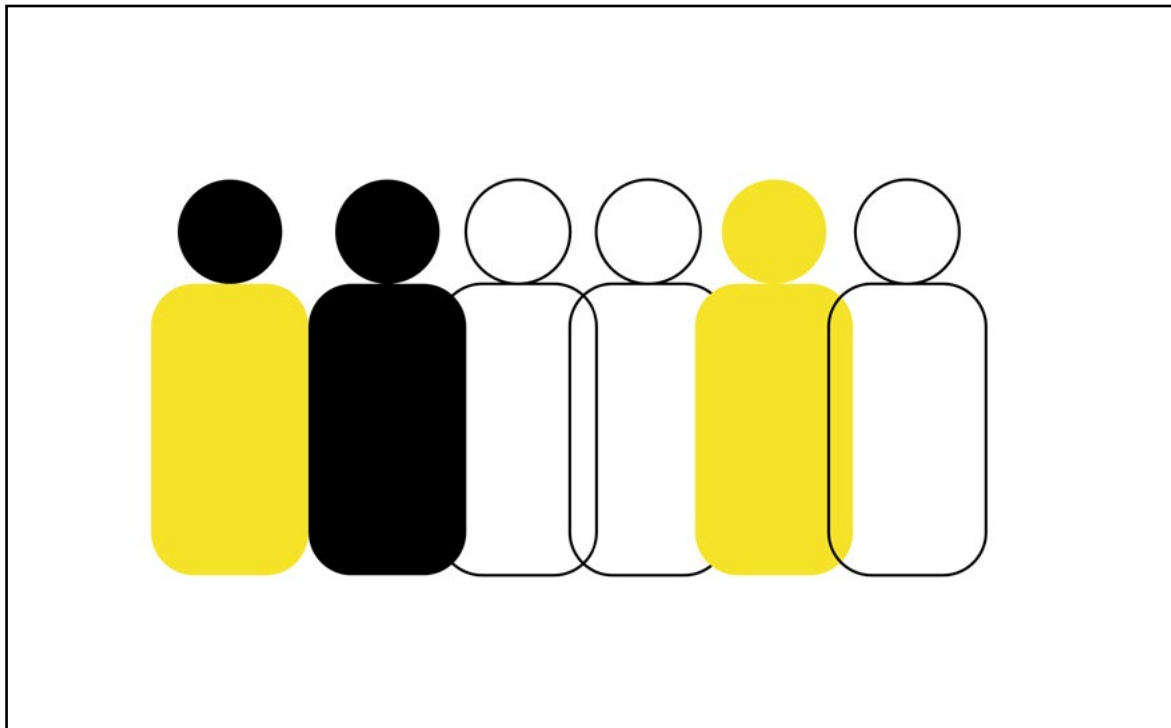
Critical

- Generating theory in response to problems.
- Science for its own sake.

Applied

- Generating solutions to achieve an outcome.
- Science as a tool.

Bridge: critical and applied research



One example of how critical and applied research has been connected, can be found in the term intersectionality. Intersectionality is a concept in feminist studies that was coined by Kimberlé Crenshaw (1989) to describe how race, class, gender, and other grounds of discrimination “intersect” with one another to give rise to particular forms of subordination. Crenshaw developed intersectionality as a legal concept because she identified a gap in US anti-discrimination law. The law did not protect from the unique subordination that black women were suffering from. She reached this conclusion through a critical analysis of the legal framework and case law. Her analysis permanently changed the application of the law.

Intersectionality offers a perspective where one is able to analyze the complexity of legal and social problems through people and their experiences. It draws attention to the fact that people may suffer discrimination at different levels: a woman who is Black will have different experiences from a Black man because of her gender. In sum, intersectionality connects interdisciplinary perspectives on power dynamics and marginalization by social systems.

NOTES / SKETCHES

NOTES / SKETCHES

EXERCISE:**Scamper method**

Now it is your turn to think of bridges to dichotomies. Take one example of a dichotomy and brainstorm for ideas on bridging the two sides. To do so, we suggest you use the Scamper method. This method is a brainstorming-technique that enhances creativity and fosters multiple perspectives on one topic.

ACTION: SUBSTITUTE

Question: What happens to your dichotomy if you exchange x by y?

Examples: What happens to the micro-macro divide if we extract macro-level trends for access to justice data in place of micro-level data to understand the legal needs of people in a particular village?

ACTION: ADAPT

Question: Which changes are necessary to adapt your dichotomy to a different context?

Examples: What changes are necessary to adapt micro-level data from a village to a state and then national level in order to make general assessments?

ACTION: COMBINE

Question: What happens to your dichotomy if you combine x and y?

Examples: What happens if we combine micro- and macro-level data on access to justice in order to understand village level justice needs?

ACTION: MODIFY

Question: What should be modified about your dichotomy?

Examples: What should be modified to avoid having either too specific data or too general and superficial trends for a particular region?

ACTION: PUT TO ANOTHER USE

Question: What are additional ways to use your dichotomy?

Examples: In what additional ways can this dichotomy enable better research to understand legal needs?

ACTION: ELIMINATE

Questions: What could be removed to improve your dichotomy?

Examples: What could be removed to prevent conflict between macro- and micro-level data on the access to justice?

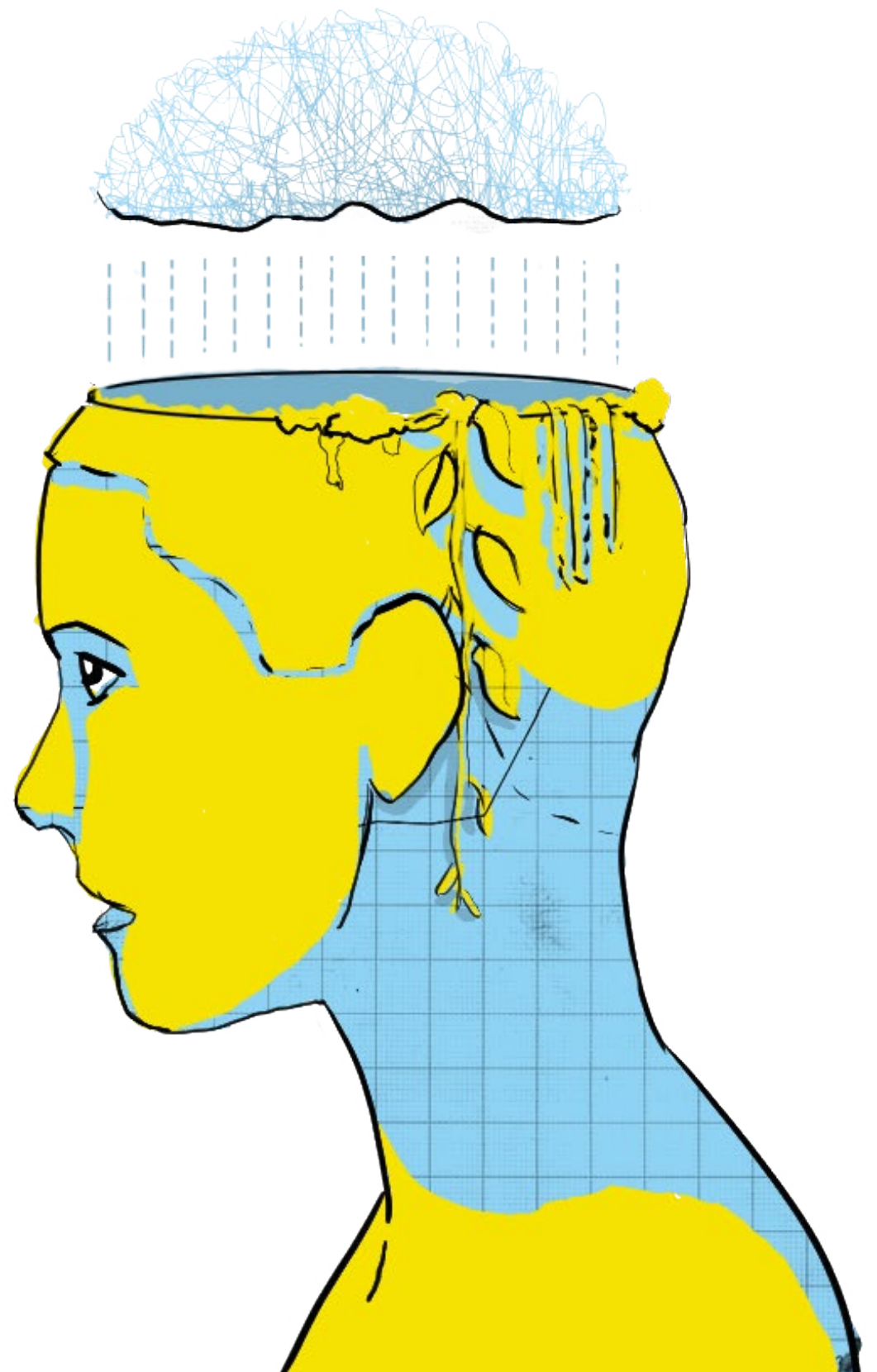
ACTION: REVERSE

Question: What could be reversed to solve problems of your dichotomy?

Examples: What could be reversed to ensure more holistic level data at a national level, that is specific yet generalizable?



This chart is an adapted version of the Scamper method available [here](#).



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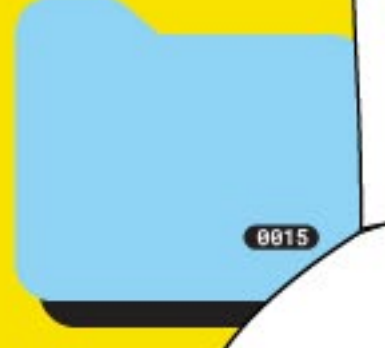
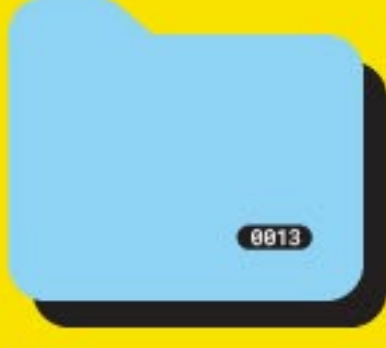
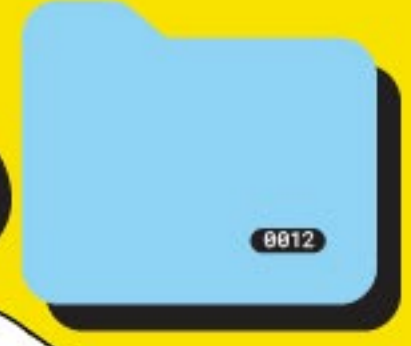
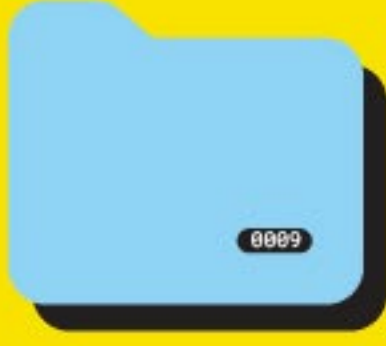
PART 03



Application

CHAPTER 06

Data on Law & Society





Content

In the previous chapters, we have examined how to think about law and society in an interdisciplinary way and discussed what dichotomies and theoretical debates unfold from this approach.

Turning to the applied aspects of socio-legal research, this chapter explores how to actually acquire knowledge on law and society. Data is central to this, and so is reflecting on the methodological questions that come with obtaining and using with it.

The aim of the chapter is to enable readers to understand what data is required to answer different types of research questions, where to find it and how to deal with it in a reflexive and critical manner that takes into account its limitations. Such an understanding is a prerequisite for the selection of specific research methods, to which we will turn in the following chapter.

Thinking about data in a lab means learning to productively use it and to critically question its life-cycle. It means experimenting with different types of data and broadening one's perspective on what sources are available to understand the inter-relations of law and society.

The choice of research data is also a practical question that depends on aspects like data access and methodological skills. To make this choice, reflection on one's own prior knowledge and resources can help.

Between these theoretical and practical perspectives on data, we will discover a tension. Does the data determine the research question or does it work the other way around? Let's start looking for an answer!

QUESTIONS	RELEVANCE	ACTION
What kind of data is available on law and society?	Figuring out which data type answers which type of research question.	Making data tangible
How does the choice of data affect how we see and investigate the world?	Exploring the potential outcomes that emerge from different types of data.	Reflexive data search
What are practical implications of using which type of data?	Consciously decide on a data source after weighing the challenges and benefits of dealing with it.	Research canvas



Finding Data on Law and Society

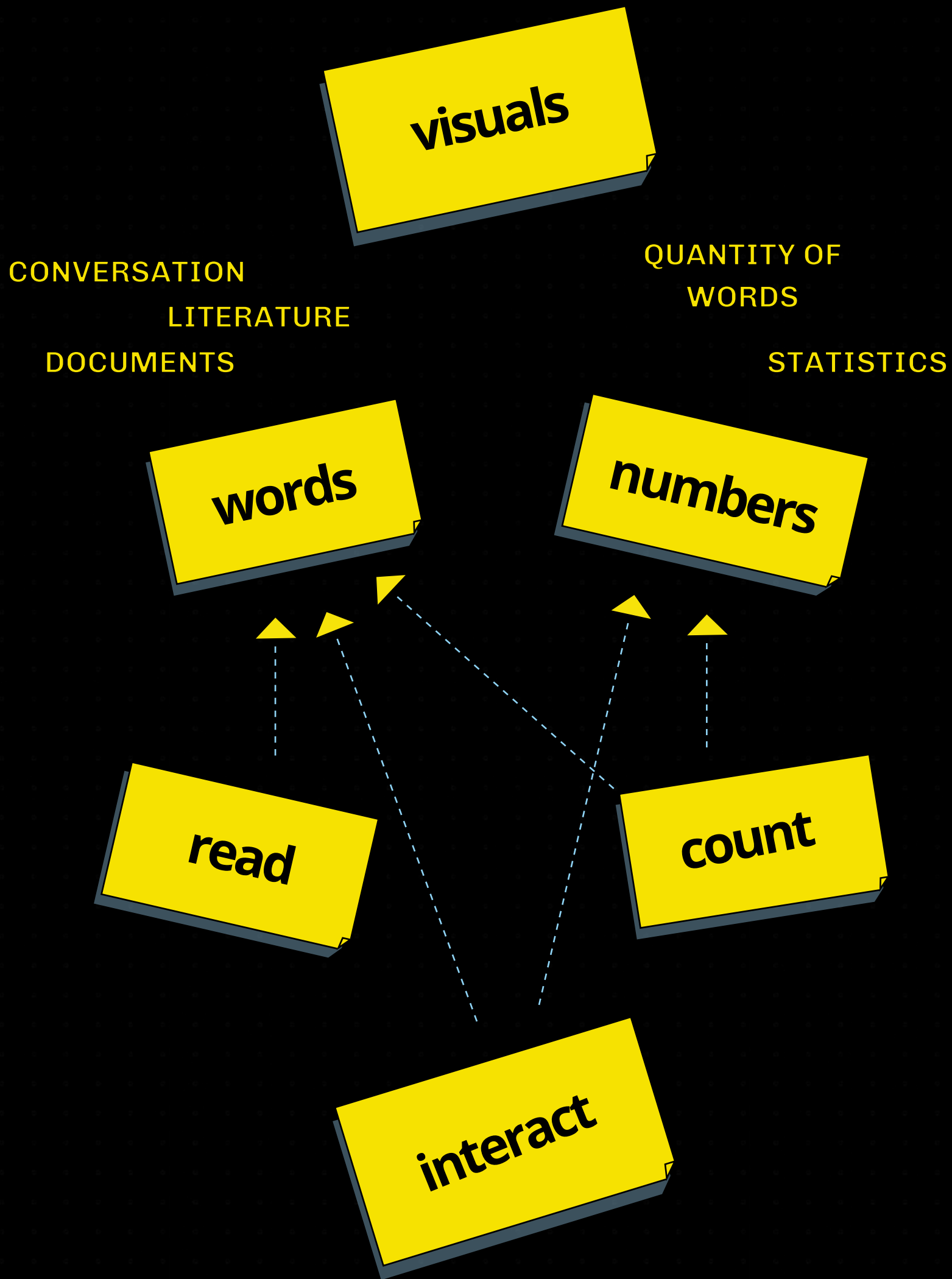
Types of data and research activities

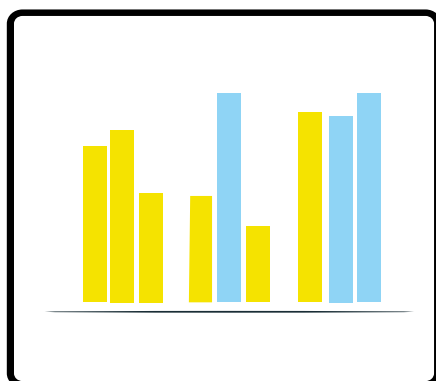
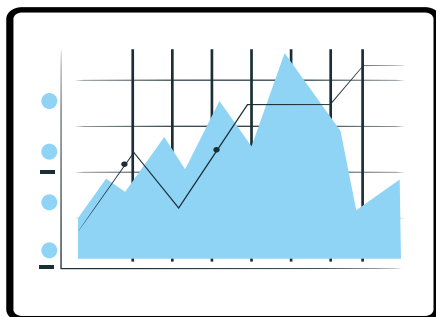
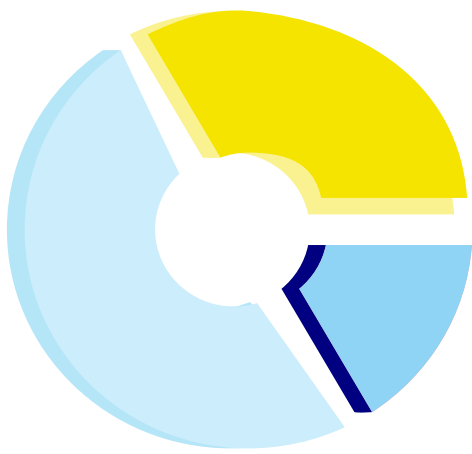
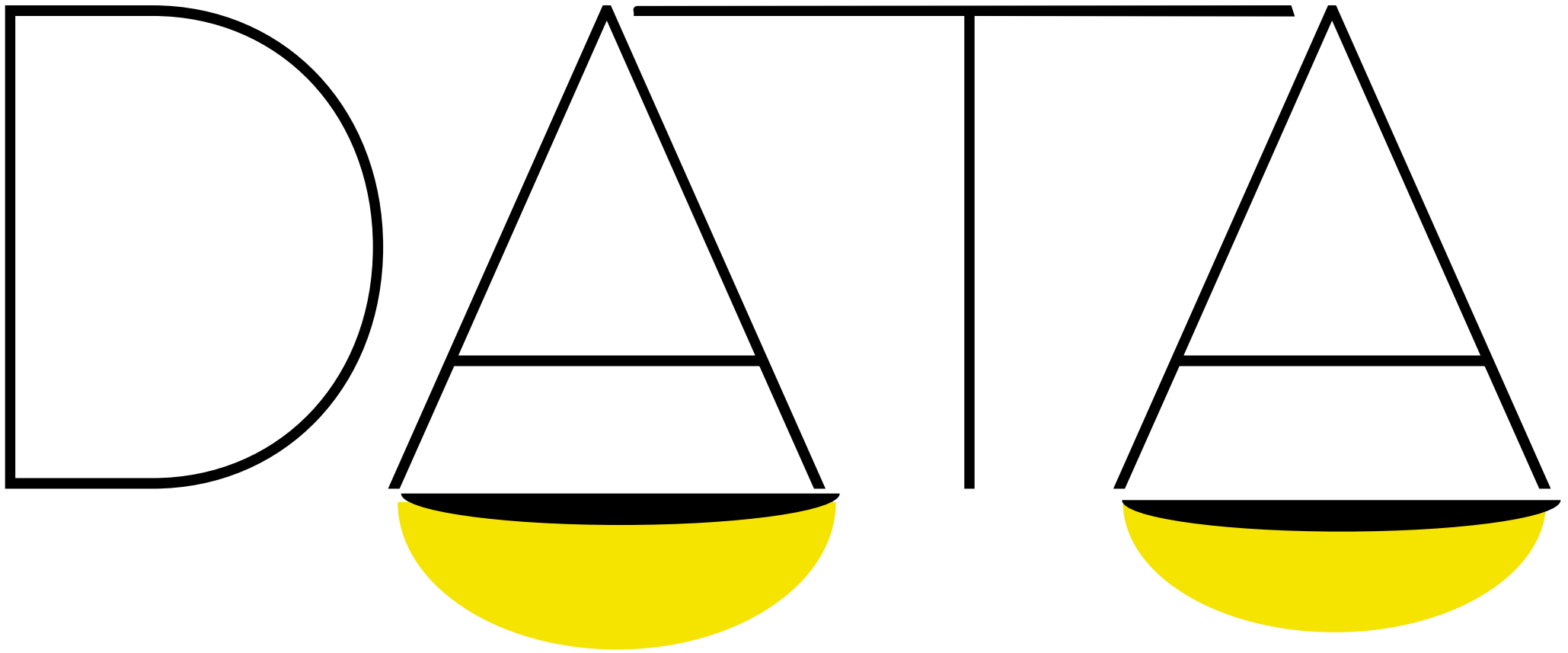
Data can be generally defined as a collection of information (Schreiber, 2008. pp.185). Depending on how this information is combined, one can further distinguish between several types of data:

- Data from numbers allows for numerical evaluations and helps to measure and calculate the numerical effects of different phenomena. It displays numerical trends. Numbers as data are suitable to answer “how much” questions (Rubin, 2021. pp.29).
- Data from words, in contrast, enable you to answer questions of “how?” and “why”. It allows one to describe, trace and explain trends in detail and detect intangible information like relations, perceptions, practices and experiences.
- Further data can also be collected from visual items like pictures or videos.

To generate these forms of data, one can distinguish between three research activities (Nielsen 2010. pp.952).

- **READING:** Consult written sources like documents.
- **INTERACTING:** Data from interaction is the “gathering of information on the views, opinions and experiences of those directly involved” in legal processes (Smith & Smith, 2018. pp.70). It can be obtained by engaging with people through interviews, ethnography or observation. Only when these forms of research are transcribed, they can be evaluated statistically as numbers.
- **COUNTING:** Both numbers and words can be counted.





Which data for which kind of question?

Depending on the research question, different types of data are suitable. In the following, we suggest a modular system from which a selection can be made. The modules can also be combined in a mixed methods approach. After first introducing the modular approach, we will present how it could be used in two fields of research: human rights violations and courts.

A modular system for socio-legal research:

READ:

- Legal provisions.
- Case law (national and international courts, non-state institutions).
- Secondary literature: academic commentary, books and articles.
- Documents of institutions (parliaments).
- Documents which reveal state practices, custom and opinio juris.

INTERACT:

Ask and observe what the law is according to...

- Individual people (micro).
- Legal professionals/institutions (meso).
- Larger groups (macro).

COUNT:

- Provisions in the law.

READ:

- Documents of legislative processes.
- Historical data: archives, communication, biographical data and diaries.

INTERACT:

- Observe and ask actors in law-making process.
- Conduct surveys.

COUNT:

- Contextual data: socio-demographics, spacial data and organisational data.
- Data from experiments.

WHAT DOES THE LAW SAY?

WHAT ARE THE EFFECTS IN TERMS OF IMPLEMENTATION AND BEYOND?

READ:

- Reports of rights violations.
- Biographies.

INTERACT:

- Observe and ask how law has effected peoples lives, institutions and societies.

COUNT:

- Rights violations (reported or occurred).
- Cases and outcomes.
- Provisions that are (not) implemented.

WHY IS THE LAW THAT WAY?

HOW IS THE LAW USED?

READ:

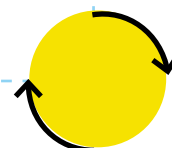
- Legal sources: cases, legal literature.
- Newspapers.
- Reports institutions and NGOs.

INTERACT:

- Ask about perceptions and usage of law.
- Observe law in action.

COUNT:

- Statistical analysis of texts.
- Times a certain phenomenon was observed.
- Big data: Twitter or Facebook.





Example: human rights

The first example to illustrate how the modular approach operates are human rights. To explore human rights, one can draw from or combine insights from legal doctrine, legal theory, qualitative as well as quantitative research (McConnell & Smith, 2018). Depending on the question one seeks to answer, there are different data types and research activities that can be helpful for such an inquiry:

MOTIVATION:

- Identify human rights laws and principles that apply to the case at hand.
- Advocate for a better law or interpretation of these rules and principles.

ACTIONS & DATA:

- **READ:** Human rights provisions (national/regional/international), jurisprudence of courts, human rights treaty bodies, legal literature.
- **INTERACT:** Ask people/professionals/groups what they consider as a just solution.
- **COUNT:** How many provisions, cases etc. are there on this issue to evaluate its relevance.

FURTHER READING:

Egan (2018) on doctrinal analysis of human rights law.

MOTIVATION:

- Explain how a certain law or legal interpretation developed.
- Criticize what was not taken into account.

ACTIONS & DATA:

- **READ:** documents of UN-treaty bodies.
- **INTERACT:** interview people working in UN-institutions and treaty bodies.

WHAT DOES THE HUMAN RIGHTS LAW SAY ON XY?**WHY IS THE LAW THAT WAY?****WHAT ARE THE EFFECTS IN TERMS OF IMPLEMENTATION AND BEYOND?****HOW IS THE LAW USED?****MOTIVATION:**

- Investigate legal and social impacts of human rights.

ACTION & DATA:

- **READ:** reports on human rights implementation (gaps).
- **INTERACT:** interview people about human rights impacts.
- **COUNT:** how many violations were sentenced and who committed them (the state or private actors)?

FURTHER READING:

Landmann (2018) on quantitative research on human rights violations.

MOTIVATION:

- Understand the views, experiences and practices of people who mobilize or are the subject of human rights.

ACTIONS & DATA:

- **READ:** reports by human rights NGOs.
- **INTERACT:** interview individuals and members of NGOs on why and how they use law, or use focus groups.
- **COUNT:** use surveys and court statistics.

FURTHER READING:

Smith and Smith (2018) on qualitative research on human rights violations.

Example: courts

One way to detect how people use the law is by looking at court statistics. These statistics differ greatly in terms of which information they contain and how data is displayed.

Here are two examples:

The European Court of Human Rights Database

includes over 15.000 ECHR judgments from 1960–2014. It includes multiple datasets which can be downloaded or analyzed as well as visualized online. The project aims to make decisions by the ECHR accessible to researchers, practitioners and the public (Cichowski & Chrún, 2017).

The National Judicial Data

Grid is a resource that provides data on the number of cases that are pending and disposed of by courts across India.



Scan these to
access their
databases.



PLEASE VISIT BOTH DATABASES AND FIND OUT:

- What information do the databases provide on how courts operate?
- What information is not available?
- Which cases are listed, which aren't?
- How do both databases differ in terms of visualization? In how far is this helpful?
- Who set up the database according to which methodology?

Beyond court statistics, there is a great variety of other data sources that could be used for socio-legal research on courts:

MOTIVATION:

- Describe the legal framework in which state and non-state courts as well as alternatives for dispute resolution operate.
- Criticize the conditions of access to adjudication and justice.

ACTIONS & DATA:

- **READ:** Procedural rules and framework governing courts.

WHAT DOES LAW SAY?**WHAT ARE THE EFFECTS IN TERMS OF IMPLEMENTATION AND BEYOND?****MOTIVATION:**

Exploring disputes that are being resolved through courts or through alternative forms of dispute resolution.

ACTION & DATA:

- **READ:** cases.
- **INTERACT:** interview people on how they experienced the oral hearing.
- **COUNT:** case load, duration, pendency rates of courts.

MOTIVATION:

- Explain how legal provisions are applied.
- Discuss what influences legal decision-making.

ACTIONS & DATA:

- **READ:** Explicit and implicit arguments in a judgement.
- **COUNT:**
 - Correlation of case outcome and attitudes.
 - The relation between political preferences and decision outcome (Frankenreiter. 2017).
 - Conduct experiments judges on how which factors drive their decisions (Spamann et. al.2021).

WHY DID A COURT REACH DECISION X?**HOW IS THE LAW USED IN COURTS?****MOTIVATION:**

- Understand who shapes law through mobilisation, in decision-making and in discourse.

ACTIONS & DATA:

- **READ:**
 - Legal files, amicus briefs.
 - Media reports on decisions.
- **INTERACT:**
 - Observe oral hearings.
 - Interview judges, litigants, lawyers.
- **COUNT:** Statistical data on types of litigants, number of amicus briefs.

FURTHER READING: Chrun and Cichowski (2019) on the European Court of Human Rights Database (ECHRdb).



EXERCISE:

Making data tangible

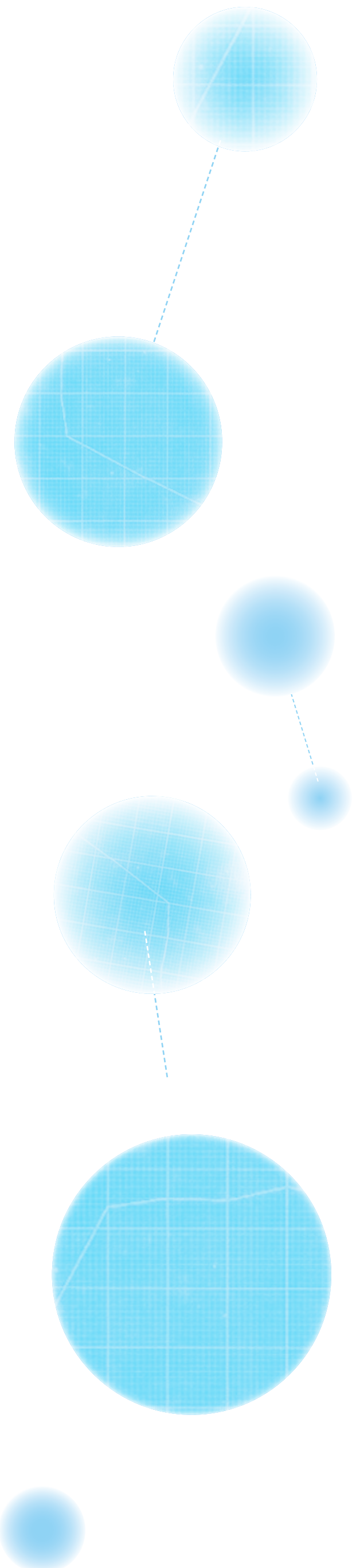
Data is abstract information and thus hard to grasp. Thinking about data whether in the form of words or numbers can be complex, because it involves thinking about non-tangible interrelations and networks. We suggest two exercises for class and peer-groups to stimulate thinking about data in a visual way, thereby making it more tangible.

Connecting data

The first exercise explores the networks around data. By designing a visual network diagram and then connecting the dots within it, the interrelations in datasets will unfold.



This exercise was developed by the Data Basic project. For instructions please visit their website here.



Building a data Lego model

The second exercise is about making the data required for your research project tangible. Think about the data that you plan to use within in your project and use Lego or other material to build a product.

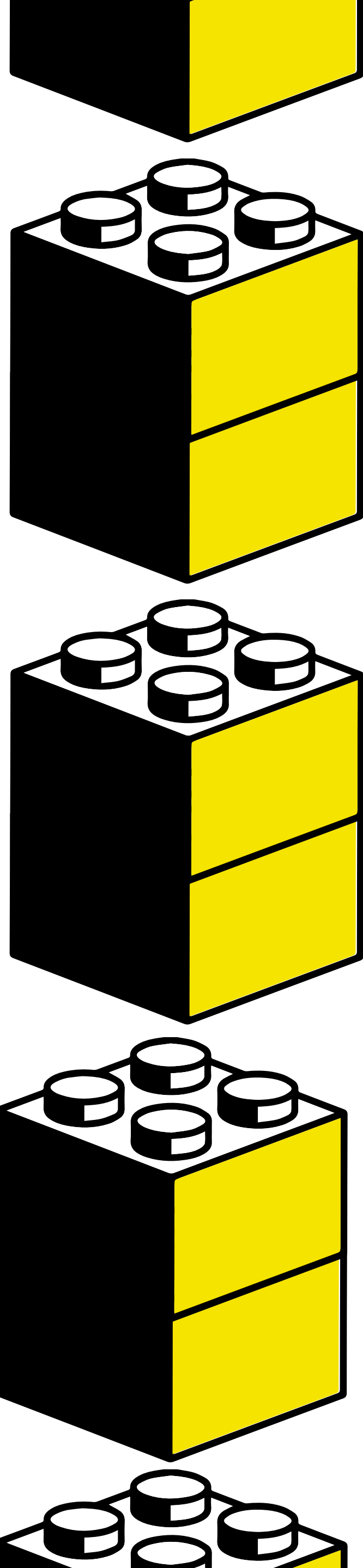
In case you are stuck with this activity, you can read more about making socio-legal models by Amanda Perry-Kessaris – the literature on which this activity is based.



Socio-legal model making by Amanda Perry-Kessaris.



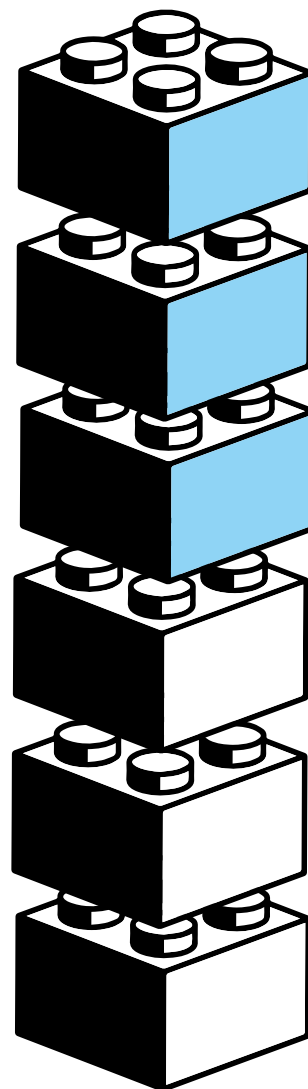
For inspiration on building a data sculpture visit the Data Basic Project here.



We suggest you proceed in three steps:

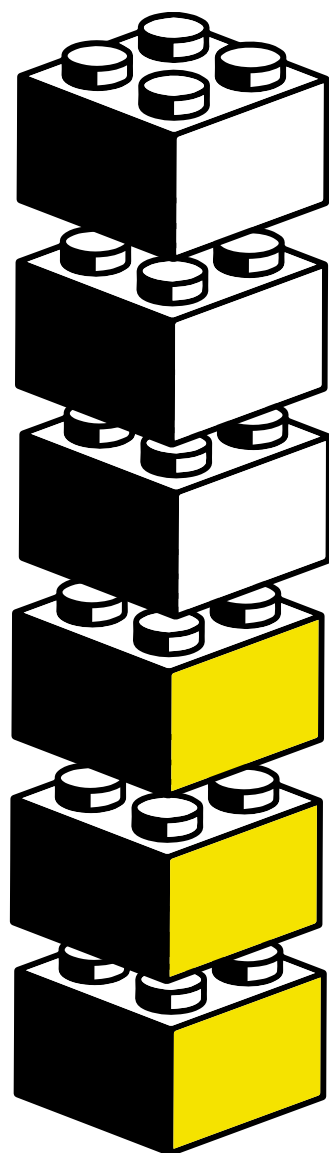
Building

- Identify an aspect of your project that requires data.
- Outline and elaborate about the type of data.
- Physically represent this data using lego.



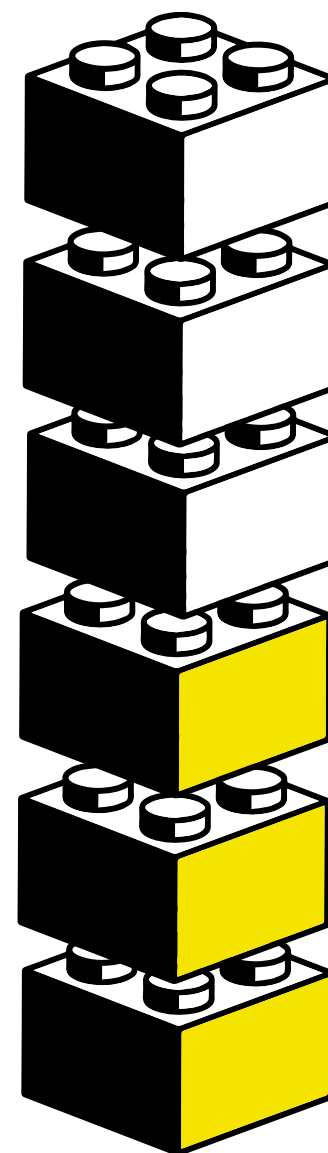
Communicating

- Explain your model to your peers and actively seek feedback.
- Seek out other design and visualizations of data.



Reflecting

- Deliberate on the feedback received from your peers on gaps in your model.
- Review and rebuild your model with this feedback.



Politics and practicalities of data

The politics of numbers

Data is neither objective nor neutral. There are multiple decisions to be made in the process of creating and using it. Data therefore involves dynamics of power and politics when it is collected, analyzed and shared. Data on law and society might substantiate reforms tackling inequalities, but it can also be misused. This can happen when, for example, the methodological standards are not met but far-reaching conclusions are drawn, or if data is only used to prove desired policy goals (Menkel-Meadow, 2019. pp.46).

In order to think about the ways in which data implicates and reconstitutes the world around us, please read the article by Merry (2011) on “measuring the world” and the impact of human rights indicators. Reflect on the following questions:

- Why do these rankings matter?
- What are the expectations of such frameworks?
- What are the benefits and challenges of standardization of phenomena?
- How can indicators have governance effects?



Scan this to listen to the interview.

Digitization and datification have an impact on society. Listen to this interview with Linnet Taylor, a Professor of International Data Governance at Tilburg University, for an introduction to the governance of data from a social justice standpoint.



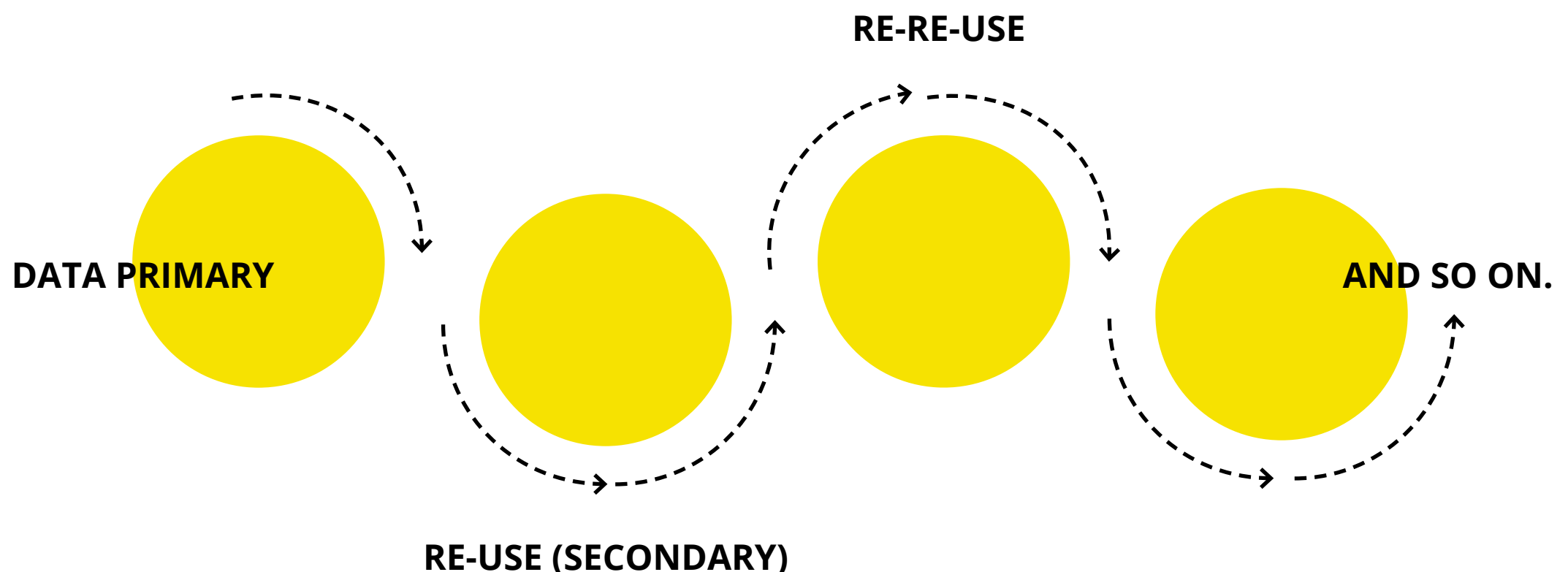
The journey of data

Data is not static. It acquires a life of its own as it mediates and travels between space and time. In doing so, it builds networks and relationships, and causes effects and impacts. Bates et. al. (2016) call this a “data journey”. They offer a method to examine these journeys from their initial generation to its re-use. Read their text and reflect upon how such a data journey could look like for your research.

One way of departure for such a journey is when a researcher collects his or her own data using primary sources. This data is called primary data.

Another point of departure is to re-use data that has been collected during a different study - so-called secondary data. Using secondary data has the advantage that the time-consuming data collection process is omitted.

The disadvantage of secondary data is that the researcher has no influence on the criteria according to which the data is collected. The researcher cannot control whether the collection was done in a methodologically sound manner.



**EXERCISE:****Reflexive data search**

Now it is time to apply these insights to your own research project. We suggest a two step approach as exercise for a reflexive data search:

Collect:

- What data do I need to answer which kind of question on my topic?
- What kind of data is available?
- Where do I find it? What is the social and material life of data?
- Is the data sufficient or do I need to conduct more myself? How will I do this?
- What has been the “life” of the data I am using? What does my use of it add?

Reflect:

- In how far is the data reliable?
- Who has collected it and under what circumstances?
- What are its limitations?
- Which parts of a topic does it allow us to see? What stays uncovered if I only focus on this type of information?
- Who is being represented in the data, who is being ignored?
- How is data travelling through my project?



NOTES / SKETCHES

NOTES / SKETCHES

The page features a decorative graphic on the left side consisting of a light blue abstract shape at the top left, a large black abstract shape at the bottom left, and several circles of varying sizes. Some circles are white with a thin black outline, while others are solid yellow or light blue. The circles are scattered across the page, with some overlapping the text area.

Dealing with research data

The decision on what data to use is not only a methodological question, but also one that is influenced by external factors. These factors range from time, resources and personal skills to the legal and ethical obligations that come with certain types of data. The main question here is how to make it feasible to work with socio-legal data. In this final part of the chapter, we introduce resources to enable you to better execute your work and planning with data.

AWARENESS OF LEGAL ISSUES:

Personal rights and data protection.

RESOURCES:

Time, skills, access, hardware: dictating machine for interviews, software licenses for organizing your data, e.g. with MaxQDA.

DESIRED IMPACT?

What is practically required for dealing with research data?

DATA MANAGEMENT PLAN (DMP):

A data management plan may be required by your institution or to apply for funding (e.g. EU grants).

A DMP is a document wherein you describe how you will collect, store, document and publish research data. This means presenting what we have introduced as the life cycle of research data, but from a managerial perspective, touching upon legal, ethical and practical issues.

PLAN B:

Anticipating failures and thinking of other data types of data to be used if data collection does not go as planned.

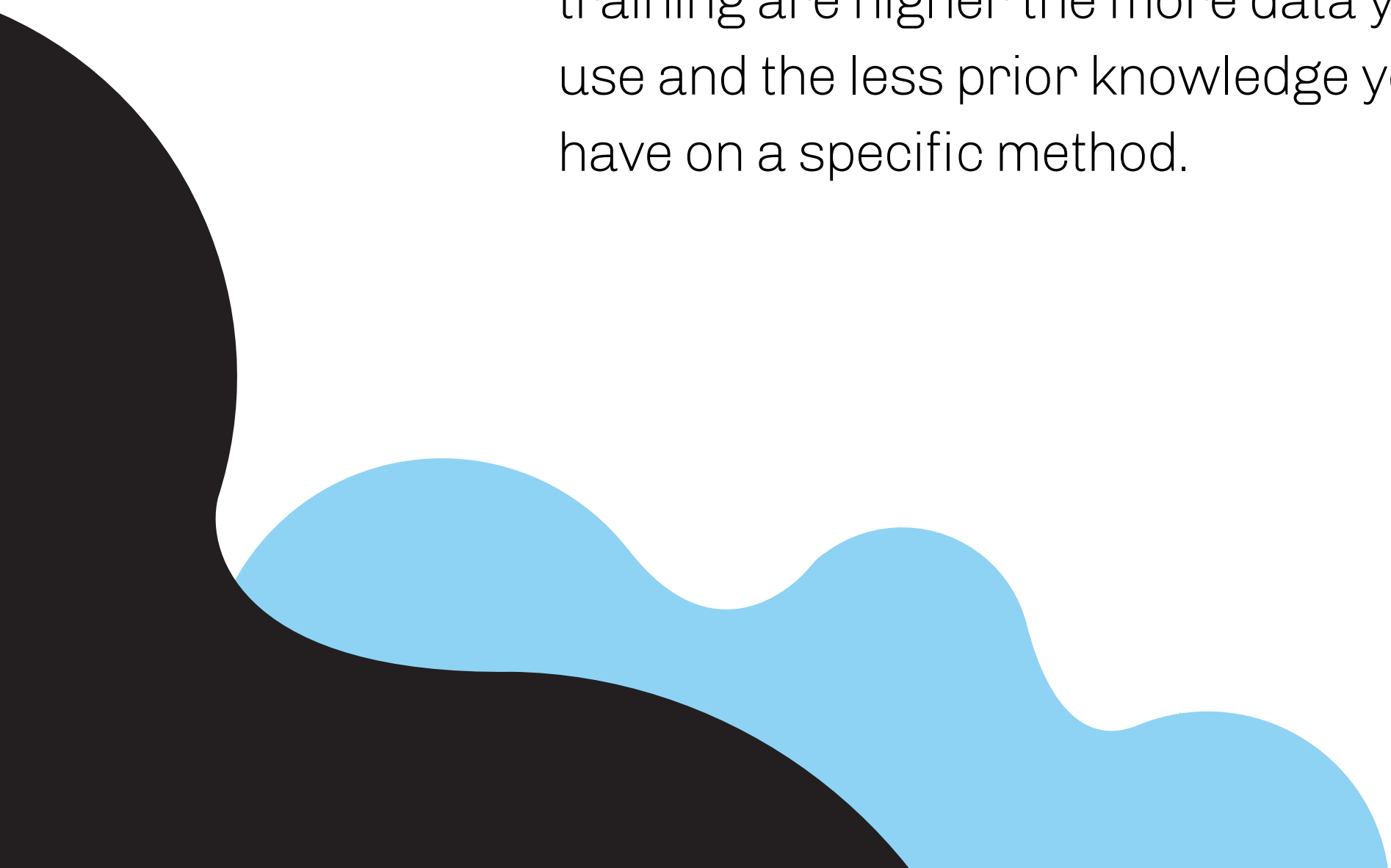


In case your institution does not provide any guidelines, this guide from the Max Planck Institute is helpful.



Reflecting on resources

Of all external factors, the question of resources is a central one. What time do I need to reserve if I choose to work with dataset X or Y? Do I even have the skills to do so or would I have to get additional training? These are questions to reflect upon. The required resources and training are higher the more data you use and the less prior knowledge you have on a specific method.



Low

USING RESOURCES AVAILABLE

- Using data that is already available.
- Collecting data with methods one is already educated in.

Medium

ADDITIONAL SKILLS/ TIME REQUIRED

- Partly using available resources, but partly adding single data sets which need to be collected.
- New skills required which can be learned autodidactically (e.g. interviewing).

Strategies to make it work:

- Peer-exchange on methods.
- Guidance by your supervisor or senior researchers experienced with interdisciplinary approaches.

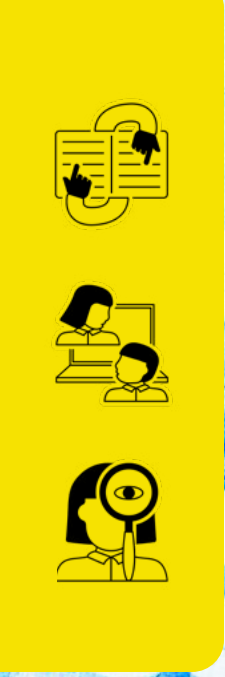
High

A LOT OF TIME & PRIOR KNOWLEDGE/TRAINING ON NEW SKILLS REQUIRED

- Full data set needs to be collected using methods one is not educated in.
- Methods of data collection to be used require a lot of training (e.g. statistics).

Strategies to make it work:

- Visit summer schools and workshops on certain methods.
- Conduct research at a university or institute that is specialized in socio-legal studies.



EXERCISE

Drafting a research proposal – Part I

Now that you are aware of the methodological background as well as practical implications of dealing with data on law and society, we suggest you draft a research proposal. Imagine you were writing it to apply for funding. The aim of your proposal is to convince the institute you are applying to why your research question can be answered adequately with the respective data and that you will be able to do so with the resources available to you.

First, think about which data to be used:

- What data is required to answer your research question?
- How would you collect it?
- What are the strengths and weaknesses of this method?
- Which methods of data collection and analysis could you use?

Second, think about the practical aspects:

- Is this data easily available?
- Which skills would I need to collect such data?
- What would managing this data imply? Is a data management plan mandatory?
- Which legal and ethical considerations have to be taken into account?

EXERCISE

Research Canvas

As a second way of thinking about the practicalities of data research, we would like you to explore building a research canvas. This can function as a tool to think about the impact of your research, and how you can design it in a meaningful way.

Benedikt Fecher and Christian Kobsda suggest this framework in order to develop and strategize about key elements of a research process.



To learn more about the five aspects to reflect upon, please visit their website here or scan this.

RESEARCH IMPACT CANVAS EXAMPLE

01 VALUE

Expertise
Impact proposition
Target group

02 TRANSLATION

Format
Channel
Strategic opportunity

03 OPERATION

Resources
Core activities
Collaborators

04 BUDGET

Costs
Funding

05 EVALUATION

Benefits
Success indicators
Risks



Sources

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CHAPTER 07

Exploring Qualitative Methods





Content

This chapter explores how to apply and implement qualitative methods in socio-legal research. The aim is to enable the reader to select some of the methods presented and design a research proposal in which they apply it to their field of interest.

We focus on four selected methods of data collection: participant observation and courtroom ethnography, expert interviews, surveys and case studies. These qualitative methods are particularly suitable for individual researchers, but they can also be used by a group. By treating these methods, we will reflect on what kind of research questions can be answered by using them, which data is required to do so and what to consider during the process of data collection.

The next step after collecting data is organizing and analyzing it. In this part of the chapter, we will introduce selected qualitative methods for analyzing and organizing data as well as tips for representing the voices of your research subjects.



Learning about socio-legal research methods in a lab puts the focus on experiencing through application. The aim is to test methods of data collection and analysis in order to gain an understanding of what it takes to use these tools in a research project. This can be helpful even in the planning stage, as not all methods are equally feasible for individual researchers with limited resources.

QUESTIONS

RELEVANCE

ACTION

What qualitative methods of data collection exist and how are they executed?

Each method comes with different challenges when planning and executing it.

Simulations

How can qualitative data be organized and analyzed?

When analyzing data, it is important to systematize the material and find meaningful ways to interpret it and to give a voice to your research subjects.

Coding and transcription plan

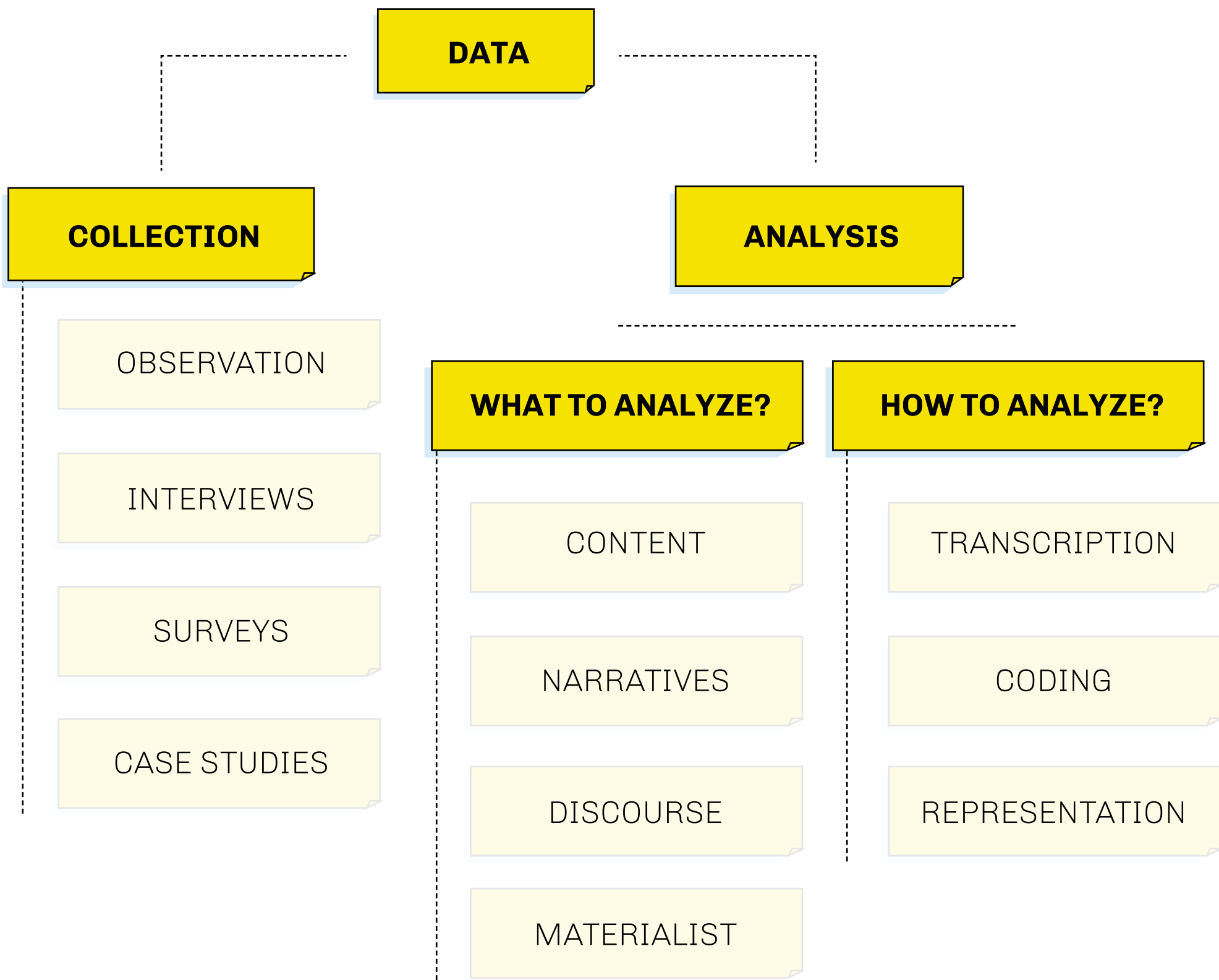
Drafting a research proposal part II

Qualitative methods are particularly well suited for learning through a lab, because many of them are based on interaction. Quantitative methods, on the other hand, will not be discussed in depth. If you would like to delve deeper into the the variety of methods available, their theoretical underpinnings, development and dissemination, we recommend these further readings:

- The books series “The SAGE Qualitative Research Kit” edited by Flick offers introductions to ten different methods including interviews, ethnography and mixed methods as well as introductions to qualitative research and analysis more generally.
- For the use of such methods in socio-legal studies, please consult the handbooks recommended in chapter 4 on general debates.

A variety of qualitative methods

Generally, methods are tools to acquire knowledge in a systematized manner. This inquiry follows a standardized process which includes collecting and analyzing data. Both stages do not have to occur sequentially, but can be preformed in a back and forth fashion. In each step, a variety of methods are available:





Collecting Data

- + **Observation**
- + **Surveys**
- + **Interviews**
- + **Case Studies**

Participant observation

Observation is a method of collecting data in which the researcher comprehensively explores social interactions. It is typically used in qualitative research like anthropology for the purpose of explaining norms, behaviours, concepts and ideas of a community (de Sardan, 2015. pp.83).

Since this method is based primarily on subjective impressions, a high degree of reflexivity is required. In addition, ethical questions can arise when a researcher is embedded in the observed situation. Therefore, one needs to be aware of his or her role in relation to the research participants. Generally, four forms of immersion or embeddedness can be distinguished (de Sardan, 2015. pp.26):

- 01** The most intensive form of observation is **complete participation**. Early ethnographic studies are an example of this, where researchers lived in one place over several years and were fully integrated within the community.
- 02** **Participant as an observer** involves the researcher living with the community but keeping some distance.
- 03** In the case of an **observer as a participant**, there is be limited interaction but the researcher is still known and recognized by the participants. Here, the field research extends over a shorter period of time and situations are observed selectively.
- 04** As a **complete observer**, the researcher would view the community from outside and not interfere at all.

Fieldwork and Fieldnotes

Collecting data through observations is embedded in fieldwork. Fieldwork describes the whole process from getting access to the research subjects to building trust and collecting data. During this process, fieldnotes are essential. They document experiences and observations and thus serve as a basis for later interpretation. There are many different ways in terms of what you observe and note, and in which style you can do so (see Emerson et. al. (2011) for an overview).

How to take field-notes?

- + Decide for a type of observation: Are you describing everything you observe or rather selected aspects?
- + Try to make your notes as vivid and comprehensive as possible. Note what has been said, how it was expressed, what gestures were made or how it smelled. Try to get a grasp of:
 - Setting
 - Interactions
 - Atmosphere
- + At the same time, reflect on your own role: Are you an observer or do you participate actively, and how does this influence the observed situation?

How to validate observations?

- + Ensuring reflexivity is central for doing observations. This can be done through various techniques that allow to change and question one's own way of observing.

You can change how you observe:

- The perspective and location in the field (social or physical).

Or change what you observe:

- Approach similar situations and see whether your observations replicate.
- Observe series of incidents (processes) or follow one specific "case".
- Focus on one theme, time frame, location or person.
- Collect additional data or information.

NOTES / SKETCHES

Observation in legal settings

Participant observation is a method that is particularly suitable for legal settings. Legal institutions have the advantage that they partly operate in public spaces, for example in parliaments and courts. This facilitates access to the field. Furthermore, interactions between legal professionals in these institutions follow a formalized pattern that can be easily observed.



One space where observational research has had a long history are courtrooms. The overarching interest of courtroom ethnography is to see how law is actually negotiated in court. This can be observed through the content and form of the language, the interactions and emotions of participants, or even the design of the space (Bens, 2018). The data generated in this kind of research can consist of notes, pictures, paintings or audio records.





Reading & doing: courtroom ethnography

READING:

Examples of courtroom ethnography illustrate what this approach is about and how it can be conducted. One study by Bens (2018) looked at affective arrangements in courtrooms by taking the example of the International Criminal Court. For an observation of national court trials, please read the study by Baxi (2013) on rape trials in India, in which is shown how the written and unwritten precedents of injustice become visible in courtrooms.

Please read the texts by Bens and Baxi and answer for yourself or discuss in class:

- What can be observed through courtroom ethnography?
- What is particular about courtroom ethnography as a form of participant observation as compared to other settings?
- What are benefits and challenges of courtroom ethnography?
- Which methodological choices and different sources of data can be distinguished?
- How do the observations differ depending on the court that has been observed?



EXERCISE

Simulating courtroom ethnography

01.TAKE FIELD-NOTES

Imagine you were in the courtroom of the International Criminal Court (ICC) doing courtroom ethnography. Please watch the video sequence of the Ongwen case before the ICC and takes field notes of the following sequences. While taking the field notes, you can apply the guidelines introduced in the previous sections.



Scan this for section 1: at timestamp 0:00–2:54.



Scan this for section 2: at timestamp 00–4:41 - 5:40–6:50 - 9:29.

02.COMPARE

Please build two interdisciplinary groups (one social scientist in each team) and compare your notes:

- Are your protocols similar, where do they differ?
- How did each of you note the facts, actors, interactions, atmosphere, position of the researcher?

03.DISCUSS WITH ALL PARTICIPANTS

- What were you capable of observing, did you notice something that others didn't?
- What are the strengths of this method?
- Can you distinguish between particular types of observations (non-participatory, passive or active participation)?
- What are the limitations of this method?

Observations in the digital sphere

Observations are typically conducted by researchers who are physically present in a situation. However, if this is not possible like during the Covid-19-pandemic, observations in the digital sphere can be an alternative. The data is then derived from online sources such as blogs, Facebook groups and Instagram or from legal proceedings like trials that are being streamed.

Here are some examples of online sources that can be used in socio-legal research:

- Social media data can be used to examine the regulation of online hate speech (Wilson, 2019).
- Blog discussions provide information on how people discuss and conceive of law, and can even be used to show how law students are socialized as lawyers (Böning, 2017).

Another example where a large online dataset has been used is the AnthroCovid project. During the beginning of the Covid-19 pandemic in 2020, this project called on people to share experiences that they felt were important to be documented. This included stories on being limited in having physical social contact, on wearing masks and reflections on new habits and routines. online, wearing masks, reflecting on new routines.



Scan this to find out more about the AnthroCovid project.



Interviews and Surveys

What are they?

One way of gaining insights into people's perceptions and attitudes on law is through interviews and surveys. This method is popular because they come in a broad variety of forms. They differ depending on who you interview, whether your interview is structured and whether it is face-to-face or not (Brinkmann, 2008. pp.470).

Interviews are generally conducted in personal conversations, while surveys can cover a large amount of research participants by using a physical or online questionnaire.

What is sampling?

In both methods sampling is required. Sampling is the strategy that one uses to select a group of research participants from a general population and to collect data from them. There are different sampling strategies discussed in depth by Rubin (2021. pp.139), which can be categorized in the following manner:

- The random sample: representative of a group or a population.
- The snowball sample: starting with one contact and asking for new contacts.
- The purposive sample: interview according to certain prespecified criteria.
- The convenient sample: interview whoever happens to be present when conducting your study.

Focusing on qualitative semi-structured expert interviews

The following section will focus on semi-structured expert interviews as they are especially well-applicable in socio-legal research. The main reason for this is because the legal field is highly professionalized and many potential interview partners are legal experts. Using a semi-structured interview style further allows enough flexibility to follow the conversational flow while at the same time ensuring rigorous conduct. For interviews

to be more than conversations guided by leading questions, one needs to consider certain rules when planning and executing them, which we will now introduce.

Interviewing experts

Interviewing experts is one way to gather information about a specific domain to which the researcher has limited access (Bogner et. al., 2009). There are a couple of unique characteristics of expert knowledge:

UNIQUE CHARACTERISTICS

- 01 Professional knowledge
- 02 Embedded in professional networks
- 03 Privileged access to information

Due to these characteristics, interviewing legal experts can be helpful for three types of conversations (Korkea-Aho & Leino, 2019).

- Exploratory conversations are used to understand the nature of a domain.
- Systematizing conversations help to confirm hypotheses or clarify doubts and concerns.
- Theory generating conversations are those in which interviews are used to generate new knowledge about the field.

When planning to conduct an expert interview, methodological reflection is required.

- Experts are not neutral. They are gatekeepers of information that the researcher can hardly verify.
- During an expert interview, there will be an imbalance in knowledge and thus a power asymmetry. The interviewer needs to be aware of this.

How to interview?

Semi-structured interviews are conversations with a broad framework of topics and questions that must be covered. However, there can be flexibility in their order and in the interviewers response to the answers that are given (van den Bos, 2020. pp.31).

WHEN TO USE SEMI-STRUCTURED INTERVIEWS?

- For exploratory research and to gather background information.
- To explore subjective concepts, patterns of interpretation and everyday life.
- For interpretations of relationships.
- To understand processes.

HOW MANY?

- Ideally: until there are no new insights to be gained.
- For big studies, more than one hundred interviews.
- For studies conducted by one person, around ten interviews would often be sufficient and realistic.

ADVANTAGES

- Flexibility.
- Data rich in quality.
- Surprising aspects.

CHALLENGES

- Conversational skills are required.
- Trust needs to be built.
- There may be a knowledge and power asymmetry.

HOW TO BE CONDUCTED?

- Face-to-face, via telephone or by using an online service such as Teams or Skype.
- Design a questionnaire in which the content and order are well-considered.
- Consider conversational guidelines when conducting interviews.

Interview questionnaire

When designing an interview questionnaire, there are certain aspects to consider (Leech, 2002. pp.665).

- . The questionnaire should only guide the conversation and contain enough flexibility for open discussion.
- . For a 60–90 minutes interview, do not draft more than 10–15 main questions plus follow-up probes.
- . Organize the questions in an order that creates a good atmosphere and allows for the conversation to develop.

Before you

start: Explain the topic and inform the interviewee about the rights regarding data protection and anonymity. Ask for consent.

Introduction:

Create a good atmosphere by asking one or more easy and non-threatening questions.

Middle section:

Ask the difficult questions. You can sandwich them in between easy questions. Don't be afraid to be silent and wait for an answer.

Finishing up:

Finish with a positive note by asking an easy or friendly question. Ask for further contacts and inform about other relevant sources for your research.

The art of asking questions

During an interview, there are different kind of questions which can be asked (Leech, 2002. pp.667).

Get the respondent talking:

- “Could you describe a typical day in your office?”
- “Walk me through what your organisation did in response to issue x.”

Prepare short and specific questions, and avoid leading questions like:

- “Don't you think that...”

Be prepared that your respondent only touches upon one aspect of your question and follow up with probes:

- Formal probes: include key points in the questionnaire based on what you want to code from this question.
- Informal probes: listen to the data and follow-up by using silence, clarification, repetition or playing naive.

Make your respondent illustrate his or her point by asking for an example:

- “Can you give me an example from a time when you used ...”



EXERCISE

INTERVIEW SIMULATION

Step 1: Interviewing in groups of two (10 min.)

- One person will be the interviewer, one the interviewee.
- The interviewer will ask the questions below and the interviewee will respond.
- The interview should not take more than 10 minutes.

Step 2: Reflection (10 min.)

Please share your impressions with the group and reflect. How did you feel in your role.



Before you start: explain the topic, get consent.

INTRODUCTION (2 MINS.)

How did you develop the idea for the project?

MIDDLE SECTION (6 MINS.)

Without prior formal training, did you feel prepared for working in a project using socio-legal methods?



What are the methodological foundations that guide your approach to fieldwork?

What are you looking for in the interviews, observation work or other methods you use and how are you proceeding with it?

Do you encounter any difficulties when it comes to analyzing the data?

What is the most challenging aspect of the project?

AT THE END (2 MINS.)

What is the most rewarding aspect of your project?

NOTES / SKETCHES

NOTES / SKETCHES

Exploring Surveys

Survey research is conducted in order to gather information about specific aspects of a population, to examine the relationship between different variables and to make generalizations based on a sample. Whether a survey is suitable for a specific study depends on a number of aspects, some of which are described below. For further reading, please see Julien 2008.

Surveys are used to test hypotheses of researchers who then through the data gathered establish whether the hypotheses are met. They are useful to analyze incidents across time and space.

The timing of a survey is important as it indicates whether the study is for a cross section of data at one point in time, or if it is to be measured over a longer period of time. This is important because different projects require different timeframes to be able to study a particular phenomenon.

The data from a survey can be both qualitative and quantitative, depending on if the questions are open-ended or instead require clear, quantifiable answers. The sequence of the questions, the layout and the time required to collect inputs are all important aspects of the survey. There is a great variety of online tools and services for conducting surveys.

In the following exercises we will explore how to build a questionnaire and how to decide on a sample for a survey. We will also offer an exercise on how to construct your own survey.

Survey design 101

On building a questionnaire (Harvard Program on Survey Research 2007):

Provide a clear background to the project, and include instructions about how the survey should be conducted.

Put important questions first.

Go from general questions to specific questions.

Help maintain a natural and logical flow for the participant.

Use different question types: multiple choice and open ended questions.

Focus on one thing at a time per question.

Be clear, precise and neutral.

On Survey Sampling (Epstein and Martin 2010; Oxfam 2019):

Information from the sample is typically used to make conclusions on the whole population.

In order to arrive at a sample, you first need to identify the population you are interested in studying. This can be based on a region, a demography or another characteristic.

The sample can be chosen randomly, where there is a chance that anyone can be represented, or non-randomly, when there is a certain group that needs to be targeted.

Samples are also determined by time, budget and other resources.

**READING:**

Legal Needs Surveys & Access to Justice

One example where surveys have been used is research on access to justice. In chapter 5, we have already introduced studies from this field as a way to bridge the micro-macro dichotomy. Please read the OECD framework on legal needs surveys (2019) and answer the following questions for yourself or discuss them in class:

- Why are surveys used to capture legal needs?
- How are legal needs described? What are justiciable problems? How is the subject matter defined?
- How are the problems identified and what approach is taken to incorporate this in a survey?
- How are the questions framed?
- How is the sample arrived at?

**EXERCISE:**

Create a survey

TOPIC:

Latest research has shown that a global pandemic has increased the challenges of justice access, especially for the poor and vulnerable members of society in X. To tackle this problem, the local government introduced a new policy called the Access to Justice Initiative. You are hired as a researcher to design a survey. Its aim is to identify specific areas where access to justice barriers have been exacerbated due to the pandemic. With this information, the government will aim to design new processes, policies and procedures to adapt justice institutions to the new situation due to the pandemic.

DRAFTING THE SURVEY:

Please design a survey for the stakeholders you are interested in speaking with. Think about:

- What kind of data would you require for such a study?
- Who could be your target group?
- What questions would you ask and how could the survey be structured?

For a sample survey on measuring access to justice check out a handbook created by researchers at Tilburg University (Gramatikov et. al. 2010).



Case Studies: a Multi-Method Approach

Case studies are a research approach through which one or several instances of a phenomenon are studied in depth (Blatter, 2008. pp.68). In case studies, multiple methods are combined to a holistic study of a specific phenomenon.

In socio-legal research, case studies serve multiple purposes and allow to address a variety of questions (Webley, 2016; Argyrou, 2017).

PURPOSE

Exploratory: show how cases produce varying legal outcomes.

Descriptive: describe legal practices in different organizations, which allows for comparison.

Explanatory: explain significant reasons underlying legal processes, for example legal mobilization or court decisions.

QUESTIONS

How is law understood, applied, misapplied or subverted?

How does this influence legal procedures, policy making or court procedures?

What is a “case”?

A “case” is a unit of analysis. Case studies should therefore be distinguished from examples, which are only aimed at illustrating an argument. They also do not need to be a legal case in jurisdiction. Cases are always an occurrence of more generalizable phenomena. You can therefore specify cases by asking this leading question: What is case X a case of?

There are at least three types of cases (Rubin, 2021. pp. 120):

TYPICAL CASE

REPRESENTATIVE ► GENERALISATION ► EXPAND THEORY

EXTREME CASE

EXCEPTION TO THE EXPECTED PATTERN ► FALSIFY THEORY

DEVIANT CASE

SURPRISING IN LIGHT OF PRIOR LITERATURE ► MODIFY THEORY

**EXERCISE****Drafting a case study****EXAMPLE: SOCIAL MOVEMENT LITIGATION**

For an inspiration on how to draft a case study, consult a study by Leachman (2014) as an example. It is a case study on the litigation by the LGBTQ movement in the US. The study addresses the question of how litigation shapes the agenda of such a social movement. The aim was to understand the dynamics at play when social movements set their litigation agenda.

Selection of case study	<p>LGBTQ MOVEMENT FROM 1985–2008 IN CALIFORNIA</p> <ul style="list-style-type: none">• LGBTQ movement as a typical case: diverse activist communities, addressing structural issues, radical as well as formal legal claims.• California is a critical case, because of its comparably liberal political environment.
Collecting data	<ul style="list-style-type: none">• Archival data (newsletters, meeting minutes, letters etc.)• Twenty in-depth interviews with activists.• News reports.
Analyzing data	<ul style="list-style-type: none">• Interviews transcribed, coded and analyzed.• Event-history analysis of organisational survival.• Quantitative analysis of newspaper coverage.



NOW TRANSFER THESE GUIDELINES TO YOUR RESEARCH:
WHAT COULD A CASE STUDY LOOK LIKE?

Selection of a case or unit to study

Collecting data

Analyzing data



Addressing failures in research

Having gone through the different methods, there are bound to be different kind of failures one might encounter. These can include:

- Having no access to the field.
- Dealing with situations where there are no relevant cases to the research question.
- Have permission withdrawn even after it has been given.
- Being overwhelmed by the field.
- Addressing participants who are not responding.
- Addressing unforeseen challenges such as a pandemic, where overnight research plans can change.

In thinking about failure in research, have a look at a manifesto on research failure by Clark and Sousa (2020), which encourage researchers to be open with failure, to share instances of shortcomings, create a culture of ownership of mistakes, rather than of blame, build a sense of consideration and empathy and also learn how to move forward.

If you are curious to engage in more reflections of this kind, go back to chapter 3 where we discuss how unpredictable research can be when put into action. For an empowering exercise normalizing failures move on to chapter 8 in which we suggest drafting a CV of failures.

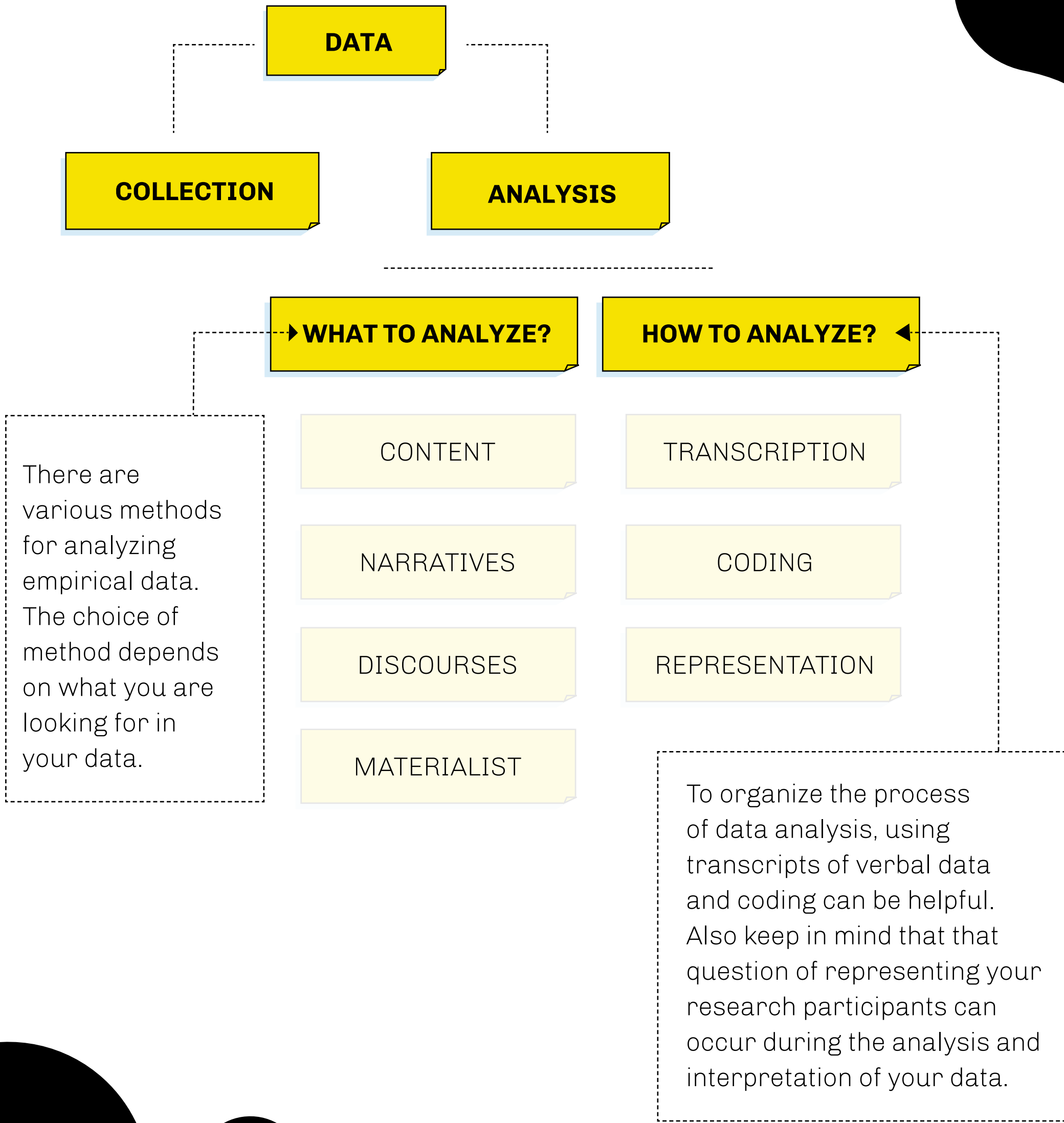
NOTES / SKETCHES



Analyzing data

What to consider in data analysis

Once data is collected, the next step is to organize and analyze it. This stage is the “crux” of each research project and there are common mistakes to be made (Rubin, 2021. pp.182). The major challenge is how to analyze data systematically instead of just reading and summarizing it. There are a couple of aspects to be considered in data analysis. The first one is to decide what to analyze, and the second is to choose tools on how to go about it.



Readings on data analysis

Analyzing data requires time, skill and detail. Before proceeding, we would like provide some background reading to build a basis for analysis. In the readings that you will explore, we suggest thinking first broadly about the question of **how to do data analysis**, which is offered in the first text. The second text deals with the question of **what does such an analysis mean**, and how to consider your own position in it. The final text reflects on **changing patterns of doing research** and what this means for training and research.

The text by Bryman on “Qualitative Data Analysis” (2016) will introduce you to different strategies of how to structure the data you have received through qualitative data collection, and how to design it in cogent and transparent ways. It is a useful background text to introduce a general understanding of data analysis.

01

How to analyze data?

Part of doing analysis is to be reflexive about your research. In order to engage with the concept of reflexivity, read the article Barrett, Kajamaa and Johnston (2020) on “How to ... be reflexive when conducting qualitative research”.

02

What does analysis mean?

Finally, Mulcahy and Wheeler (2020) explore the implications technology has for doing qualitative socio-legal research by asking “Couldn’t You Have Got a Computer Program to Do That for You?”. Their text discusses the ways in which your role as a researcher changes as you negotiate a technology mediated world.

03

What are the ways in which analysis has changed?

Choosing between different forms of analysis

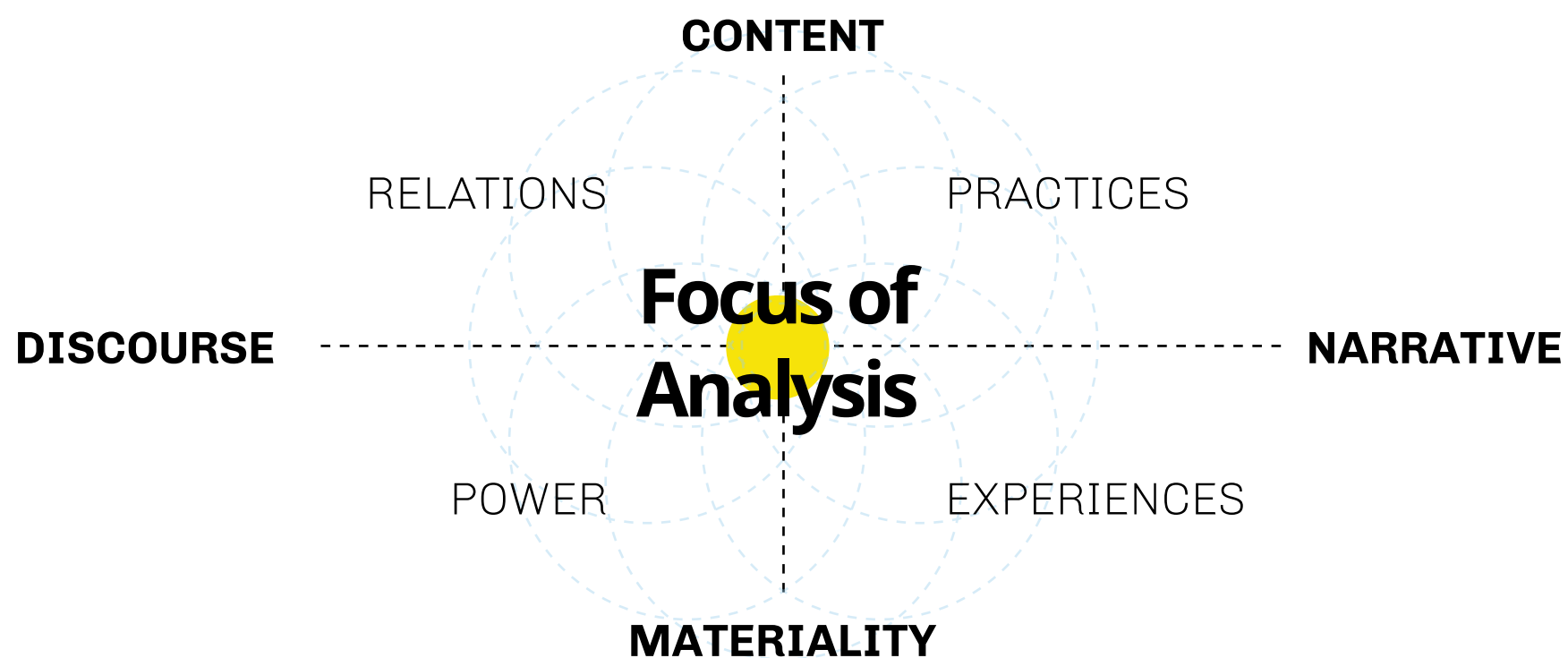
Which form of analysis is suitable and what is to be analyzed depends on a couple of aspects. A first starting point is the question what kind of data was collected. For numbers, statistical or mathematical methods are required. For analyzing words, the suitable methods are those which focus on language and its meaning.

Words as data can be analyzed in different ways:

One way of analyzing words which we will expand on in the following is by asking what one seeks to find in the data. We would like to introduce the varieties of data analysis across four questions:

- How to understand the stories and experiences of people?
- How to examine practices and patterns?
- How to examine the relations between social actors in the field?
- How to uncover power in the field?

In the rest of the chapter, we will offer one method each to address these respective questions. They mirror the trend that researchers generally find interesting to find in the data. This is by no means exhaustive but provides only a starting points for data analysis.



Another way of analyzing words is by applying an analytical framework. What is distinctive here is that this is based on methodological assumptions that permeate the entire research process. Since each of these frameworks requires extensive methodological background knowledge, we will not cover them here but we recommend Grbich (2013) for an introduction.

ANALYTICAL FRAMEWORKS

- Grounded theory
- Ethnomethodology
- Feminist approaches
- Actor-network theory
- Extended case studies

Analyzing experiences and stories by using analysis

Approach

Narrative analysis is about identifying stories that emerge from textual data. It centres the research subjects and their narrated experience by looking at the language that they use as well as the content and performance of their stories (Riessmann, 2008, pp.539).

In socio-legal research, narrative analysis is used to examine legal settings through personal accounts. This allows to trace macro-structures like inequalities and resistance by looking at how they are manifesting on a micro-level in the life of the storyteller (Ewick & Silbey, 1995).

Application

When applying narrative analysis, one can focus on different aspects of a story emerging from the data:

- Themes: What is the story about?
- Structure: How is it told?
- Function: What is its communicative intention?

A narrative analysis can be used to uncover claims of justice and legal enforcement. One socio-legal study applied this to climate litigation (Nurse, 2019). The study revealed conflicting narratives on environmental harm in legal texts as well as in their usage by policymakers and NGOs. The author did so through examining the language and case story, the discourse level and its interpretative context. If you are interested to reflect upon how this relates to general debates in law and society, go back to chapter 3 where we discuss the theoretical perspectives on climate litigation.

Analyzing practices and patterns by using content analysis

Approach

Content analysis categorizes data into clusters and categories (Julien, 2008. pp.120). It can be applied to all sorts of data from text to numbers and even visual data.

Content analysis of texts involve a close reading while identifying recurring patterns of prior selected criteria or aspects that emerge from it.

The clusters and correlations revealed through content analysis may be summarized in a typology or taxonomy (Rubin, 2021. pp.32).

Application

In legal research, content analysis can be applied by (1) selecting cases, (2) coding cases and (3) analyzing cases (Hall & Wright, 2008. pp.79).

Content analysis can be used in socio-legal research to examine how institutions operate. One study from the UK did so by focusing on decision-making processes in an alternative dispute resolution, the ombudssector (Kirkham & O'Loughlin, 2019). A close reading of judgments and the coding of factors indicating judicial activism or restraint shows that in case law, ombudsmen operate in a "defence" mode in which they apply thin interpretations of the rule of law.

Analyzing relations in the field by using discourse analysis

Approach

Discourse analysis is an umbrella term for approaches devoted to the use of language and its role in society (Potter, 2008. pp.217). While some of these approaches analyze the linguistic dimension by looking at how sentences are linked, discourse in the Foucauldian tradition means examining how statements construct the world. Here, the focus lies on discourse practices and on how language constitutes power dynamics.

In socio-legal research, discourse analysis can be used to understand law as technique of governance and practice of regulation (Baer. 2021. pp.289).

Application

Discourse analysis in the linguistic sense can be applied to a legal setting by focusing on larger units of language (speech events, agendas and conversational strategies) or smaller units like sentences, words or even sounds (Shuy, 2015).

For understanding discourse in a more Foucauldian sense, socio-legal studies can analyze the performance of speech in legal settings and describe how discourse functions as an instrument of power or resistance (Lange, 2005). For instance, in workplaces, this would entail examining the ways in which speech has the power to structure or challenge hierarchies and to enact or combat violence through the ways in which it is performed (Albiston, 2005).

Analyzing power by looking at materiality

Approach

Materiality is an approach that examines the ways in which different things contribute to legal meaning and analysis. It examines how law arises, where it is performed, what objects give it force or value, and how to unpack their life cycles (Kang 2018).

A materialist approach is one in which you examine the implications of a legal order, judgment and analysis in terms of how it emerges into the world. It also focuses on how materials like images, bodies or technologies have real life implications.

Application

For example, if we are to analyze the implications of a judgment of a court on allowing same-sex marriages, a doctrinal approach will analyze its constitutional, and judicial correctness. A legal materialist interpretation, on the other hand, will examine how such a judgment will affect people's agency, their capacity to participate, and their position in different spaces such as at work or at home.



For further readings check out the legal materiality network.

Analysis Summary

The choice of method for analyzing data depends on what you are looking for to identify. Are you interested in patterns, power, stories or perhaps linguistic aspects? Here, we introduce a summary of the different approaches.

CONTENT

- Identify patterns
- Focus on the relation and frequency of words
- Quantify the relationship of content

GUIDING QUESTIONS:

- What are the patterns in your research?
- How do they relate to each other?

NARRATIVE

- Identify stories
- Focus on subjects and experiences
- Analyze the nature, topics and structure of stories

GUIDING QUESTIONS:

- What are the patterns in your research?
- How do they relate to each other?

DISCOURSE

- Identify language in context
- Analyze speech practices
- Focus on linguistics and/or power dynamics of language

GUIDING QUESTIONS:

- How is language used to construct reality?

MATERIALITY

- Identify objects and materials such as sounds, images, rituals, bodies.
- Focus on meaning behind objects

GUIDING QUESTIONS:

- What are places where the law manifests? What impacts and effects does this have?
- What are some of the political, social and economic implications of the law as viewed through objects and materials in your research?

These interests may, of course, overlap: One might be interested in power and analyse discourse looking for patterns in which suppression manifests. Therefore, these methods should not be seen as exclusive but only points of reference.



How to Analyse: Transcribing Interactional Data

Data from interaction such as interviews are initially recorded. In order to prepare them for analysis, they must be transcribed. Depending on the method of analysis, the comprehensiveness of the transcript varies:

- In a narrative or linguistic analysis of the language of the actors, it is necessary to transcribe comprehensively by including pauses and tone of voice.
- This is different if the focus is on the content of what was said, or when doing a materialistic analysis. Here, a fluent and cleaned-up transcript or even notes are sufficient.

Transcribing recorded interviews is time consuming. For a one hour interview, about three to four hours are required for a fluent transcript, and up to ten hours are needed if you want to include all details like pauses and tones (Smith & Smith, 2018. pp.80). Find out whether your university or institute offers transcription services or softwares: they can save a lot of time!

How to analyse: coding

Coding is a way to structure an analysis and requires the formulation of explicit criteria (Benaquisto, 2008. pp.85). Depending on the purpose of your research, three approaches can be suitable:

DEDUCTIVE

One way of coding is deductive or top-down coding, which aims to test theory. Since this approach is deductive, the code system is developed from theory and then applied to the data.

Using the example of coding interviews, Weston et al. (2001) suggest to:

- Conceptualise: translate theory into codes
- Apply codes to data
- Evaluate and repeat
- Verify and modify coding system
- Evaluate and repeat

INDUCTIVE

A second way of coding is inductive or bottom-up coding, which has the aim of developing theory. Here, the code system is developed from the data.

Rubin (2021. pp.189) suggests the following steps:

- Open coding
- Summarize insights into a coding system
- Evaluate and repeat
- Closed coding: decide which codes are important
- Evaluate and repeat

MIXED CODING

Both types can also be combined, by developing codes bottom-up in a first analysis phase, and then gather more data that is then analyzed by the deductive approach in a second phase – or the other way around.



No matter which coding method you use, a codebook to document the development and evolution of your coding system is recommended (Weston et. al., 2001. pp.395). This is especially important when inductive coding is used, or when research is carried out in a team so that the analysis and interpretation of the results stays consistent within the team.

EXERCISE:

Coding and transcription plan

The decision on what to transcribe and how to code influences the insights you will be gaining. To experience how this shapes your analysis, imagine the following:

You are conducting a study on how law students learn to think like lawyers. Your research question is whether a common language of law is being taught in classrooms across country X, and if so, what vision of law it entails. You have already collected data by observing classes in law school and conducted interviews with students and professors. For your data analysis, your focus is on how language is used by these students and professors.

STEP 1

Turning to the analysis of your data, think about:

- What kind of information would you want to code from the data? How could a coding system look like?
- Which information would thus be needed to be transcribed?

STEP 2

Now please read the transcripts printed in a study by Mertz (2007. pp.31) on “The Language of Law School: Learning to ‘Think Like a Lawyer’”, on which this exercise is based. Discuss:

- How do the transcripts differ?
- How does this influence what you will be able to see in the data?

NOTES / SKETCHES

NOTES / SKETCHES

Representation: making voices visible

As qualitative research is about exploring human experiences and perceptions, the actors' point of view plays a central role. But what are ways to make the actors' voice visible and represent them in your research?

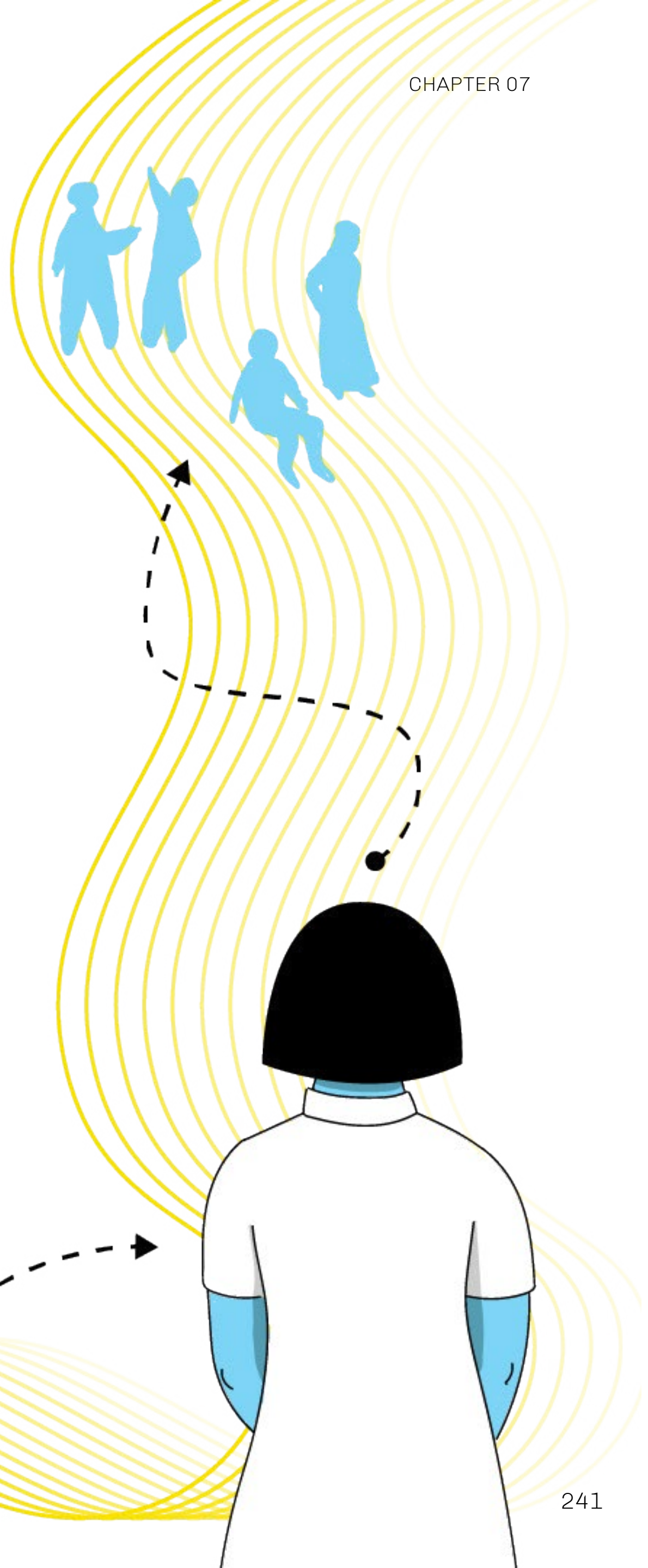
“Representation” means to understand and express the lived experience of research participants and their multiple realities (Davis, 2018. pp.756). The extent to which such representation is aspired in research depends on one's epistemological position and methodological choice:

- Representing actors' point of view is key if one is interested in how research subjects understand their own actions. In anthropology, for example, supplying the actors' point of view is the main ambition (de Sardan, 2015. pp.30).
- The complete opposite applies to a doctrinal legal analysis: It rests precisely on the assumption that law is objective and seeks interpretations of law independent of individual views.
- An interdisciplinary legal analysis typically moves somewhere between these two poles.



There are multiple strategies through which you can ensure that research accurately and ethically represents the voice and agency of research participants (Davis, 2018, pp.756).

- Using unstructured rather than structured methods to collect data (e.g. ethnography) allows research participants to express in their own language.
- Using narrative analysis gives participants' language full voice.
- Using quotes of actors or vignettes of situations observed in your research report while leaving out interpretation, allows the participants' voices to speak for themselves.
- Member checks: share your findings with research participants and give them the chance to voice agreement or disagreement with your report.





EXERCISE:

Drafting a research proposal - Part II

In the previous chapter, the final exercise was drafting a research proposal. Now finalize the draft by adding methods of data collection and analysis.

Elaborate on your choice of method for data collection and analysis:

- How would you collect the data? Why is this method appropriate and what are the challenges?
- How would you analyze the data? Why?
- How important is representing the voices of your research subjects according to your approach? How will you go about doing so?
- What do you expect to find and how would you integrate your findings into your argument?
- What will you do if the findings do not match your hypothesis?

NOTES / SKETCHES

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NOTES / SKETCHES

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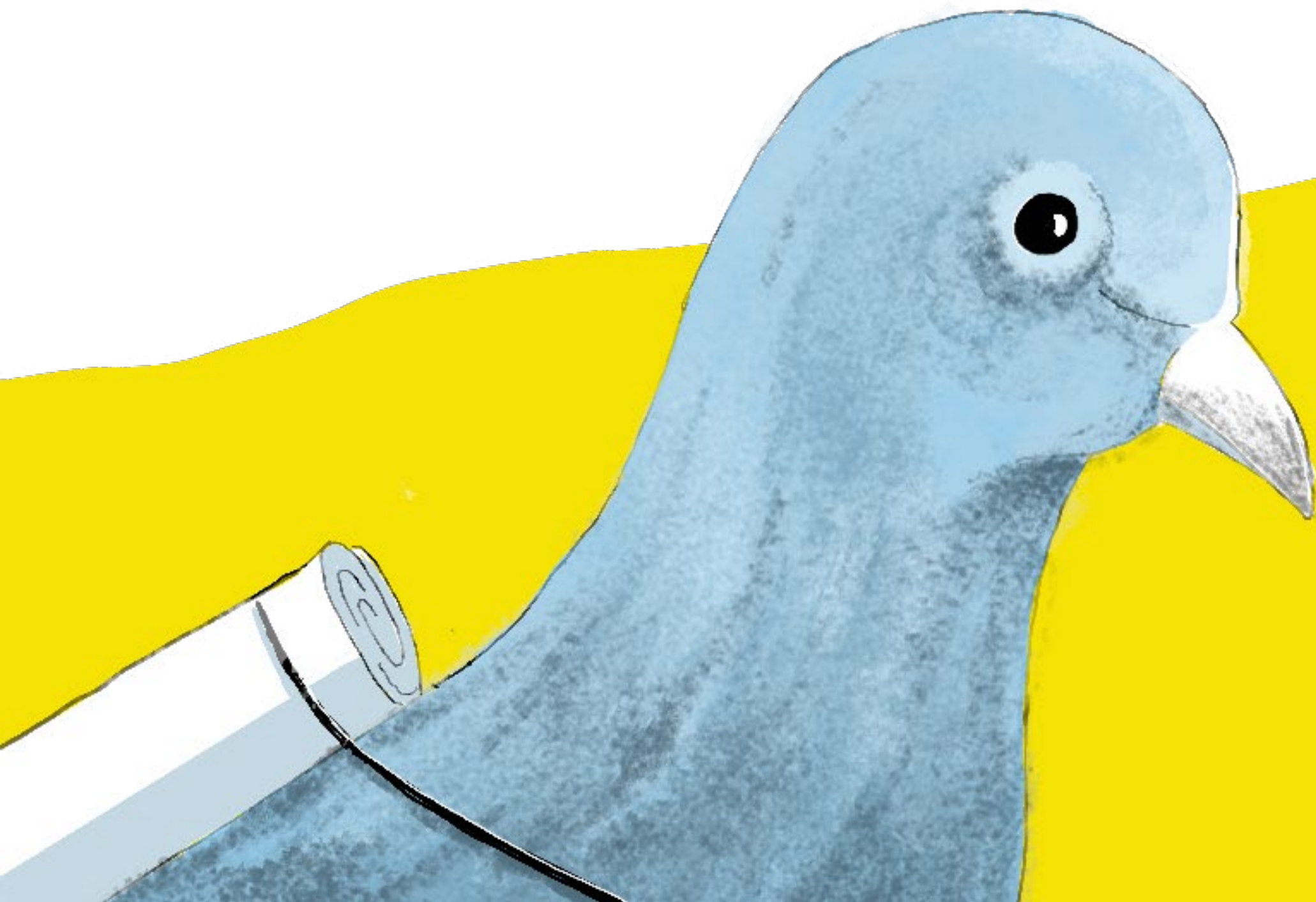
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CHAPTER 08

Communication & Community







Content

After having gone through the research cycle, the final stage is publishing and communicating the results. This chapter offers a series of interactive techniques that can help understand the motivations for communicating research, and help adopt communication strategies that can reach interdisciplinary audiences.

Readers will also be given tips on how to use old and new mediums to share information about their work, for example by using social media.

The final part of the chapter is a reflection on the social aspects of research that permeate throughout the entire research process. We will look into the value of research communities as networks for both professional and personal development and suggest ways how these networks can be established, expanded and maintained.

QUESTIONS	RELEVANCE	ACTION
Why should one communicate research?	Understanding your motivation when communicating research is important in order to choose the most suitable medium and techniques for doing so.	Reflect on your motivation (the five whys)
Where and how to communicate research?	There are many different media and techniques to get your message across.	Write: Blog, Wikipedia Speak: Story Telling, Elevator Pitch Discuss: Social Media
To whom should one communicate research?	Becoming aware of your audience(s) is important, because interdisciplinary legal research moves between disciplines. This is a challenge, because you have to adjust your communication strategy to specific audiences.	Presenting to interdisciplinary communities
How to navigate academia as a social space?	Science is based on exchange, and in this process social relationships and power structures develop. Criticism, networking and support structures can help navigate academic researchers through these networks.	Peer groups for writing and feedback, and the CV of failures.



Why communicate research?

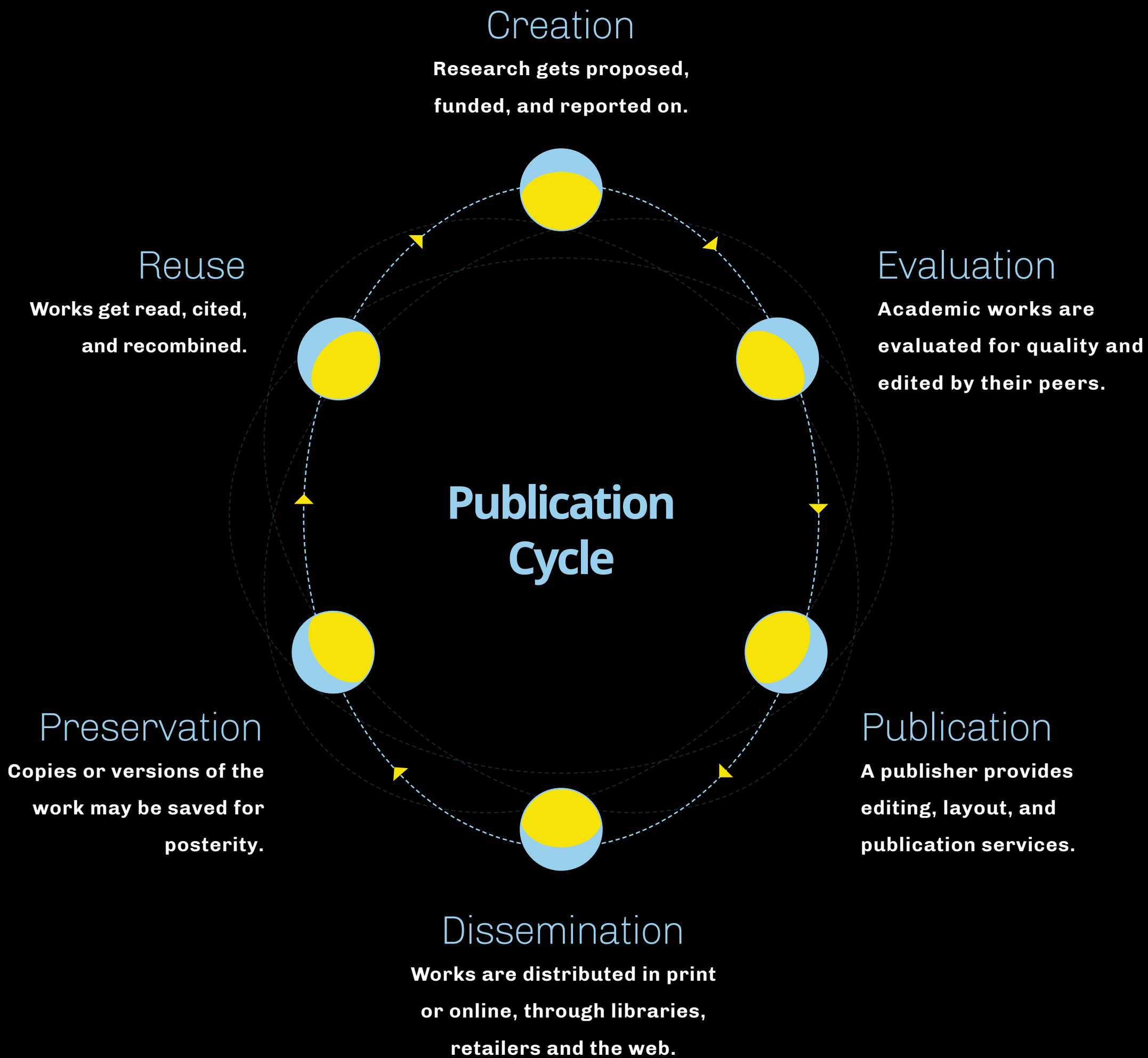
What is (academic) communication?

Communication

Communication is "the transmission or exchange of information, knowledge, or ideas, by means of speech, writing, mechanical or electronic media." (Oxford English Dictionary).

Academic communication

Academic communication or scholarly communication is the process by which "research and other scholarly writings are created, evaluated for quality, disseminated to the scholarly community, and preserved for future use." (Association of College & Research Libraries).



This image of the publication cycle is adapted from the University of Winnipeg Library and is intended to showcase the different stages that one goes through when publishing academic work.



01

Hazel Genn's work on mapping justiciable problems, and identifying paths to justice of people in the United Kingdom has lead to the **redesign of legal aid services, re-prioritizing funding and increased support for legal education.**

(UCL, Paths to Justice 2021, Genn 1999)

Communicating socio-legal research – changing the world?

What is particular about socio-legal research is its potential to impact policy changes. Communicating socio-legal research results is therefore important and can have real-life consequences.



02

In her doctoral thesis, the German lawyer Susanne Moritz developed a legal argument that made the health-care-crisis in Germany constitutionally contestable. Her doctoral thesis became the basis of **strategic litigation before the Federal Constitutional Court** and put the issue on the political agenda (Moritz, 2013).

03

Lina Khan's work on antitrust in the role that big tech companies play as platforms and retailers, has resulted in a **shift in competition law** in which legal experts re-conceptualized the market power in a modern economy (Khan, 2016).

Understanding
Motivations
Understanding
Expectations
Understanding
Motivations
Understanding
Expectation
Understanding
Motivations



EXERCISE

An important component of communicating research is to be able to ascertain what the factors are that motivate us to do research in the first place. In the next section, we introduce a couple of exercises to understand and explore your motivations to do research, and secondly to connect these motivations to the expectations of why someone would be interested in engaging with your research. These are both self-reflective exercises.

Motivation

There can be several motivating factors for why each of us decides to communicate our research. Thinking through these factors can help understand how to communicate better.

Take five minutes and think through some of these questions. Sketch out an emotion or feeling that immediately comes to mind when thinking about these questions.

Please answer and reflect upon:

- Am I interested in doing research to make an impact?
- Am I pursuing this project out of curiosity and interest?
- Am I interested in fame?
- Am I interested in increasing the visibility of my work and my community?

Expectations

Next think about why someone might be interested in your research. Ask yourself:

- Do I know who my audience is?
- Do I know why they are interested in my research?
- Do I know what they will do with the research?
- Do I know how to speak to different audiences, like colleagues, policy makers, legal experts and lay people?

Motivation

NOTES / SKETCHES

Expectations

NOTES / SKETCHES



EXERCISE:

Five Whys to communicating research

Five whys is an exercise that allows you to trace cause-and-effect relationships underlying a problem (Serrat, 2009). You start with formulating a problem and reflect on what might have caused it. You then question your answer five times by asking “why”.

As a first step in this exercise, begin by asking yourself what problem you face when communicating your research. Provide an answer followed by five why-questions. Discuss this in groups of two.

Define the problem.

Why is it happening?

Why is that?

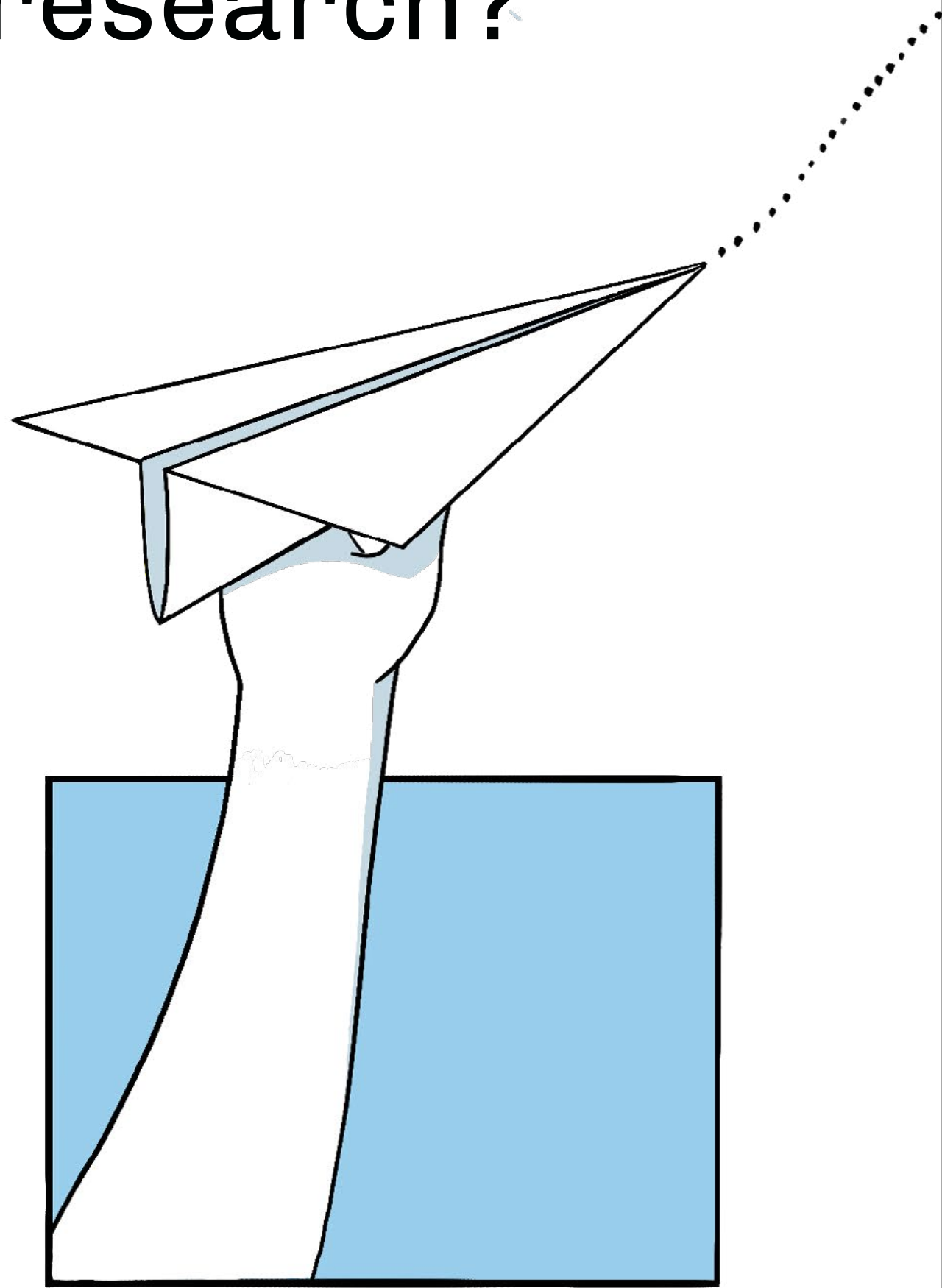
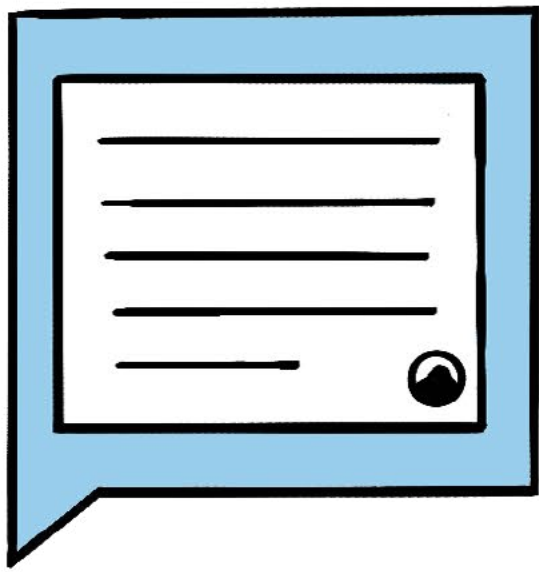
Why is that?

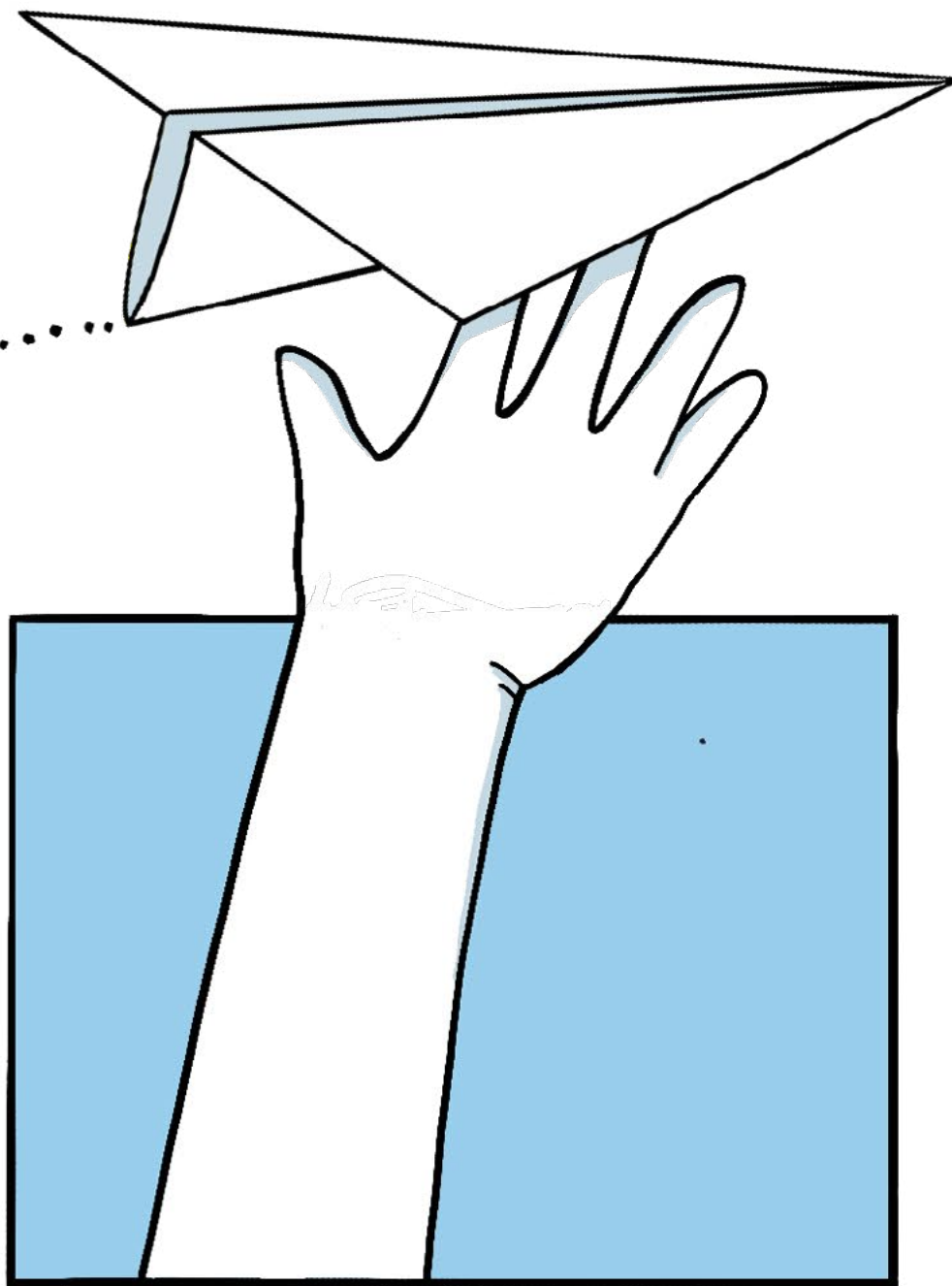
Why is that?

Why is that?

NOTES / SKETCHES

Where and how to communicate research?





Media of Academic Communication

Academic communication is about much more than writing books and journal articles. The means for communicating your research are manifold:

Write:

How to write a blog post?

This section introduces some guidelines on writing a blog. We include blog writing here as it is a concise and effective way to be able to introduce, explain and articulate key concepts and ideas that animate the work you do.

Blogs can be important tools to test out new research, while at the same time they can also be a good way to explore complex notions and communicate them to a wider audience.

The following tips can help you draft up a blog post:

ELEMENTS

Make your opinion and perspective clear.

There is no need for an extensive literature review section.

Include a brief methodology section especially if it is something new.

Develop a punchy introduction in order to attract readers, and set the context.

Incorporate pictures, tables, data visualizations into your blog.

Add a short bio of research team.

STYLE

Length: between 800-1200 words.

Choose a concise and evocative title. Use simple and clear language and keep technical terms to a minimum.

Ensure the blog is widely accessible beyond a specialist audience.

Get to your main arguments and findings quickly, and write short sentences and paragraphs.

All references can be in hyperlinks.

Conclude in a firm manner, and ensure that you have summarized your main arguments.

Write:

Producing accessible knowledge

Using Wikipedia/Wikibooks for communication

Wikibooks is a project by the Wikimedia Foundation that involves the creation of digital books that are freely available. It is an online encyclopedia that is created and edited by volunteers around the world.

In a blog for Elephant in the Lab, Börsting and Heimstädt (2021) explain how to contribute to Wikipedia in a step by step guide. They argue that contributing as researchers to this platform helps facilitate the development and sustenance of global knowledge commons.

Whose knowledge is on Wikipedia?

One criticism of Wikipedia is that it fails to exhibit voices of marginalized communities. Initiatives like “Whose Knowledge” address this issue and seek to make the Internet more plural. They have started a project which aims to bring together more diverse contributors who write on a variety of topics. The project encourages to improve communicative cultures to make Wikipedia more welcoming and more representative of different communities. Check out their report on “Adding our knowledge to Wikipedia” (Whose Knowledge, 2018).

Speak: Using storytelling

Building a narrative around your project can also take inspiration from storytelling methods (Chibana, 2015). This framework draws from how TED Talk presenters design their presentations. It suggests to build an arc that introduces practical elements as well as drama to create an engaging narrative:

- Immerse your audience in a story.
- Make it personal.
- Add some suspense.
- Make the characters real.
- Show - don't tell.
- End with something positive.

Speak: Making an elevator pitch

Another method to share your research is the elevator pitch: a short explanation of your research in only one minute! It should include:

- What you are doing?
- Why you are doing it?
- How you are doing it?

Keep it short and accessible, and be passionate.

Think of a hook to introduce the relevance and potential impact of your project.



Discuss & Network: Social media

Using Social Media has increasingly become an important aspect of being an academic. As social media can be both overwhelming and daunting for many of us, we thought it might be helpful to run through a few questions to work out a social media strategy.

These are organised around three points of the motivations you have to be on social media, the kind of audiences you would like to engage with, and the types of information you would like to share.

MOTIVATIONS

Why am I on social media?

Impact, community, conversations, research, others?

AUDIENCE

Who am I currently engaging with?

Who would I like to engage with?

What platforms would I like to use and why?

INFORMATION

What content am I sharing, and what would I like to share?

Type of content (articles, opinions or joining debates)?

Wallis (2020), Dique (2016)



Who to Communicate to?

The purpose of academic communication is to share your research with the public and your scholarly community. But who is this community exactly? This can be hard to determine in interdisciplinary research because it is designed to answer questions and produce results that exceed disciplinary boundaries.

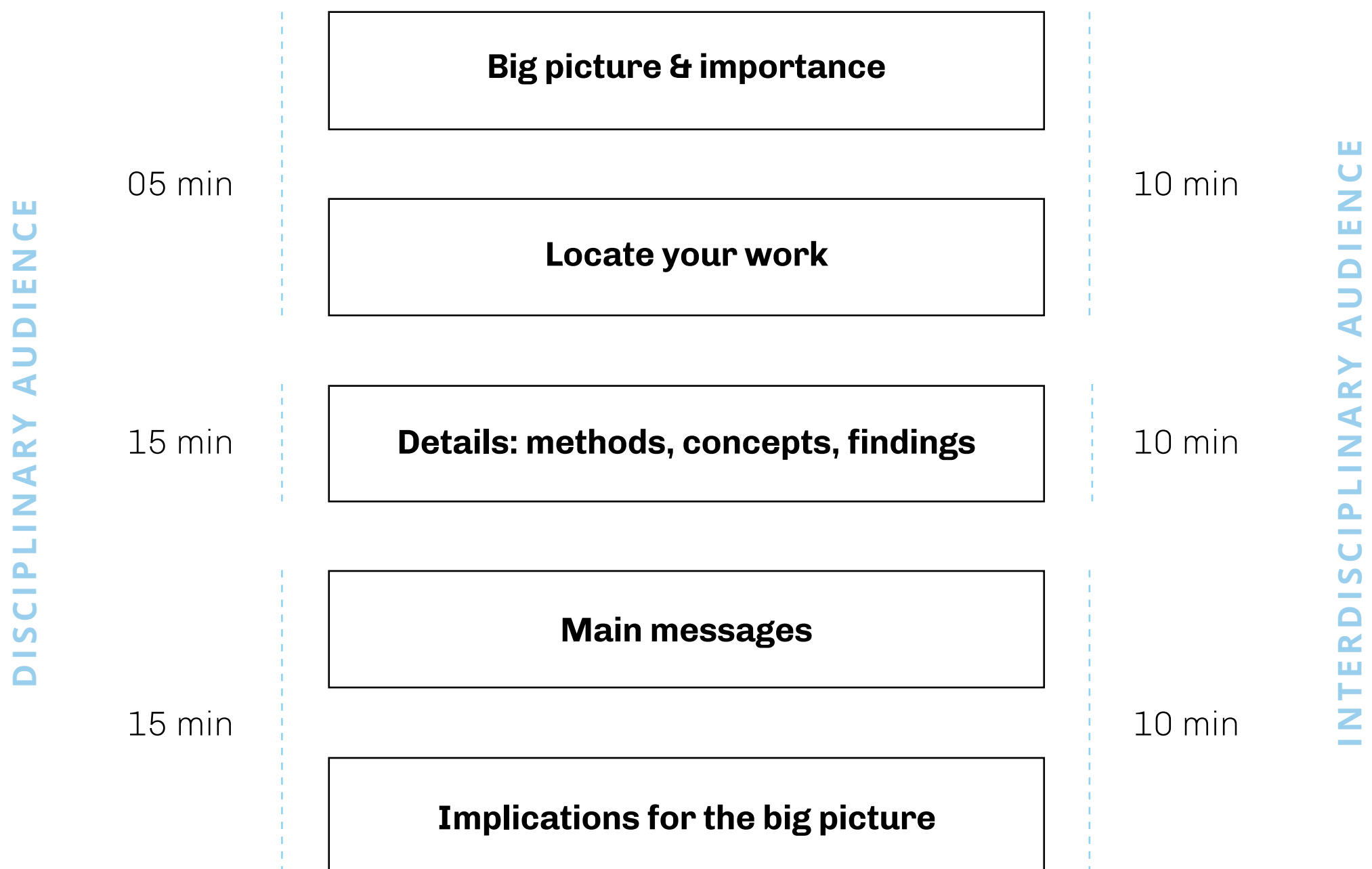
Try to find out who your audience is by asking yourself:

- In which bookshelf would you like to see your book?
- How do you reach the audience and community you are addressing with your research? What are the main journals, publishers etc.?
- In order to imagine how to speak to different audiences, describe in five key words where and how you could speak to them and what tools would be best to reach them. Would this be via social media, a blog or perhaps even a podcast?

Presenting to interdisciplinary audiences

The following diagram gives you a basis for how to structure a talk based on the audience. Note how the emphasis changes between focusing on the bigger context and broader questions of your research as opposed to methods changes depending on the nature of the audience.

Structure of the talk



This structure is suggested in a guideline by Universität Osnabrück from which this diagram was taken (see sources).

Academia as a Social Space

Communication and power in academia

Very often during a graduate degree, or in a PhD, challenges occur due to the imbalance in the relationship between the supervisor and the supervised. These can be on account of the fact that the supervisor exercises control regarding funding, disproportionate influence in the direction of the project, and a lack of freedom for students, influence in writing letters of recommendations, and a lack of institutional redressal for grievances (Gilis, 2021; Gorup and Laufer, 2020).

Besides this immediate relationship, differences in power with regard to communication can also manifest in the ways in which academic publishing

takes place. Language, impact factors, and indexed journals narrow the space of what information is considered to be scientific. Institutions also play a role in terms of their policies towards open science, monitoring impact and recognition for staffing.

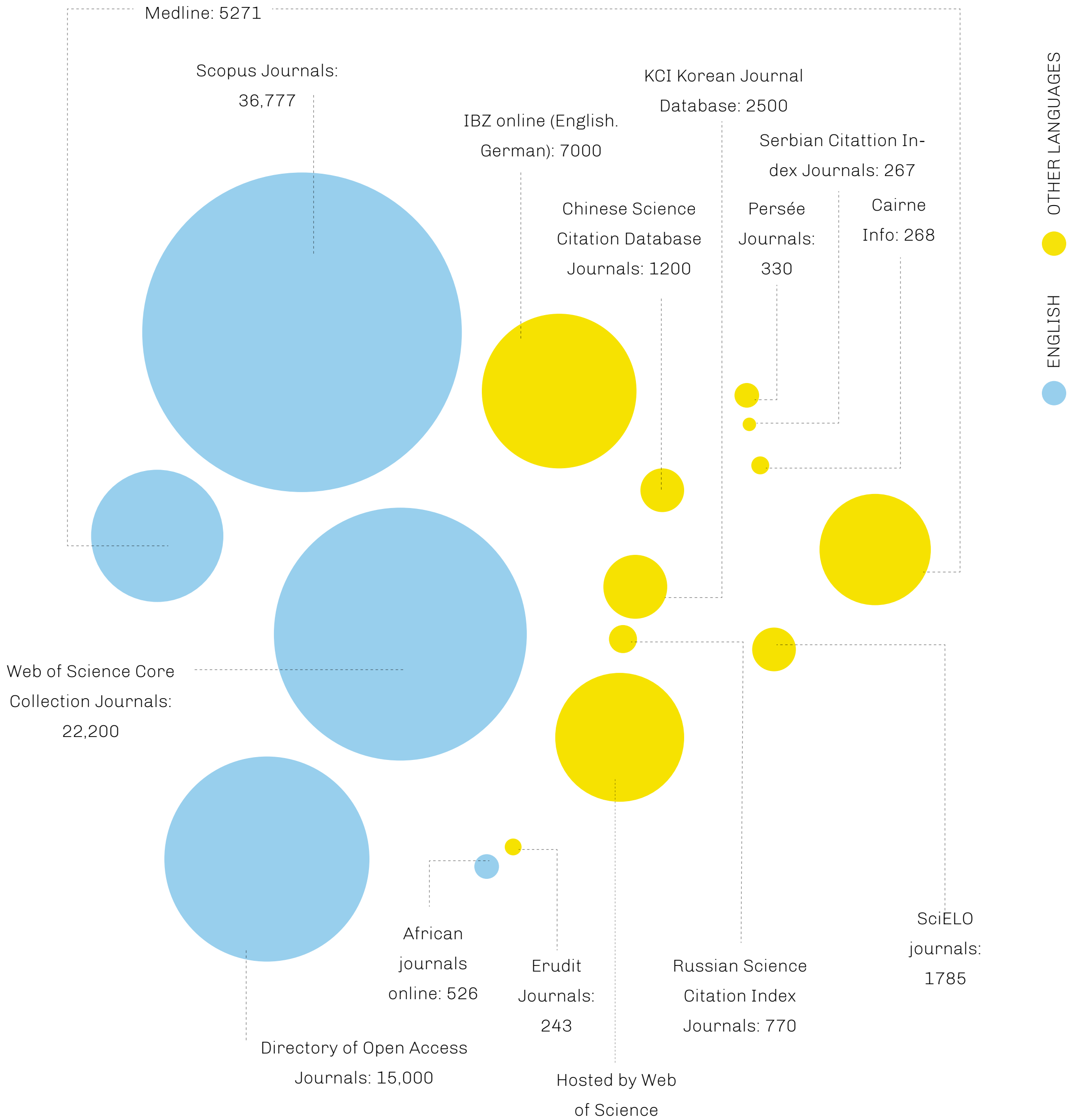
In the next page we offer an illustration of the ways in which journals in the Global North and English-speaking countries dominated the production of legal knowledge. If you are interested in decolonizing your university library, have a look at this blog for some actionable tips, and speak to your librarian about what can be done.



Scan this to read the article how to decolonise the library.



Scan this to read the blog article on inequalities within the academic journal landscape.



Mental health

Graduate studies and academia in general can be a challenging place, especially for one's mental health. Whether this is in relation to managing burnouts or dealing with a lack of confidence it is important to get support and seek out communities that you can connect with and trust.

Some of the strategies mentioned below are drawn from Forrester (2021), Gewin (2021) and Inouye (2021).



Seek out support through formal and informal groups and find a community.

Take time out, and do things that you enjoy.

Prioritise mental health and seek communities that normalize it.

Seek communities that share failures.

Compare with yourself, rather than with others.

These tips are easier said than done, and in the next section we will discuss in greater detail how they could be achieved.



Ideas for creating research and welfare communities

The mental and social challenges of academia can be addressed by creating or finding networks for mutual support:

WRITING WORK GROUPS

Groups who share similar interests in which you can write, read or discuss about your projects.

DOCTORAL COLLOQUIUMS

A forum where PhD students can present their work in progress and expect to receive fair, and constructive feedback.

FEEDBACK TEAM

A couple of colleagues who can lend you peer support at an informal, spontaneous level.

CONFERENCES

Conferences can be a good way to meet people beyond your immediate scholarly circle and your university.

MENTORS

A couple of informal senior mentors to whom you can share research as well as welfare concerns.

SHARING CIRCLE

A space where you can share and discuss the challenges of academia beyond your specific PhD research. See the exercise later in this chapter on the CV of Failures.

Peer-to-peer support: writing groups

Scientific work is autonomous and flexible. However, this has a flip side: being your own boss, you are the one who controls and celebrates your progress.

In order to keep track of your writing progress, a writing group can help: they nudge you to set writing goals and monitor your progress (Silvia, 2007. pp.49).

Setting up a writing group:

Get a group of peers (three to five are recommended) and arrange a fixed time of the week in which you meet and discuss your weekly writing goals.

Start each session with a check-in: how are you today?

Then formulate your writing goals for the week. Set concrete, short-term goals. Be as specific as you can: How many pages do you want to write? How many articles do you want to read? For how many hours do you want to work?

The task of your group is to hold you accountable for what you aim to achieve. In the next meeting, you evaluate together: Did you achieve your writing goals? Why did you fail? Where your goals too big?



Writing apart but together

Writing Marathon

Once your project is past the initial phase, and you've done a lot of research and reading, it is time to produce the text. A good technique for this is a writing marathon.

Plan the marathon together with your peers: set a big writing goal (for example, one chapter of your dissertation) and determine the time period. Prepare a writing plan and specify exactly how many pages you want to write (in total, per week or per day). Measure and celebrate your writing successes together with your peers (Wolfsberger, 2016. pp.181).

Virtual Office

Scientific writing can be lonely. One solution to that are writing sessions in a virtual office.

To create a virtual office, arrange a meeting with your peers on a digital platform like Zoom.

Determine the time frame of the meeting before your start. To schedule regular breaks, you can work with Pomodoros: write for 25 minutes, take a 5 minute break, repeat. For one meeting, four Pomodoros (2 hours) are suitable.

You start the meeting with a short check-in: How are you today? What are your writing goals for this session? Then you get started. While you write, keep the videos switched on, but turn off the mics.

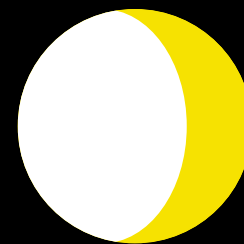
At the end of the session, you turn the mics on and check with your peers: Did you achieve your goals? Why or why not?

Integrating feedback: your feedback team

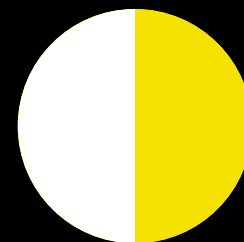
Peer groups can provide more than mental support in the writing process because they can also give feedback on the content.

Especially for larger research projects, it can be difficult to find one person who has the capacity to read the whole book and give feedback. One option is to put together your own feedback team. This idea was suggested to us by academic coach Dr. Sabine Blackmore.

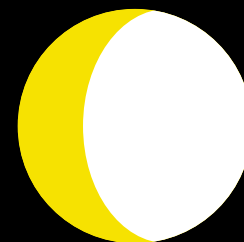
HOW-TO: Divide up the chapters of your project or book, have different people read different parts and let them give you pooled feedback. When doing this, it is important that the feedback is provided in one session by all members of your feedback team, so that your peers can discuss your work with each other in front of you.



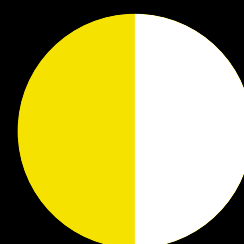
Person 1: Ch 1



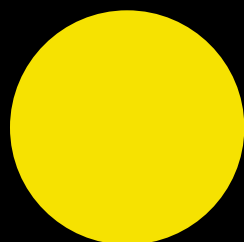
Person 2: Ch 2



Person 3: Ch 3



Person 4: Ch 4



Your Research Project



Building trust: the CV of failure

Occasionally, we will be confronted by paper rejections, a grant application that did not work out, or an unsuccessful job application. These results can be hugely demotivating and dispiriting.

Melanie Stefan, in an article in *Nature* (2010), suggest to deal with this by creating a CV of failures:

“Compile an ‘alternative’ CV of failures. Log every unsuccessful application, refused grant proposal and rejected paper. Don’t dwell on it for hours, just keep a running, up-to-date tally. If you dare — and can afford to — make it public. It will be six times as long as your normal CV. It will probably be utterly depressing at first sight. But it will remind you of the missing truths, some of the essential parts of what it means to be a scientist — and it might inspire a colleague to shake off a rejection and start again.”

Johannes Haushofer (2016) in his CV of failures, describes:

“Most of what I try fails, but these failures are often invisible, while the successes are visible. I have noticed that this sometimes gives others the impression that most things work out for me. As a result, they are more likely to attribute their own failures to themselves, rather than the fact that the world is stochastic, applications are crapshoots, and selection committees and referees have bad days. This CV of Failures is an attempt to balance the record and provide some perspective”

In this exercise, consider making a CV of failures in order to normalize things that don't work out.

CV of Failures

A LITTLE BIT ABOUT MYSELF

JOBS I DIDN'T GET

EDUCATION I NEVER GOT

EXTRACURRICULAR FAILURES

AWARDS & FELLOWSHIPS I DIDN'T GET

LACK OF SKILLS

Using labs for socio-legal projects

Before we end this chapter, and with it the workbook as a whole, we would like you to do this last exercise.

In the first chapter of the book, we introduced three aspects towards developing a lab-based approach to experiential learning: information gathering, framing, and testing. This three-step approach was how the chapters of this book were organized.

We would like you now to think about how the different aspects of the exercises you have undertaken in this book would influence your own approach to building a lab. Fill the boxes for each of the three steps, and let us know what your take on a lab-based approach for your socio-legal project would look like. Thank you for being on this interactive journey with us. If you feel comfortable to share your reflections with us we are very happy to hear from you at sociolegallab@gmail.com.

01

Information Gathering

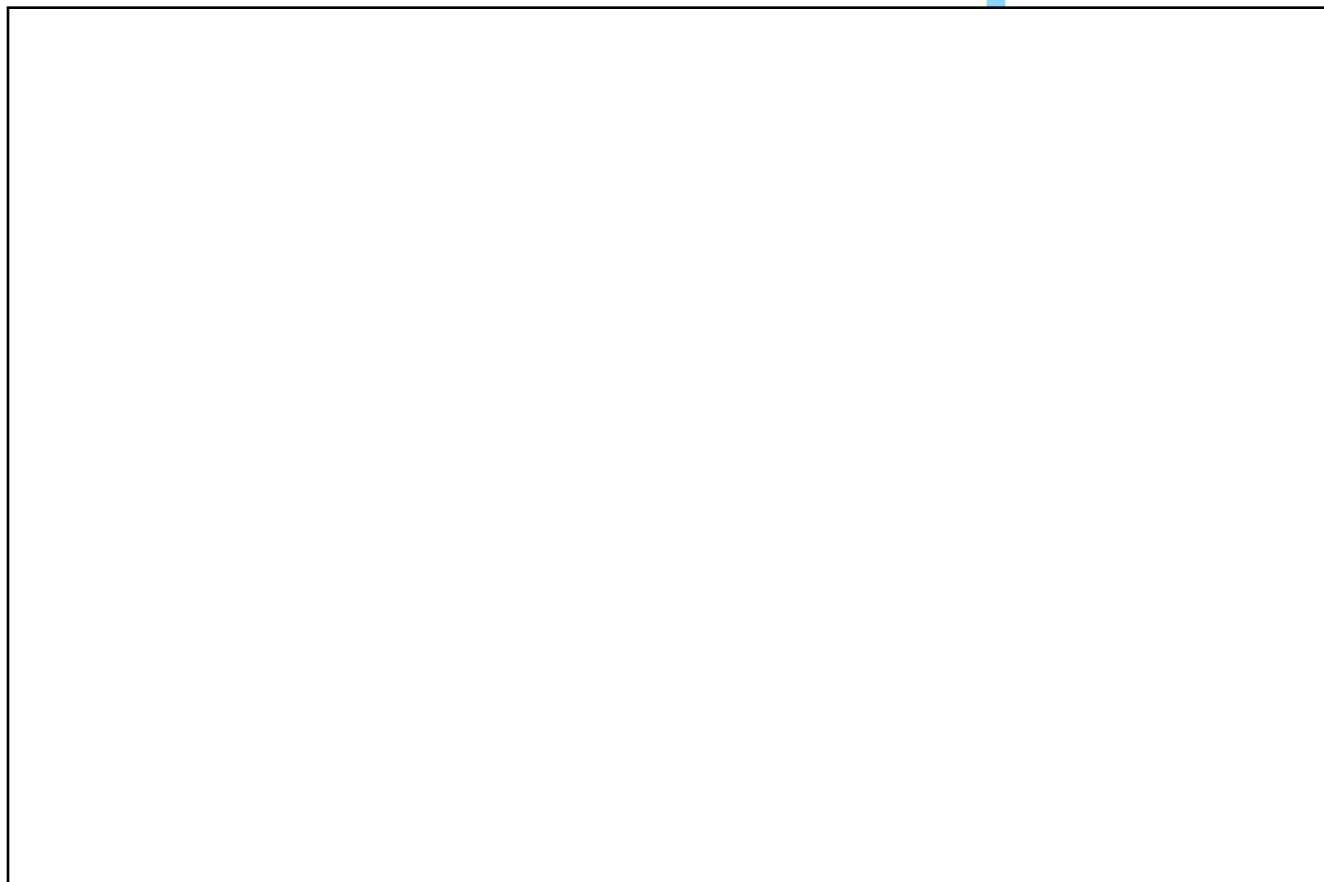
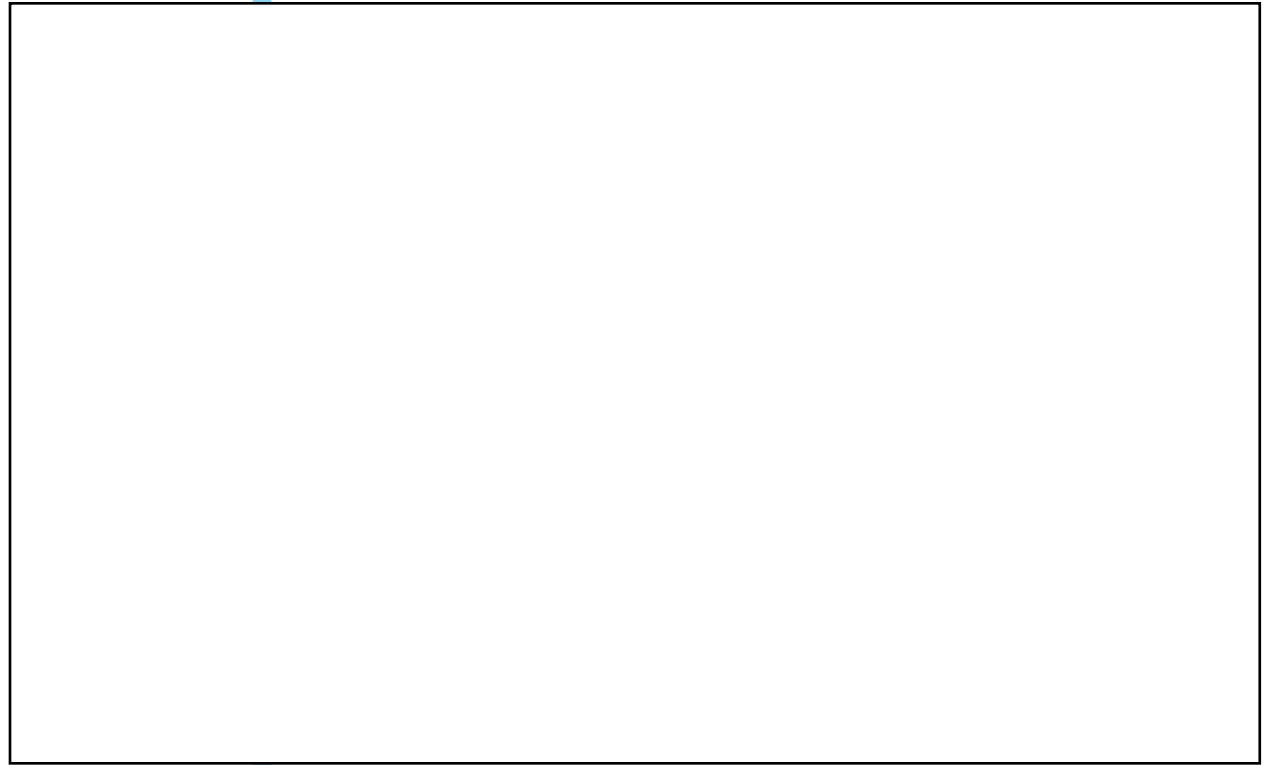
LITERATURE,
CASES, DATA



02

Framing

QUESTIONS,
CONTEXT,
POSITIONALITY



03

Testing

FEASIBILITY,
DURABILITY,
SUSTAINABILITY

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The Socio-Legal Lab:

An Experiential Approach to Research on Law in Action

is an interactive visual workbook for socio-legal research projects. It employs the idea of a “lab” as a space for interactive and experiential learning. As an introductory book, it addresses researchers of all levels who are beginning to explore interdisciplinary research on law and are looking for guidance on how to do so. Likewise, the book can be used by teachers and peer groups to experiment with teaching and thinking about law in action through lab-based learning.

The workbook is designed to accompany and inspire researchers on their way through a socio-legal research project. It thus covers themes and questions that may arise in the research process, ranging from socio-legal theory to methods and academic communication. While working through this content in an interactive manner, our aim is to empower the reader into thinking more creatively about their methods, while at the same time demystifying them.