

Book review "Jiří Přibáň, Research Handbook on the Sociology of Law, Cheltenham, Edward Elgar, 2020".

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**Jiří Přibáň**, *Research Handbook on the Sociology of Law*, Cheltenham, Edward Elgar, 2020, 416 pages, ISBN 978-1-78990-517-5 (hardback), 185 £

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What do readers expect from a research handbook on sociology of law? It is impossible to cover all the topics, perspectives and voices of the subject that developed over roughly 150 years. Even less likely is it to find all the literatures in the different languages fairly represented. Any attempt is bound to be selective. It comes down to the question whether the content addresses the interests of an audience that is not only, but certainly largely, from a legal background, sometimes from social sciences, and in this case: international.

The “Research Handbook on the Sociology of Law” presented by Cardiff-based law professor Jiří Přibáň has assembled an impressive roster of internationally renowned authors. The emphasis in the first part is on theoretical and conceptual approaches to sociology of law, empirical and applied work comes in later in the book. The authors do not discuss quantitative methodological approaches much, or work that borders on social psychology.

There are, of course, two parent subjects of sociology of law. At first glance, the handbook appears to speak mainly to lawyers. The volume starts with chapters on legal theory and sociology of law as well as on sociological jurisprudence, followed by one on sociology of law and legal history. A chapter about sociology of law and sociology is missing in the book’s first section “Sociology of law beyond disciplinary boundaries”. Sociology of law has a sometimes-troubled relation to contemporary mainstream sociology, represented by sociology departments and their post holders, where it rarely finds interest and support. This should give all the more reason to describe how research in sociology of law has contributed to sociology in general and if not, what factors explain the malaise?

The handbook concentrates on the anglosphere with most contributors hailing from the United Kingdom. This is reflected in the literature discussed. North American and British publications inform much of the content. Some chapters declare to concentrate on the UK situation (which does not make them less interesting to read, it must be said), some additionally cover the United States, others include a wider range of countries in their discussion. The editor has

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announced that a second volume is in preparation, which will be more global in its coverage and authorship.<sup>1</sup>

Jiří Příbáň in his introduction points out that he does not want to double information covered in other handbooks on topics “such as race, gender, class, and social and criminal justice and injustices” (1). With this volume, he strives to capture the “uniqueness” of sociology of law as well as its “commonalities with other social and legal sciences” (2). Beyond its “canonical knowledge and concepts” the book aims at showing “ways of moving beyond them” (2).

The first of three sections tells readers about sociology of law “beyond disciplinary boundaries”. Discussed are relations to legal theory, jurisprudence, legal history, legal anthropology, ethnography, economy, science, and “studies in regulation”. What is missing, apart from a look at sociology, and not really replaced by the chapter “Sociology of regulation”, is a discussion of the relation between sociology of law and political science, as well as administrative science. Socio-legal thought in and profiting from (social) psychology might have also merited treatment.

The first section opens with a contribution entitled “Legal theory and sociology of law” by Joxeramón Bengoetxea who advocates an “institutional theory of law” as the “conceptual starting point” for sociology of law (7). In Roger Cotterell’s chapter “Sociological jurisprudence: Tradition and prospects” a critique of the work of Roscoe Pound takes a prominent place. Cotterell calls for sociological jurisprudence to “provide theoretical critical resources for jurists interpreting law for a changing world” (29).

Ethnographic approaches are highly valued by socio-legal scholars, certainly in the UK. Anne Griffith describes ethnography as differing according to “the discipline with which it is associated” (54). She emphasizes that the object of ethnographic study is not “pre-determined” (63): “...what is presented as a seamless account in the ethnographic present, in fact represents a selective rendering of events and analysis where the power of representation lies with the researcher” (60). The outcome of ethnographic research then appears as not less constructed as quantitative, statistical analyses, only in a different way.

Iagê Miola and Sol Picciotto drafted the chapter on sociology of law and economics, heavily drawing on Marx and Weber, with some Bourdieu, as well as on contemporary voices from mainly the English language literature. Markus Lederer (“market creation by regulation”) and Gunther Teubner (“regulatory trilemma”) are the more recent German authors quoted. The contribution of law to the devel-

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1 Jiří Příbáň, online presentation “How to Handbook the Sociology of Law”, organized by the Oñati Community on 20th December 2021.

opment of capitalism and of the latter in relation to the development of the former, are the research focus advocated by Miola and Picciotto. The reviewer found the articles by Griffiths and Miola/Picciotto particularly informative and would recommend them to a wider readership beyond students of sociology of law.

The book's second section announces to deal with "The sociological concept of law and legal system". Here, one cannot fail to observe that the first three topics are connected. The editor himself discusses the rule of law. According to Přibáň, the rule of law "operates as an efficient tool legitimizing power and the primary public good experienced as cultural tradition and moral value itself" (121). Marc Hertogh has penned a very readable chapter on the "living law" which discusses Ehrlich's work and the manifold responses it received. Famously, Eugen Ehrlich has got himself into trouble with how he attempted to distinguish law from morality and decency. He differentiated them by the strength of the emotional reaction to offending. But, as Hertogh rightly notes (132), Ehrlich's "suggestion that people's feelings and emotions are an important indicator of the social significance of law and legal institutions has found strong empirical support in recent legal consciousness research." Drawing on a wide array of international literature and his own studies, David Nelken discusses the "Sociology of legal culture". The discussion in this chapter relates to content in the two preceding ones. Lawrence Friedman's investigations of legal culture are a main reference point for Nelken. Having looked at different uses of the concept of legal culture, Nelken (143) suggests that "it might be better to reserve the term legal culture for descriptive/explanatory purposes, and the 'culture of legality' for normative and evaluative ones." He finishes with the view that, as some suggested, using the alternative term "legal consciousness", would come close to reinventing the concept of legal culture (145).

Along the axis of Parsons, Habermas, Luhmann and "Complexity Theory", Richard Nobles and David Schiff discuss the "Sociology of the legal system", expressing a preference for Luhmann's approach. In the following chapter "Sociology of legal consciousness and hegemony", Patricia Ewick and Susan Silbey provide an overview of mainly their own work which identifies "legal consciousness" as "an analytically constructed model of circulating tropes, schemas and narratives" (168). This is in marked contrast to the predominant use of "Rechtsbewußtsein" in Germany which focuses on individual awareness of law and its correct use. Ewick and Silbey tend to view law's structure as "what constraints legal action" (166) and largely neglect the enabling function of law in their concept. Pierre Guibentif corrects this one-sided account in his chapter on "Sociology of legal subjectivity". Here, he notes that the use of individual rights and its functions for modern societies still tends to be "insufficiently analysed" (181).

"Sociology of legal temporalities" reads the title of a chapter by Lyna Francot. She emphasizes that modern law has its "Eigenzeit" (190). The "Sociology of

legal images” by Linda Mulcahy and “The sociology of legal professions” by Lisa Webley conclude the volumes’ second part. Mulcahy makes a strong argument for the inclusion of visual methods and for the significance of visual phenomena for a sociology of law. The volume’s editor, by the way, has chosen a particularly striking cover picture, “Justice” by Tomáš Cisařovský which responds to the Czech’s feelings about law after the 1989 revolution (5). Based on a discussion of mainly the situation in the UK, Webley (223) arrives at the conclusion that social background still influences lawyer’s careers, a fact that she emphasizes raises fundamental sociological questions.

The third part turns to a “Sociology of legal disciplines”. Back-to-back, Paul Blokker and Chris Thornhill are writing about, respectively, “Sociology of constitutional law and politics” and “Sociology of transnational constitutions”. As the content of both articles overlaps, the reader has an opportunity to compare the two; both are drawing on sociological theory, Thornhill a bit more than Blokker. Thornhill (254) emphasizes that constitutional democracy today has to be understood as a thicket of interactions between citizens and national political institutions, as well as “transnational norm providers”.

“Sociology of contract and property law” are discussed by Sarah E. Hamill but limited to the common law concepts. This is followed by the chapter “Property as socio-legal institution, practice, object, idea”. Here, Antonia Layard focuses on the influences of governance regimes on property and also mentions feelings of ownership without formal property rights (276). Mavis Maclean writes about “Sociological research in family law: international perspectives within the policy landscape”. She appreciates the cooperation between sociologists and lawyers (286). The main part shows the ebb and flow of different themes as reflected in sustained research, truly international and comparative in scope, within the framework of the Research Committee on Sociology of Law.

The “Sociology of law and religion” chapter by Russell Sandberg sets out arguing that law and religion attracted wider interest after 9/11 and the ensuing controversies and legislative efforts. As not unfamiliar from other academic areas, Sandberg discusses issues of cooperation between scholars coming from religion, law and sociology. A range of socio-legal scholarship and key sociological thinkers such as Durkheim and Parsons, are employed by Atina Krajewska in “Sociology of health law”. The findings suggest that health law is best described – not withstanding other effects – as a factor leading to wider social inclusion (315). In “Sociology of deviance and criminal law”, Sharyn Roach Anlieu demonstrates the analytical value of the concept of deviance in explaining processes of exclusion.

Readers interested in the factors influencing the development of British housing law find a description in the chapter “Sociology of housing law” by Dave Cowan and Sally Wheeler. But it also provides a case study on the contribution

of socio-legal studies to a very broadly defined legal subject. Ralf Rogowski outlines the “Sociology of labour law”, drawing mainly on the situation in France, Germany, the UK, and the United States, finishing with the situation in the European Union and global labour law. The chapter is particularly well-written and instructive, combining a review of the literature with insights from the author’s varied research. Håkan Hydén describes “algo norms” and their possible future influence on society in the chapter “Sociology of digital law and artificial intelligence”. The “Sociology of transnational justice: global and comparative perspectives” by Stephan Parmentier and Camilo Umaña concludes the volume.

The contributions to this handbook suggest that systems theory and here especially ideas connected to the names of Niklas Luhmann and Gunther Teubner have influenced parts of sociology of law in the United Kingdom. Eugen Ehrlich’s concepts are also frequently employed, as are Emile Durkheim’s, something that is probably representative for sociology of law wherever one looks. The same goes for Karl Marx. Of the English sociologists of law, Roger Cotterrell is referenced most often. The second volume, announced to be more international in scope, may identify a wider range of scholars and theoretical approaches of particular influence.

There will hardly be a sociologist of law, whether from the British Isles or not, with a disciplinary background in law or in a social science, who will not gain insights from this Research Handbook on the Sociology of Law. It can be recommended for any socio-legal book collection.