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Unfinished Business: An Appreciation of Eugen Ehrlich's Methods

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Abstract

Eugen Ehrlich (1862–1922) became a founding father of sociology of law. At the core of his work was the attempt to equip jurisprudence with empirical methods hitherto not employed by lawyers: methods adding to the analysis of legal codes and authoritative court rulings. According to Ehrlich, the sociology of law makes the parent subject a legal science. Beyond the meta orientation that is sociological jurisprudence, Ehrlich mentions a range of research techniques, "methods" in the sense of "how do we go about researching law empirically". Ehrlich highlights analysing legal documents and especially forms of empirical observation. He also briefly mentions experimental methods. This paper discusses research investigating the connection between law and emotions through quasi-experimental designs, the use of Ehrlich's concepts in historical sociological analysis, the value of comparative empirical research as well as content analysis and observation in contemporary works. "Method is as infinite as science itself" reads the last sentence of Ehrlich's "Fundamental Principles of the Sociology of Law" and sociologists of law have proven him right.

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„(...) the foundation might have been laid,
and if only an emergency building could be carried out on it in part,
there will probably soon be others
who will take over the extension in detail”
(Eugen Ehrlich 1913)¹

By way of introduction

Eugen Ehrlich (1862-1922) was born in Czernowitz, the major city of the multi-ethnic Bukovina province of Austria-Hungary, today the Ukrainian city of Chernovtsy. He is one of the founders of sociology of law which he saw as a key part of jurisprudence.² Still today, 100 years after his death, Ehrlich's work can be relevant to both lawyers and social scientists. His intended audience at the time were, however, legal scholars mainly. More specifically, Ehrlich wanted to reform jurisprudence. For example, against the dogma that the legal code provides decisionmakers with all the law they need, he highlighted that this is not the case and warned against a practice to shoehorn conflicts into legal boxes arbitrarily.³ To avoid this, Ehrlich suggested that lawyers adopt social science methods to help them better identify which of the interests involved in a case merit legal protection.⁴ He also emphasised that employing social sciences will lead to better legislation that will be more effective in addressing social issues.⁵ And he suggested that legal education should

¹ EUGEN EHRLICH, *Soziologie des Rechts*, in: EUGEN EHRLICH, *Gesetz und lebendes Recht*, ed. by MANFRED REHBINDER, Berlin 1986, pp. 179-193, at 192 (my translation).

² EUGEN EHRLICH, *Grundlegung der Soziologie des Rechts*, 3rd edition, Berlin 1967; MANFRED REHBINDER, *Die Begründung der Rechtssoziologie durch Eugen Ehrlich*, 2nd edition, Berlin 1986, pp. 22-24; short introduction in English: STEFAN VOGL, *Eugen Ehrlich's Linking of Sociology and Jurisprudence and the Reception of his Work in Japan*, in: *Living Law: Reconsidering Eugen Ehrlich*, edited by MARC HERTOIGH, Oxford 2009, pp. 95-123.

³ EHRLICH, *Soziologie des Rechts* (note 1), p. 189. EUGEN EHRLICH, *Fundamental Principles of the Sociology of Law*, translated by WALTER L. MOLL, 2nd edition, New Brunswick, NJ 2002, p. 19.

⁴ STEFAN VOGL, *Soziale Gesetzgebungspolitik, freie Rechtsfindung und soziologische Rechtswissenschaft bei Eugen Ehrlich*, Baden-Baden 2003, pp. 329-331, 333.

⁵ EHRLICH, *Grundlegung* (note 2), pp. 331, 398-399; EUGEN EHRLICH, *Über das „lebende Recht“*, in: EUGEN EHRLICH, *Politische Schriften*, edited by MANFRED REHBINDER, Berlin 2007, pp. 191-200, at 199.

include a social science perspective and methods of observation.⁶ This, he thought, will help lawyers in their professional practice. – One might think that all these key concerns of Ehrlich will surely not provoke negative responses. But they did and do so today.⁷

Part of the problem lies with Ehrlich's rhetoric and that he touched on hot political topics. Many of his publications are quite combative in tone, even polemic in parts. He wanted to incite debate⁸ and had to pay the price of ruffling too many feathers. In addition, he developed his views from initially favouring a state-run socialist economy to later advocating a policy of social reform and a – in Stefan Vogl's words – "social market economy", focusing on facilitating economic growth, labour representation by unions, education, and a more socially responsive decision-making by the courts.⁹ Inevitably, as Ehrlich had entered the political stage as a scholar, he faced opposition by those following different ideas. Moreover, his was a time of strong nationalist movements and of growing antisemitism. Ehrlich was of Jewish decent, which slowed his career down, and he converted to Catholicism perhaps just to signal his ambition to assimilate.¹⁰

The reception of Ehrlich's work was further affected by the fragmentary nature of his writings. Apart from a number of essays and newspaper articles, there is one main book:

⁶ EUGEN EHRLICH, Gutachten über die Frage: Was kann geschehen, um bei der Ausbildung (vor oder nach Abschluß des Universitätsstudiums) das Verständnis des Juristen für psychologische, wirtschaftliche und soziologische Fragen in erhöhtem Maße zu fördern?, in: EUGEN EHRLICH, *Recht und Leben*, edited by MANFRED REHBINDER, Berlin 1967, pp. 61–79.

⁷ VOGL, *Soziale Gesetzgebungspolitik* (note 4), pp. 35–69, 109–141; STEFAN MACHURA, Eugen Ehrlich's Legacy in Contemporary German Sociology of Law, in: *Eugen Ehrlich's Sociology of Law*, edited by KNUT PAPENDORF, STEFAN MACHURA and ANNE HELLM, ZÜRICH 2014, pp. 39–68.

⁸ Klaus A. ZIEGERT, Beyond „Living Law“: Eugen Ehrlich's General Theory of Law, in: *Eugen Ehrlich's Sociology of Law*, edited by KNUT PAPENDORF, STEFAN MACHURA and ANNE HELLM, ZÜRICH 2014, pp. 17–38, at 31.

⁹ VOGL, *Soziale Gesetzgebungspolitik* (note 4), S. 196–210, 239; EUGEN EHRLICH, Karl Marx und die Soziale Frage, in: EUGEN EHRLICH, *Politische Schriften*, edited by MANFRED REHBINDER, Berlin 2007, pp. 153–162.

¹⁰ MANFRED REHBINDER, Aus den letzten Jahren im Leben und Schaffen von Eugen Ehrlich, in: *Jus Humanum. Grundlagen des Rechts und Strafrecht. Festschrift für Ernst-Joachim Lampe*, edited by DIETER DÖLLING, Berlin 2003, pp. 199–210; MANFRED REHBINDER, Die Politischen Schriften des Rechtssoziologen Eugen Ehrlich auf dem Hintergrund seines bewegten Lebens. *Anuarul Institutului de Istorie "G. Barițiu" din Cluj-Napoca* 46 (2007), 269–281; MANFRED REHBINDER, Die Rechts- und Staatswissenschaftliche Fakultät der Franz-Josephs-Universität in Czernowitz, ihr Beitrag zur Erforschung des Rechts in einer multikulturellen Gesellschaft, *Anuarul Institutului de Istorie "G. Barițiu" din Cluj-Napoca* 47 (2008), 199–218; MONICA EPPINGER, Governing in the Vernacular: Eugen Ehrlich and Late Habsburg Ethnography, in: *Living Law: Reconsidering Eugen Ehrlich*, edited by MARC HERTOIGH, Oxford 2009, pp. 21–47, at 45–46; MARKUS PORSCHE-LUDWIG, *Eugen Ehrlich interkulturell gelesen*. Nordhausen 2011, p. 10; MARTA BUCHOLC und MACIEJ KOMORNIK, Eugen Ehrlich's Failed Emancipation and the Emergence of Empirical Sociology of Law, in: *Historyka. Studia Metodologiczne* 49 (2019), 15–39, at 29–30.

The “Fundamental Principles of the Sociology of Law”.¹¹ According to Manfred Rehbinder, longstanding editor of Ehrlich’s works, the “Fundamental Principles” were to be part of a series of three volumes¹², in which the second outlined Ehrlich’s jurisprudence, but only appeared in parts¹³, while a third book, a collection of Ehrlich’s empirical work in his home province, the Bukovina, fell victim to World War One. Interpretations of Ehrlich’s ideas depend on which parts have been read: his “Fundamental Principles” in isolation do not give the context of Ehrlich’s legal dogmatics and can lead to thinking that he dismissed legal dogmatics. Just studying his writings on life in the rural hinterland of the Bukovina¹⁴ may result in seeing Ehrlich as the connoisseur of traditional law, or of law in marginalised settings, where he was equally, if not most, interested in legal practices in a modern industrial society. International readers, unless they read German, are at a disadvantage as only parts of Ehrlich’s publications have been translated into English, the *lingua franca* of academia today.

In this paper, I will first provide an overview of Ehrlich’s sociological jurisprudence as problems encountered within juridical science motivated him to look at sociology and sociological research methods. In his sociological theory of law, emotions related to lawbreaking are forming a key element. Therefore, the next chapter turns to the idea that it is important to find out about emotional responses to law. As part of this, I will introduce a research project on reactions to a class of crimes which was more recently covered in a special law in the UK. To further show that Ehrlich’s concepts are still of use in analysing historical and contemporary phenomena, I am introducing a study which applied his concepts but to a different people. That Ehrlich encourages especially comparative empirical research is the topic of the next part of this paper. The penultimate chapter discusses

¹¹ EHRlich, Fundamental Principles (note 3), the translation of EHRlich, Grundlegung (note 2).

¹² MANFRED REHBINDER, Vorbemerkungen des Herausgebers, in: EUGEN EHRlich, Grundlegung der Soziologie des Rechts, 5th edition, edited by MANFRED REHBINDER, Berlin 2022, pp. 5-9, at p. 5; MANFRED REHBINDER, Eugen Ehrlichs Seminar für Lebendes Recht: eine Einrichtung für die Weiterbildung von Rechtspraktikern, in: *Problemi Filozofiji Prawa* 3 (2005), 135-139, at 137-138.

¹³ These are: EUGEN EHRlich, *Die juristische Logik*, 2nd edition, Aalen 1925; EUGEN EHRlich, Die richterliche Rechtsfindung auf Grund des Rechtssatzes. Vier Stücke aus dem in Vorbereitung begriffenen Werke: Theorie der richterlichen Rechtsfindung, in: EUGEN EHRlich, *Recht und Leben*, edited by MANFRED REHBINDER, Berlin 1967, pp. 203-252.

¹⁴ Chiefly EUGEN EHRlich, Das lebende Recht der Völker der Bukowina, in: EUGEN EHRlich, *Recht und Leben*, edited by Manfred Rehbinder, Berlin 1967, pp. 43-60.

systematic content analyses and empirical observations, two methods which Ehrlich employed himself, before a conclusion is reached on the actuality of Ehrlich's sociology of law.

Ehrlich's sociological jurisprudence

Imagine the challenge laid down to a continental European jurist: For Ehrlich, it is the sociology of law which makes jurisprudence, otherwise a merely practical pursuit, a science.¹⁵ The uses of legal history to lawyers are limited, instead, Ehrlich suggests turning to the observation of legal reality as it unfolds in the society.¹⁶ Still today, anxiety abounds among some German lawyers (and not only those), about the challenges of acquainting oneself with social sciences, a field which itself is enormous and sees an ever-accelerating expansion. (The same anxiety exists among sociologists to deal with law, but that's a topic for another day.) The methods for the sociological analysis of law have developed correspondently. Yet, some of the ideas that Ehrlich developed still form a useful point of departure for sociologists of law.

Largely in response to political events, jurisprudence has changed since Ehrlich's times and has in parts adopted ideas that he promoted.¹⁷ Still, Ehrlich is seen by many as a "wild man", purportedly suggesting that judges are not bound by the legal code¹⁸ – while Ehrlich's jurisprudence actually advocated that the judge follows the code strictly, where the legislator had the conflict of interest in mind that appeared before the judge.¹⁹ Sociological jurisprudence comes into play if there is a "gap": a conflict of interest is not foreseen in the legal code. Here, Ehrlich advocated that the judge employs insights into the social

¹⁵ EUGEN EHRLICH, The Sociology of Law, in: *Harvard Law Review* 36 (1922), 130–145, at 143-144.

¹⁶ EHRLICH, Über das „lebende Recht“ (note 5), S. 200; EHRLICH, Juristische Logik (note 13), pp. 310-313.

¹⁷ Stefan Machura, The German Sociology of Law: A Case of Path Dependency. *International Journal of Law in Context* 8 (2012), 506-523.

¹⁸ Already noted by MANFRED REHBINDER, Einleitung, in: EUGEN EHRLICH, *Recht und Leben*, edited by MANFRED REHBINDER, Berlin 1967, pp. 7-9, at 9.

¹⁹ EHRLICH, richterliche Rechtsfindung (note 13), p. 221 und 236; EUGEN EHRLICH, Freie Rechtsfindung und freie Rechtswissenschaft, in: EUGEN EHRLICH, *Recht und Leben*, edited by MANFRED REHBINDER, Berlin 1967, pp. 170–202, at 187; VOGL, Soziale Gesetzgebungspolitik (note 4), pp. 175, 244-245, 248, 251-252, 270-275.

background and takes a responsive decision.²⁰ Tellingly, according to the German scholar Thomas Raiser, lawyers are following Ehrlich “on the quiet” when they fill such “gaps”.²¹ Academic jurisprudence has in many countries been exposed to sociology of law starting about 60 years ago, when sociology of law had become an exciting and innovative part of jurisprudence.²² Today according to Klaus F. Röhl the situation is:

„For substantive problems, help is primarily sought from sociology and economics. For the operational problems, as I like to call them, moral philosophy and political science, linguistics and literature, aesthetics and logic, psychology and communication science are more relevant.“ (my translation)²³

The first part of this, is going into the direction of what Ehrlich favoured: where there is a genuine gap in state law, lawyers may employ “sociological” methods and knowledge to understand the socially accepted rules and the interests of the parties involved in a problem.²⁴ Still, they would not be strictly bound by what they find, as a social law may be inherently unjust. Personal judgment and responsibility of judges are elements very much stressed by Ehrlich.²⁵ For Ehrlich, “sociology” means in the broader sense “social sciences” and includes economics (“Volkswirtschaftslehre”)²⁶, but also e.g. social psychology²⁷. Some of the other subjects mentioned by Röhl are indeed social sciences or have adopted some social science theory and methods. To the degree that Röhl is right in his assessment, quoted above, Ehrlich’s ideas are recognisable in today’s (German) jurisprudence.

²⁰ EHRlich, *Juristische Logik* (note 13), pp. 309-313; VOGL, *Soziale Gesetzgebungspolitik* (note 4), pp. 329-331, 333.

²¹ THOMAS RAISER, *Grundlagen der Rechtssoziologie*, Tübingen 2007, p. 85.

²² STEFAN MACHURA, Milestones and Directions: Socio-Legal Studies in Germany and the United Kingdom. *German Law Journal* 21 (2020), 1318–1331.

²³ KLAUS F. RÖHL, Intradisziplinäre Rechtsvergleichung als Renaissance einer Allgemeinen Rechtslehre. Entwurf für einen Vortrag auf der Bochumer Tagung am 23./24. Juni 2022, p. 3 (https://www.rsozblog.de/wp-content/uploads/2022/06/Roehl_Intradisziplinaere-Rechtsvergleichung-als-Renaissance-der-Allgemeinen-Rechtslehre_Stand-18-Juni-2022.pdf, accessed July 20, 2022).

²⁴ EHRlich, *Juristische Logik* (note 13), pp. 309-313; VOGL, *Soziale Gesetzgebungspolitik* (note 4), p. 283; VOGL, *Eugen Ehrlich’s Linking* (note 2), p. 121.

²⁵ EHRlich, *Juristische Logik* (note 13), p. 309.

²⁶ EHRlich, *Gutachten* (note 6), p. 67.

²⁷ EUGEN EHRlich, *Soziologie und Jurisprudenz*, in: EUGEN EHRlich, *Recht und Leben*, edited by Manfred Rehbinder, Berlin 1967, pp. 88-103, at 102. And it includes politics: EHRlich, *Fundamental Principles* (3), p. 25.

Would Ehrlich's jurisprudence, if fully realised, have made work for lawyers more difficult compared to standard jurisprudence? For example, he narrows down the scope of decisions predetermined by the legal code while leaving a wider than usual gap for the "free finding of the law" based on sociological methodology and knowledge. Ehrlich wanted the legislator to use concepts derived by sociological jurisprudence instead of the juristic concepts derived from a questionable understanding of Roman Law, new concepts he hoped better reflect the interests at play in a modern society. Stefan Vogl wrote that Ehrlich's idea, while possibly resulting in more just outcomes, will make lawyering and judging more difficult than if the common juristic concepts are used.²⁸ Yet, this is not entirely clear. It may be that Ehrlich's ideas, insofar as still relevant after 100 years, result in e.g. fewer appeals, or will allow the affected to better live with the consequences, avoiding future legal conflict.

Examples of practised sociological jurisprudence in German civil law have been provided by Klaus F. Röhl, but he also noted that in most cases it will be too difficult and costly for a judge or a party to conduct empirical research.²⁹ But then, Ehrlich also advocated, that lawyers possess background knowledge of the society when working with law. Such a knowledge may help in addressing cases. And sociology of law has at least some – if precarious – presence in German legal education.³⁰ Finally, any social science concepts in public debate and social science subjects taught in high schools will have had some degree of influence on today's generation of legal decisionmakers. Ehrlich even conceded that a mass of cases will indeed be effectively solved with recourse to the legal code only.

He speaks of: „the very simple but also very numerous legal disputes (...), to which the jurist's usual template work relates. The legal propositions regularly give a clear decision for the simple loan or rent lawsuits, for the thefts and brawls that occupy the courts every day, but they often enough fail in a somehow complicated, intertwined legal case. Then the lawyer entrusted with the decision must weigh up the interests himself and grant protection, supplement the legal proposition if it

²⁸ EHRlich, *Juristische Logik* (note 13), p. 314; VOGL, *Soziale Gesetzgebungspolitik* (note 4), p. 350.

²⁹ KLAUS F. RÖHL, *Zur Bedeutung der Rechtssoziologie für das Zivilrecht*, in: *Rechtssoziologie am Ende des 20. Jahrhunderts. Gedächtnissymposium für Edgar Michael Wenz*, edited by HORST DREIER, Tübingen 2000, pp. 39-85, at 51.

³⁰ MACHURA, *Milestones and Directions* (note 22); MACHURA, *The German Sociology of Law* (note 17).

leaves doubt, replace it if it leaves the question that is important open, untangle it if it is contradictory, invalidate it if it demands the impossible."³¹

As can be seen from the discussion so far, Ehrlich's work still speaks to problems confronted by lawyers today. Although Ehrlich treated sociology of law in the context of jurisprudence, there is, of course, a sociological side to it. Sociology of law is part of sociology as academic subject too. Ehrlich himself saw sociology of law as the scientific part of jurisprudence, which as academic subject should become part of sociology, leaving the practical side of jurisprudence to concentrate on its function.³² In recent times, from a sociological point of view, Erhard Blankenburg defined sociology of law as a social science "dealing with legal institutions and law-oriented behaviour, striving to explain these from the canon of sociological theories and which simultaneously disciplines itself to methodological standards consented among social scientists."³³

Ehrlich's writings on sociology of law can therefore be confronted with contemporary methods. When it comes to theory, sociology of law is much broader than Ehrlich's approach. Regarding Ehrlich's methods, the following discussion will turn to: the use of (quasi-)experimental designs in connection with Ehrlich's concept of "law", the use of sociological concepts in analysing historical constellations, comparative research, content analysis and observation. The author will employ examples of research in which he has been involved.

Law and emotion – a quasi-experimental study in Wales

For Ehrlich, "law is the social institutions and measures that are perceived by the influential circles in society as the basis of the state, social and economic order".³⁴ As we have seen, Ehrlich advocated a significant role for the state in regulating and reforming society and for

³¹ EHRlich, richterliche Rechtsfindung (note 13), p. 236. EHRlich, Juristische Logik (note 13), p. 5: The "legal proposition (...) is a legal norm formulated in words that is binding for the judge" (my translation).

³² EHRlich, Soziologie und Jurisprudenz (note 27), p. 100-103; EHRlich, Fundamental Principles (note 3), p. 25.

³³ ERHARD BLANKENBURG, Die Praxisrelevanz einer Nicht-Disziplin: der Fall der Rechtssoziologie, in: *Soziologie und Praxis*, edited by ULRICH BECK, *Soziale Welt*, special issue 205 (1982), 205-218, at 206 (my translation).

³⁴ EUGEN EHRlich, Die Tatsachen des Gewohnheitsrechts, in: EUGEN EHRlich, *Gesetz und Lebendes Recht*, edited by MANFRED REHBINDER, Berlin 1986, pp. 104-132, at 107 (my translation).

a mass of legal cases, he considered the legal codes sufficient. State law he did not understand essentially different from, let's say: Max Weber³⁵. Ehrlich wrote: "The state brings law into existence by creating institutions through its power of compulsion (in the last analysis military) and provides them with a legal regulation".³⁶ But law is much more for Ehrlich: "the organization of state, social and economic life" which would be in a bad way if it depended on coercion exercised by agencies.³⁷ State law, according to Ehrlich, does influence social behaviour, but it may sometimes do more harm than good when it collides with the (other) "living law".³⁸

Ehrlich's interest was much broader than just discussing state law, which in some cases only exists in the law books, as "dead law" that does not influence social realities, and which in other instances has been surpassed by law created in society. "Living law" is the law practiced. Ehrlich assumes that "the center of gravity of legal development lies not in legislation, nor in juristic science, nor in judicial decision, but in society itself".³⁹ He then had to explain how to identify "law" beyond the legal code and he took a radically empirical approach: Practically, it would be straightforward to distinguish a legal norm from other norms, such as moral norms, norms of etiquette or tact, Ehrlich said. The criterion is psychological, namely the strengths of feelings evoked by a transgression: "Compare the feeling of revolt that follows a violation of law with the indignation at a violation of a law of morality, with the feeling of disgust occasioned by an indecency (...)"⁴⁰ That the violation of

³⁵ MAX WEBER, *Economy and Society*, ed. by GUENTHER ROTH and CLAUS WITTICH, New York 1968, p. 34: law is social norms enforced by a staff of people.

³⁶ EHRLICH, *The Sociology of Law* (note 15), at 137.

³⁷ EUGEN EHRLICH, Ein Institut für lebendes Recht, in: EUGEN EHRLICH, *Recht und Leben*, edited by Manfred Rehbinder, Berlin 1967, pp. 28-42, at 39.

³⁸ Eugen Ehrlich, Über das „lebende Recht“, in: Eugen Ehrlich, *Politische Schriften*, edited by Manfred Rehbinder, Berlin 2007, pp. 191-200, at 195-196.

³⁹ EHRLICH, *Fundamental Principles* (note 3), Foreword.

⁴⁰ Id. at p. 165. For an early critique which confronts Ehrlich's sociological perspective with a legal dogmatic logic, see: HANS Kelsen, Eine Grundlegung der Rechtssoziologie, in: *Rechtssoziologie und Rechtswissenschaft*, hg. von KLAUS LÜDERSSEN, Baden-Baden (2003), pp. 3-54; at 33-35. More contemporary critiques in, e.g., KLAUS F. RÖHL, *Rechtssoziologie*, Köln 1987, p. 216; MANFRED REHBINDER, Der Pluralismus des Rechts im Zeitalter der Globalisierung. Zum Rechtsbegriff in der Rechtssoziologie, in: *Problemi Filozofiji Prawa* 3 (2005), p. 229; HUBERT ROTTLEUTHNER, *Foundations of Law*. Dordrecht 2005, p. 24. Hesse, for example, focuses on the courts as decision-makers defining "law", but also allows popular understanding to count as law insofar as it can be seconded by the courts: HANS ALBRECHT HESSE, *Einführung in die Rechtssoziologie*. Wiesbaden 2004, pp. 25-26, 28-29.

law creates strong feelings, feelings often motivating people to take action, to ask lawyers for advice, to report the breach to authorities, even prompting them to go to court, is now a time-honoured finding in the social sciences. Feelings have turned out to be good indicators for how important law and legal institutions are for people.⁴¹

In his “Fundamental Principles”, Ehrlich mentions experiments conducted by another scholar who exposed persons to cases to find out about their opinion. Ehrlich mentions some limitations of this kind of studies but thought that they can yield results if methodological pitfalls are avoided.⁴² Vignette studies form a quasi-experimental design to elicit people’s reaction to cases. In them, respondents are completing a questionnaire indicating their response to a case summary. I have used such a study design repeatedly, for example to gauge students’ readiness to seek legal advice or the likelihood that they suggest reporting a sex crime to a friend.⁴³ One of these studies related to the public’s view of situations falling under a new type of criminal law.

The United Kingdom has in 2015 introduced a dedicated law covering extreme exploitation of labour, the Modern Slavery Act. With a class of MA students, I wanted to find out if people can recognise constellations covered by the Act. To this end, we devised a questionnaire study, contrasting the views of students with the views of serving police officers.⁴⁴ Socio-legal theory by Ehrlich and others, like Emil Durkheim⁴⁵ and Leon Petrazycki⁴⁶, emphasizes that when people perceive a law has been broken, they will respond with strong negative feelings. Furthermore, in a criminological perspective, the strength of disapproval will be measurable by the severity of sanctions that people perceive as appropriate upon learning about a transgression. The main hypothesis of the study was therefore, that modern slavery, the extreme exploitation of labour, will be recognised more

⁴¹ MARC HERTOIGH, *Sociology of the Living Law: Exploring the Other Hemisphere of the Legal World*, in: *Research Handbook on the Sociology of Law*, edited by Jiří Příbáň, Cheltenham 2020, pp. 124–135, at 132.

⁴² EHRlich, *Fundamental Principles* (note 3), p. 506.

⁴³ STEFAN MACHURA und ANNETTE KAMMERTÖNS, *Deterred from Going to Court? A Survey at German Schools on Media Influences*, in: *Entertainment and Sports Law Journal* 8(2) (2010), doi: <https://doi.org/10.16997/eslj.35>.

⁴⁴ STEFAN MACHURA, FAY SHORT, VICTORIA MARGARET HILL, CATHERINE RHIAN SUDDABY, FFION ELENA GODDARD, SOPHIE ELISABETH JONES, EMMA LOUISE LLOYD-ASTBURY, LUKE RICHARDSON und CHERNISE ALEXANDRA ROUSE, *Recognising Modern Slavery*. *Journal of Human Trafficking* 5 (2019), 201–219.

⁴⁵ EMIL DURKHEIM, *The Division of Labour in Society*, translated by GEORGE SIMPSON, New York 1965, p. 102.

⁴⁶ LEON PETRAZYCKI, *Law and Morality*, 2nd edition, New Brunswick, NJ 2011.

often/more correctly when people advocate a strong punishment. Our questionnaire included among other variables scales for the severity of sanctions, and a range of laws (formulated in laypersons' terms) that may have been offended. Respondents rated seven scenarios of modern slavery. These scenarios have been developed out of modern slavery cases either discussed in the legal literature, known to experts, or decided by the courts. Examples of vignettes read:

"An overseas domestic worker is employed in a wealthy private household. The worker is female and 25 years of age. She works 12 hour shifts 7 days a week and is paid only in lodgings and food. The living conditions are poor and she receives little food. However, the maid consents to the work and conditions. She believes that she can leave at any time." (Domestic worker case)

"Sarah is 32. Her husband requires her to work in his shop and their home. She is allowed no freedom or interaction with family and friends, but chooses to stay under these conditions." (Housewife case)

"Peter is a 22 year old man with an IQ of 40. He is found begging on the streets. He tells social workers that he was forced to do this by the people he lives with." (Beggar case)

The cases varied conditions such as the victim partaking in criminal activity or not, the victim being transported to the UK or being local, and the degree by which the victim has been manipulated to agree to the condition they are in. It turned out that police officers quite accurately sorted all but one of the cases under "modern slavery" (Table 1). The exception is the "housewife case" which equally well sorts under the crime of "domestic violence" as defined in law, so officers went for that. Students were less likely to recognise modern slavery, but at least very few of them indicated that no crime was committed (Table 2). A multivariate analysis was conducted to find out what factors are driving respondents' ability to identify the cases of modern slavery. By far the largest significant factor was – as predicted – individual punishment preference (Table 3). The more severely the respondents wanted the slavers punished, the more likely they correctly identified the cases. Students (but not police officers) feeling influenced by having been witnesses of crime were less likely to identify modern slavery. It is possibly a consequence of the nature of their personal

experience which is likely to come from situations unlike those of modern slavery. An interesting observation was that Chinese students recognised fewer cases of modern slavery. We could not be sure about the reasons. But Eugen Ehrlich, as a theorist of what was later termed “legal pluralism”, might have said that there are different norms within the community of Chinese students compared to others, just as there were different laws in different ethnic groups in his Bukovina province.⁴⁷

The example shows how classic socio-legal theory, here Ehrlich’s assumption that law can be recognised by the strength of the reaction to offences, can be used in contemporary studies. But Ehrlich’s ideas can also guide in analysing historic situations.

The “living law” of the Don Cossacks

According to Eugen Ehrlich, society consists of associations: family, ethnic group, religious community, guild, factory, even the state is a one of those associations.⁴⁸ Law was to Ehrlich the “inner order of associations”.⁴⁹ In the Bukovina province, he encountered several different ethnic groups and a myriad of other associations with their own (non-state) laws. In Ehrlich’s analysis, there is a multitude of laws in a society. A teacher of Roman Law, his publications are full of historic detail about the development of law at different times, at different places, and in different “associations”. It turns out, that some of Ehrlich’s concepts can be applied to study historic cases he has not covered himself.

The Don Cossacks formed their community in a multicultural environment differing starkly from Ehrlich’s Bukovina. They originally took refuge in a no-man’s land by the Don River surrounded by militarily powerful neighbours: Turkey, Russia, Poland and Persia. This development started towards the end of the Middle Ages; no exact date is available. We

⁴⁷ EHRlich, *Das lebende Recht* (note 14), p. 43-60.

⁴⁸ EUGEN EHRlich, *Der Staat, die Gesellschaft und ihre Ordnung*, *Zeitschrift für Rechtssoziologie* 13 (1992), 3-16, at 3-4. EHRlich, *Grundlegung* (note 2), p. 20.

⁴⁹ EUGEN EHRlich, *Gesetz und lebendes Recht*, in: EUGEN EHRlich, *Gesetz und lebendes Recht*, edited by MANFRED REHBINDER, Berlin 1986, pp. 229-240, at 236.

applied a number of Ehrlich's concepts in describing the "living law" of the Don Cossacks.⁵⁰ Apart from Ehrlich's signature term, these were:

- Ehrlich's concept of nationality as cultural community independent of ethnicity⁵¹. The Don Cossacks developed their own culture. It was different from that of the surrounding people. Ethnic roots were of no importance, but the orthodox Christian belief and adopting the Cossack way of life was.
- His concept of the „Nationalität des Rechts“⁵², meaning that different law applies to people depending on their nationality. The Don Cossacks developed their own law and, when they later became part of the Russian empire, the Cossacks had to be treated by their rules, even by Cossack courts, a situation lasting for a long time.
- Ehrlich's idea that groups may form in a hostile environment and develop their institutions and laws accordingly⁵³. The Don Cossacks had to organise their settlements and their community for military defence in an inhospitable steppe land. They did so along largely egalitarian lines, developing an early form of direct democracy and a kind of warrior-communism.⁵⁴
- Judges and other officials need to have the trust of the members of the association, according to Ehrlich⁵⁵. The Don Cossacks elected their administrative and military leaders, judges, and priests.

The independence of the Don Cossacks crumbled when the Russian Tsars changed the "inner order" of the nation, largely by creating a pliable nobility among them, by

⁵⁰ OLGA LITVINOVA and STEFAN MACHURA, Organizing a Community: The Living Law of the Don Cossacks, in: *Eugen Ehrlich's Sociology of Law*, edited by KNUT PAPENDORF, STEFAN MACHURA and ANNE HELLMUM, Zürich 2014, pp. 157-177. In this article, we are drawing on the work of Russian and Ukrainian scholars, many contemporaries of Ehrlich, who conducted ethnographic research.

⁵¹ „Für mich ist Nationalität Kulturgemeinschaft“: EUGEN EHRLICH, Griechische Eindrücke, in: *Neue Freie Presse*, 15. August 1905, pp. 25-30, at 29; VOGL, *Soziale Gesetzgebungspolitik* (note 4), p. 322.

⁵² EHRLICH, Über das „lebende Recht“ (note 5), pp. 197-198.

⁵³ EHRLICH, *Tatsachen* (note 34), pp. 108-110 and 113.

⁵⁴ Romanticizing the Cossack way of life in popular culture, however, is problematic: according to folklore, demanding ransom from travelling merchants, kidnapping and raids on neighbouring settlements were part of the economy, also instances of slavery. Women and girls captured were spared death but forced to marry Cossacks. On the other hand, according to ethnographic sources, Cossack women had the right to divorce, inherited equal shares like their brothers, and in the absence of a male head of the household, had the right to vote. LITVINOVA and MACHURA, *Organizing a Community* (note 50).

⁵⁵ EHRLICH, *The Sociology of Law* (note 15), p. 138.

establishing the authority of the Russian-orthodox church and turning independent male warriors into an elite cavalry force, enjoying tax freedom for the price of decades-long military service far from home. The Bolshevik revolution finally destroyed the economic basis of an autonomous Cossack society, replacing traditional forms of land ownership with state-controlled and collective farms in a system of central planning.

The example of our article on the Don Cossacks shows that Ehrlich's theory can be employed to analyse various historic phenomena. Other authors have studied, relating to present-day practices, for example, divorce among orthodox Copts in Egypt⁵⁶, or corruption in social settings in Uzbekistan⁵⁷.

Comparative empirical research on law

Like the „Sociology of Law“ in Max Weber's „Economy and Society“⁵⁸, Ehrlich's „Fundamental Principles“ as well as many of his articles are very rich in historic detail. Historic legal comparisons served them as empirical material to develop and demonstrate their arguments. Our study on the „living law“ of the Don Cossacks exemplifies that this approach still works today. But, meanwhile, social sciences have developed a whole range of methods to conduct empirical research, to look for the law in the behaviour of contemporaries. Again, a comparative approach can be very rewarding. Given the sheer number of sociologists of law worldwide there are opportunities to organise projects, sampling data from several countries. International socio-legal associations, namely the Research Committee on Sociology of Law of the International Sociological Association, or the American Law and Society Association make it easier to establish research networks. International working groups can be created, devising research together and sampling data from several countries. For example, the author was involved in studying the effect which

⁵⁶ MONICA LINDBEKK, *Between Power of the State and the Guardianship of the Church: Orthodox Copts Seeking Divorce*, in: *Eugen Ehrlich's Sociology of Law*, edited by KNUT PAPENDORF, STEFAN MACHURA and ANNE HELLMUM, ZÜRICH 2014, pp. 179-207.

⁵⁷ RUSTAMJON URINBOYEV and MÅNS SVENSSON, *Rethinking Corruption in Post-Soviet Uzbekistan: Ethnography of "Living Law"*, in: *Eugen Ehrlich's Sociology of Law*, edited by KNUT PAPENDORF, STEFAN MACHURA and ANNE HELLMUM, ZÜRICH 2014, pp. 209-237.

⁵⁸ WEBER, *Economy and Society* (note 35).

the tv portrayal of lawyers had on law students⁵⁹, and in a project mapping law-related tv content in different countries⁶⁰. There was also the opportunity to conduct surveys on lay assessors at a medium-sized compared to the busiest German lower criminal court, of comparing lay assessors at East and West German administrative courts after Unification, and to survey people's judges at Russian district courts with colleagues from that country.⁶¹

Political scientists, psychologists and sociologists today regularly employ internationally comparative quantitative studies. They can track changes of, for example, trust in legal institutions over time in different countries, including e.g., levels of corruption perceived by private business owners, or how people in different countries rate the severity of crimes. International institutions are running surveys and allow researchers to use the data for analysis.

Such opportunities were not available to Ehrlich. He had founded a "Seminar for living law" in Czernowitz, but was not satisfied with the field studies of his students, who were in this seminar trained lawyers⁶². The task was to minute the uses of law in e.g. factories and farms, following a detailed questionnaire devised by Ehrlich.⁶³ In the end, it would have allowed Ehrlich to draw comparisons between the individual settings. But he had to note: „Few things were of any value. This is probably mainly due to the difficulty of the undertaking and the unusual work that the lawyer is expected to do.“⁶⁴ (More on the "Seminar" below.) Today not just law, but also various social sciences have become popular

⁵⁹ MICHAEL ASIMOW, STEVE GREENFIELD, GUILLERMO JORGE, STEFAN MACHURA, GUY OSBORN, PETER ROBSON, CASSANDRA SHARP and ROBERT SOCKLOSKIE, Perceptions of Lawyers – A Transnational Study of Student Views on the Image of Law and Lawyers, in: *International Journal of the Legal Profession* 12 (2005), pp. 407-436.

⁶⁰ STEFAN MACHURA and MICHAEL BÖHNKE, Germany, in: *A Transnational Study of Law and Justice on TV*, edited by PETER ROBSON and JENNIFER SCHULZ, Oxford 2016, pp. 99-112. Other authors in this book cover countries like Israel, the UK, and Italy.

⁶¹ STEFAN MACHURA, Interaction between Lay Assessors and Professional Judges in German Mixed Courts, *International Review of Penal Law* 72 (2001), 451-479. STEFAN MACHURA, Fairness, Justice and Legitimacy: Experiences of People's Judges in South Russia, *Law and Policy* 25 (2003), 123-150; STEFAN MACHURA, Lay Assessors of German Administrative Courts: Fairness, Power Distance Orientation and Deliberation Activity, *Journal of Empirical Legal Studies* 4 (2007), 331-362.

⁶² REHBINDER, Eugen Ehrlichs Seminar (note 12), S. 136. Overview of lectures and seminars taught by Ehrlich in: SERGIJ NESHURBIDA and MANFRED REHBINDER, Eugen Ehrlich an der Franz-Josephs-Universität in Czernowitz, in: *Beiträge zur Rechtsgeschichte Österreichs* 11 (2021), 48-60, at 58-59.

⁶³ NESHURBIDA and REHBINDER, Eugen Ehrlich (note 62), pp. 53-56; EHRLICH, Das lebende Recht (note 14), pp. 46-60 with questionnaire.

⁶⁴ EHRLICH, Gutachten (note 6), p. 73 (my translation).

study subjects, and there is a fair chance to recruit assistants familiar with social science methods, or ready to train themselves with the help of a rich methods literature. Apart from that, conducting empirical studies together with students in the form of a research seminar proves a viable and richly rewarding teaching method. It also works for comparative socio-legal topics.⁶⁵

Content analysis and observation

The study of legal documents has been suggested by Ehrlich to find out about the creation and application of law.⁶⁶ In his *Habilitationsschrift*, the second dissertation required for an academic career in Austria, Ehrlich had analysed records of court decisions. Though, he warned researchers against assuming that court files can be representative of the living law. They only show aspects of it and in a distorted fashion. Therefore, they need to be supplemented by observations.⁶⁷

Observations were a research method that Ehrlich favoured very much.⁶⁸ If someone asked what qualities a lawyer should have, he would answer: "Eyes that see and (...) ears that hear."⁶⁹ For his "Seminar" in the Bukovina, Ehrlich devised a detailed questionnaire which his student assistants had to complement with their own observations and additional material. The questionnaire, Ehrlich's remarks on its use and some examples of the resulting descriptions are summarised in one of the most famous articles in German sociology of law: "Das lebende Recht der Völker der Bukowina " [The Living Law of the People of the

⁶⁵ The author has conducted surveys together with MA students in research seminars. For a panel study comparing student experiences: STEFAN MACHURA, THOMAS LOVE und ADAM DWIGHT, Law Students' Trust in the Courts and the Police. *International Journal of Law, Crime and Justice* 42 (2014), 287-305. MACHURA et al., Recognising Modern Slavery (note 44) comparing students and police officers. Comparing drug users with other students: STEFAN MACHURA, SUNITA, MATHARU, FAYE MEPHAM, SARAH LEANNE SMITH, and JONATHAN ASTON, What Keeps Students from Driving under the Influence of Alcohol and Prescription Drugs? The Impact of Legitimacy of the Law, Prudent Behaviour and Perceived Dangerousness. *Oñati Socio-Legal Series* 9 (2019), 1052-1077.

⁶⁶ EUGEN EHRLICH, Die Erforschung des lebenden Rechts, in: EUGEN EHRLICH, *Recht und Leben*, edited by MANFRED REHBINDER, Berlin 1967, pp. 11-27, at 19; EHRLICH, Das lebende Recht (note 14), p. 45.

⁶⁷ EHRLICH, Ein Institut (note 37), pp. 33-34. He refers to his *Habilitationsschrift*: EUGEN EHRLICH, *Die stillschweigende Willenserklärung*, Berlin 1893.

⁶⁸ EHRLICH, Die Erforschung (note 66), p. 19; Ehrlich, Fundamental Principles (note 3), p. 476.

⁶⁹ EHRLICH, Über das „lebende Recht“ (note 5), p. 200.

Bukovina].⁷⁰ As I mentioned the “Housewife case” of our modern slavery study above, constructed after a case in which the abusive husband was punished by the court, to give an example, here is the part of Ehrlich’s questionnaire about the “rights” claimed by men and women in marriage:

“2. What does the man think his rights are with reference to his wife?

Does he forbid her to leave the home?

To visit the tavern?

To associate with her women friends or with her male acquaintances?

Does he impose tasks upon her?

Does she obey his commands?

Does he open her letters?

Does he ever punish her?

How?

3. What does the woman think her rights are with reference to her husband?

Does he obey her commands?”⁷¹

In the journal editor’s note to William Herbert Page’s contemporary report on Ehrlich’s “Seminar”, the questionnaire is denounced as “crude”.⁷² But the comment does not take into account Ehrlich’s objectives for which the questionnaire was constructed. If anything, in its entirety, the questionnaire is complex to the point that respondents had to be very willing, and it was certainly cumbersome to the research assistants, causing issues of practicability and requiring someone trained up and dedicated. Ehrlich’s comment mentioned above: „Few things were of any value. This is probably mainly due to the difficulty of the undertaking (...)“⁷³ has to be seen in this context. In general, social scientists still devise research instruments bearing similarity to Ehrlich’s questionnaire.

To study the content of law-related films, I have devised an analysis scheme, which I and colleagues at other universities are using in “Crime and the Media” and “Law in Film” classes.⁷⁴ And I am recommending that students do their assignments with the help of the

⁷⁰ EHRlich, *Das lebende Recht* (note 14), pp. 43-60;

⁷¹ WILLIAM HERBERT PAGE, Professor Ehrlich’s Czernowitz Seminar of Living Law, in: *Northern Kentucky Law Review* 4, pp. 37-63, at p. 53-54.

⁷² PAGE, Professor Ehrlich’s Czernowitz Seminar (note 71), p. 37 footnote 1.

⁷³ EHRlich, *Gutachten* (note 6), p. 73 (my translation).

⁷⁴ STEFAN MACHURA, An Analysis Scheme for Law Films, *University of Baltimore Law Review*, 36 (2007), 329-345. As example of results emanating from this type of analysis: STEFAN MACHURA, and Llewelyn Davies, “Law is an

instrument. The price to pay for covering a range of possibly relevant dimensions, as in Ehrlich's example, is that the scheme can at times feel complicated. If a student is analysing a jury film, she may not be interested in aspects relevant to a film on the abuse of law in a dictatorship. Yet, should the student try to understand the Italian film "Open Doors" (1990, director Gianni Amelio), both dimensions come in handy as the masterpiece shows an Italian jury (technically a "mixed court" with professional and lay judges) defying fascist policy. When it comes to law in television series, students will have to slightly adopt the categories of the scheme, and now occasionally, some may find it a challenge and miss detail, as they have not yet become "independent learners", able to fill in "gaps". The next example also indicates that some of the issues encountered by Ehrlich still come up today.

Constructing an instrument for courtroom observations encounters similar issues. Only that the interaction in court can be much more complex, often disallowing to trace all the action. Things happen a) on the front stage between lawyers and judges, court clerks, witnesses and translators, possibly including representatives of the probation service or social workers and b) in the back, between lawyers, in the defendant's glass cabin ("secure dock"), between family members etc.⁷⁵

Ehrlich's research, however, has also brought us insights into life situations that are very unlike to what academics experience, and the kind of legal arrangements that govern them. Some inhabitants of the Bukovina had to eke out a living in extremely dire circumstances, as the following example shows:

"As for the shepherd, he is usually a poor member of the community who learned how to milk and make cheese, mostly in his youth as a shepherd boy. His payment consists in receiving from the owners 1 K for one sheep and 2 kg of maize flour for the annual grazing time; in addition, the residue salt from the cheese-making process is left to him for his Mamaliga (maize porridge). It is not uncommon for the

Odd Thing" – Liberalism and Law in the TV-series "The Good Wife". *Kriminologisches Journal* 45 (2013), 279-294. About the law and film module: STEFAN MACHURA, Recht im Film – Themen und Formen des Unterrichts, *Zeitschrift für Didaktik der Rechtswissenschaft* 3 (2016), 363-381.

⁷⁵ STEFAN MACHURA, German Criminal Procedure in Practice. *Cuadernos Unimetanos* 11, special issue "Derecho y Democracia", Septiembre 2007, 157-166; Stefan MACHURA, "... and my right" – The Magistrates' Courts in England and Wales, in: *Juries, Lay Judges, and Mixed Courts: A Global Perspective*, hg. von SANJA KUTNJAK IVKOVICH, SHARI S. DIAMOND, VALERIE HANS, and NANCY MARDER, Cambridge 2021, pp. 131-151.

owners to be dissatisfied with the manner of grazing and milking; then in the following year no owner will entrust his sheep to such a shepherd.”⁷⁶

Conclusion

Reading Ehrlich can still be a richly rewarding exercise. He opens a range of topics relevant for past, present and future of sociology of law. The new form of jurisprudence, advocated by Ehrlich, which concentrates on interests involved in a conflict, based on sociologically derived legal concepts, may still serve as an inspiration. Apart from marrying up social sciences and jurisprudence, his main heritage, it has often been said, is the concept of “legal pluralism”⁷⁷: the co-existence of different sets of laws. Ehrlich’s discussion covers state law and other law, and how this other “social law” interacts with the former, even may become part of legislation. The man from the Bukovina also had a keen eye on legal education including its relation to the work of lawyers, a topic which forms yet another area of today’s socio-legal studies.⁷⁸ In the 100 years since Ehrlich’s death, scholars researched many aspects of law-related behaviour and legal institutions that Ehrlich had no time discussing or that just were not part of his world.

When it comes to Ehrlich’s methods, they reflect his own peculiar research interests, as can be expected. Apart from more “ethnographic” studies, few are out to discover “laws” practiced by people in the way Ehrlich did. Yet, some of his methods are useful as inspiration for research beyond the topics Ehrlich chose for himself.

⁷⁶ EHRlich, *Das lebende Recht* (note 14), p. 59 (my translation). „K“ is the abbreviation for the currency: the österreichisch-ungarische Krone.

⁷⁷ KLAUS F. RÖHL and STEFAN MACHURA, 100 Jahre Rechtssoziologie: Eugen Ehrlichs Rechtspluralismus heute. *Juristenzeitung* 68 (2013), 1117–1128, at 1117. Or, that he is the “starting point” to look out for legal plurality in Western societies: DAVID NELKEN, Law in Action or Living Law? Back to the Beginning in Sociology of Law, *Legal Studies* 4 (1984), 157-174, at 43. Further on Ehrlich’s relation to legal pluralism: JOHN GRIFFITH, What is Legal Pluralism?, in: *Journal of Legal Pluralism* 24 (1986), pp. 1-55. RALF SEINECKE, Ehrlichbilder: Freirecht, Rechtssoziologie und Rechtspluralismus. Zum 100. Todestag von Eugen Ehrlich, in: *Zeitschrift für Europäisches Privatrecht* 30 (2022), pp. 302–336 at pp. 311-315.

⁷⁸ For an instructive study of training and (gendered) careers in German law schools: ULRIKE SCHULTZ, ANJA BÖNING, ILKA PEPPMEIER and SILKE SCHRÖDER, *De jure und de facto: Professorinnen in der Rechtswissenschaft*, Baden-Baden 2018.

- 1) When confronted with a situation in which the state law is of limited currency, or in studying people's relation to law generally, researchers can look for the emotional responses to norm breaking. Further analysis can then establish if state law offers a remedy, needs improvement etc.
- 2) Some of Ehrlich's concepts still have analytical value for the study of law in society. They further our understanding of historic and contemporary constellations.
- 3) Ehrlich's example encourages a comparative approach to socio-legal research. Be this in historic, cultural, or geographic dimension.
- 4) Systematic content analysis and observation in the field are methods that Ehrlich used. Today, this takes on additional meaning as people increasingly live in the digital and virtual sphere.

Ehrlich would have been the first to stress that the arsenal of methods is in constant development. The last sentence of Ehrlich's "Fundamental Principles" reads: "Method is as infinite as science itself".⁷⁹

⁷⁹ EHRLICH, *Fundamental Principles* (note 3), p. 506.

Appendix

Table 1: Police officers' views on case scenarios: Percentages for perceived type of offence and punishment preference

| Case Scenario | Perceived Type of Offence | | | | | | Preferred Punishment | | | | | |
|-------------------------|---------------------------|----------------|--------------------|--------------------|-----------------|------------------|----------------------|-------------------|-----------------------------|----------------------------|-----------------------------|----------------|
| | No Crime | Employment Law | Domestic Abuse Law | Modern Slavery Law | Immigration Law | Human Rights Law | No Punishment | Community Service | Prison Sentence of 6 Months | Prison Sentence of 5 Years | Prison Sentence of 14 Years | Life in Prison |
| 1. Domestic worker | 5.2 | 62.7 | 3.1 | 81.2 | 12.5 | 39.4 | 5.6 | 22.6 | 25.8 | 36.9 | 6.3 | 1.0 |
| 2. Housewife | 5.2 | 9.8 | 87.8 | 25.8 | 0 | 24.4 | 5.2 | 17.4 | 38.0 | 32.8 | 5.6 | 0 |
| 3. Sex worker | 2.1 | 13.2 | 4.2 | 94.4 | 64.1 | 50.9 | 2.1 | 0 | 3.8 | 40.8 | 43.9 | 7.7 |
| 4. Cockle pickers | 0 | 64.1 | 1.0 | 95.8 | 54.7 | 57.8 | 0 | 0 | 6.6 | 48.4 | 39.4 | 3.8 |
| 5. Cannabis farm worker | 1.4 | 34.5 | 2.8 | 94.4 | 80.5 | 52.6 | 2.1 | 0.3 | 4.2 | 39.0 | 46.0 | 7.0 |
| 6. Forced beggar | 9.4 | 5.6 | 25.8 | 70.7 | 2.1 | 37.6 | 8.4 | 9.4 | 24.4 | 34.5 | 17.4 | 1.7 |
| 7. Nail bar worker | 2.8 | 48.8 | 15.0 | 84.0 | 53.7 | 39.4 | 3.5 | 7.7 | 22.6 | 40.4 | 20.6 | 1.7 |

Note: Percentages may not add up to 100% due to rounding and missing data.

From: STEFAN MACHURA, FAY SHORT, VICTORIA MARGARET HILL, CATHERINE RHIAN SUDDABY, FION ELENA GODDARD, SOPHIE ELISABETH JONES, EMMA LOUISE LLOYD-ASTBURY, LUKE RICHARDSON UND CHERNISE ALEXANDRA ROUSE, *Recognising Modern Slavery. Journal of Human Trafficking* 5 (2019), p. 214.

Table 2: Student views on case scenarios: Percentages for perceived type of offence and punishment preference

| Case Scenario | Perceived Type of Offence | | | | | | Preferred Punishment | | | | | |
|-------------------------|---------------------------|----------------|--------------------|--------------------|-----------------|------------------|----------------------|-------------------|-----------------------------|----------------------------|-----------------------------|----------------|
| | No Crime | Employment Law | Domestic Abuse Law | Modern Slavery Law | Immigration Law | Human Rights Law | No Punishment | Community Service | Prison Sentence of 6 Months | Prison Sentence of 5 Years | Prison Sentence of 14 Years | Life in Prison |
| 1. Domestic worker | 8.9 | 69.0 | 10.2 | 46.1 | 11.7 | 57.2 | 10.2 | 30.9 | 30.1 | 21.6 | 5.9 | 0.6 |
| 2. Housewife | 10.6 | 15.8 | 69.0 | 21.7 | 1.1 | 49.6 | 12.3 | 21.6 | 30.3 | 26.4 | 6.7 | 1.1 |
| 3. Sex worker | 5.8 | 25.7 | 13.8 | 52.4 | 57.1 | 58.9 | 4.8 | 3.2 | 9.5 | 37.5 | 30.9 | 12.3 |
| 4. Cockle pickers | 1.1 | 74.0 | 4.1 | 62.5 | 54.5 | 71.4 | 1.7 | 5.4 | 14.1 | 41.1 | 27.9 | 8.6 |
| 5. Cannabis farm worker | 6.7 | 49.8 | 4.8 | 45.7 | 69.1 | 41.3 | 5.9 | 7.2 | 15.4 | 38.8 | 24.0 | 6.1 |
| 6. Forced beggar | 16.9 | 5.2 | 45.2 | 22.9 | 1.9 | 55.6 | 15.4 | 19.1 | 24.3 | 25.1 | 10.6 | 1.3 |
| 7. Nail bar worker | 11.0 | 50.4 | 13.9 | 39.2 | 43.5 | 40.7 | 12.3 | 13.2 | 25.5 | 33.1 | 11.3 | 2.0 |

NOTE: Percentages may not add up to 100% due to rounding and missing data.

From: STEFAN MACHURA, FAY SHORT, VICTORIA MARGARET HILL, CATHERINE RHIAN SUDDABY, FFION ELENA GODDARD, SOPHIE ELISABETH JONES, EMMA LOUISE LLOYD-ASTBURY, LUKE RICHARDSON und CHERNISE ALEXANDRA ROUSE, Recognising Modern Slavery. *Journal of Human Trafficking* 5 (2019), p. 210.

Table 3: Cases of modern slavery recognised by students and police officers, multivariate linear regression

| | Students | Police Officers |
|-----------------------------------|--------------|-----------------|
| Age | .03 | .13 |
| Female | .06 | .08 |
| From UK | .08 | - |
| From China | -.15* | - |
| Criminology | .03 | - |
| Law | -.04 | - |
| Business | -.10 | - |
| Education | .03 | - |
| Sources of information: | | |
| Film, TV, novels | -.01 | .16 |
| News about crime | .03 | .01 |
| Experiences of family and friends | -.04 | -.13 |
| Family, friends in police | -.04 | .01 |
| Observed police | -.10 | .01 |
| Interviewed as witness | .17* | -.07 |
| Crime victim | .08 | .16 |
| Internet sites | -.06 | .05 |
| Training, education | -.03 | .09 |
| Social media | .08 | -.06 |
| Trained in: | | |
| Modern slavery | -.03 | .11 |
| Human trafficking | -.01 | -.20 |
| Domestic abuse | .02 | .03 |
| Child abuse | .10 | .01 |
| Immigration law | .08 | .03 |
| Employment law | -.03 | -.02 |
| Victim support | -.07 | .08 |
| Human rights | -.08 | -.16 |
| Punishment preference | .44** | .40* |
| N | 471 | 212 |
| Adjusted R ² | .301 | .183 |
| P | .001 | .001 |

NOTE: * $p \leq .01$, ** $p \leq .001$. If not noted otherwise, entries are betas.

Dependent variable: index of cases recognised as modern slavery

Adapted from: STEFAN MACHURA, FAY SHORT, VICTORIA MARGARET HILL, CATHERINE RHIAN SUDDABY, FFION ELENA GODDARD, SOPHIE ELISABETH JONES, EMMA LOUISE LLOYD-ASTBURY, LUKE RICHARDSON und CHERNISE ALEXANDRA ROUSE, Recognising Modern Slavery. *Journal of Human Trafficking* 5 (2019), p. 212.