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The Fourth Act in Socio-Legal Scholarship: Playing With Law on the Sociological Stage[1]

Abstract The emerging narrative of law as a social phenomenon—as opposed to a legal phenomenon—presents pressing questions about what it means to take a sociological approach to law, why the discipline needs retelling from a sociological vantage point, and how this relatively new narrative can be told. I consider these "baseline" questions of socio-legal studies through a careful dissection of Roger Cotterrell's assertion that a sociological understanding of legal ideas "consistently and permanently addresses the need to reinterpret law *systematically* and *empirically* as a *social* phenomenon." By deconstructing Cotterrell's statement, I will explain how a sociological approach provides a vital analytical lens through which to appreciate not only how law works (succeeds or fails) in different social contexts but also how law acts as a social phenomenon. Drawing upon historical and contemporary research examples, I argue that law must be studied as if on a sociological "stage" upon which different actors perform and experience social "acts" within the "theater" of the legal discipline. I will explain why a sociological approach to law is vital for understanding how each "act"—each social phenomenon of law—plays out in the context of other phenomena, including globalization, transitional justice, and the evolution of socio-legal scholarship itself.

Keywords Globalization; Post-Conflict; Social Phenomenon; Socio-Legal Scholarship; Transitional Justice

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Prologue

A sociological understanding of law "consistently and permanently addresses the need to reinterpret law *systematically* and *empirically* as a *social* phenomenon," writes Roger Cotterrell (1998:183). One of the modern godfathers of sociology of law, Cotterrell (1997), is known for advocating a "law and community" approach to socio-legal studies to replace what he considers an outdated "law and society" approach. The above quote highlights Cotterrell's position on the significance of understanding law not only in its relationship *to* society or embeddedness *within* society, but *as* an independent phenomenon of social life. However, Cotterrell's summary observation raises questions about the need to retell the story of law, what methodologies are involved in reinterpretation, and the appropriateness of using sociology as opposed to other disciplines in formulating this new legal narrative. Amidst the growing trend in socio-legal studies to understand "law *as* society" in its various social contexts—as opposed to "law *in* society" or "law *and* society"—it is vital to ground such understandings in an awareness of purpose and approach (Frerichs 2011). In other words, how can law be studied and understood sociologically, and why is the resulting perspective desirable for academics and practitioners? Scholars of both sociology and law will benefit from taking a closer look at the necessity and method of a sociological approach to law, as Cotterrell's quote summarizes in a nutshell. With this article, I attempt to crack the shell. In doing so, I will offer insights into how law "acts" as a social phenomenon and why scholars must learn to "play" with law on the sociological stage.

Approaching law from any discipline requires an analysis of the legal text, the context in which law is created and implemented (i.e., historical, social, and political conditions), and the underlying subtext or moral meaning that steers legal decision-making (Perry-Kessaris 2012). I will utilize this framework to analyze a sociological approach to law and to show how a sociology-based perspective addresses law's role as an integral piece of "the social." First, I will dissect the terms used in Cotterrell's statement, such as "consistently" and "phenomenon," to determine their purpose as the text of the argument. Next, I will analyze the context of the statement—why and how a sociological approach is taken—to elaborate on the actual "need" of law to be reinterpreted and why such reinterpretation must be performed "systematically" and "empirically." Lastly, I will examine the statement's subtext and underlying factors that determine whether the anticipated results of a sociological approach to law are possible and, if possible, desirable.

With socio-legal scholarship increasingly concerned with the "epistemological dimension of how we perceive and perform the law," socio-legal studies are arguably outgrowing their interdisciplinary dimensions and approaching an era of trans-disciplinarity (Frerichs 2012:58). Therefore, the overarching truth or falsity of Cotterrell's statement must be tested against the success of a sociological approach in reaching an understanding of law that effectively addresses these epistemological

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concerns. This search for truth or falsity will entail a journey through classical sociology of law theories, including those of Émile Durkheim and Léon Duguit, to more contemporary ideas of Bruno Latour on the transformation of social things into legal "productions." I will examine these theoretical perspectives alongside case studies that unveil possible reasons for "unsuccessful" legal ventures, and which subsequently signify the need for scholars and practitioners to reinterpret law from new sociological angles. Case studies include the failed use of law as a revolutionary tool of social change in Soviet Central Asia, the ineffective implementation of international patent law in Djibouti, and the clash of external law and local customs in Indonesia. Additionally, I will present research from the fields of law and development and post-conflict studies to compare a sociological approach to law with other disciplinary approaches, such as politically and economically informed perspectives.

By exploring this range of theoretical and empirical research, and selectively spanning the evolution of sociology of law studies, I will present how law as a social phenomenon is constantly shifting in the context of other phenomena, such as globalization, transitional justice, and the field of socio-legal scholarship itself. Ultimately, I will place Cotterrell's statement within the larger picture of sociology of law development, and will argue that a sociological approach to law can, and indeed should, be used to better comprehend law in its sociological form. Lastly, I will contend that the field of socio-legal research, and the trans-disciplinary understandings that result, serve to inform new sociological perspectives of law rather than cause

the discipline to lose sight of its legal foundations. Law does not fade into the sociological sunset simply by being reinterpreted through a sociological approach. Rather, sociological perspectives allow law to be recognized and appreciated as a scene played out on a sociological stage, as a social phenomenon performed by actors in an increasingly globalized legal theater.

The Scene: A Socio-Legal Statement Is Made

As mentioned, any approach to law requires a look at the text, context, and subtext of the law. Therefore, a sociological approach to law is concerned with the text, context, and subtext of law in terms of concepts and relationships among society. Depending on the subject of study—whether global or local, political or economical, customs-based or doctrinal—there can be many different ranges of what constitutes "the social." By describing a sociological understanding of law as "consistently" addressing the need to reinterpret law as a social phenomenon, Cotterrell implies that the empirical, analytical, and normative methodologies of a sociological approach can be applied across a variety of facts and circumstances. A sociological approach is a way of understanding law *as* a social phenomenon regardless of what type of society is being studied.

That a sociological understanding "permanently" addresses the need for reinterpretation suggests that a sociological approach creates a foundation for studying law as a social "act," even as the society being analyzed undergoes continual change.

Robert Kagan (1995:141) has likened socio-legal scholars to "a band of near-sighted detectives, stooping to search for evidence concerning one event while a crime wave is breaking behind [their] backs." Cotterrell takes a more optimistic view that scholars can effectively (re)interpret law even as its social environments inevitably shift in the course of conducting research, and that the findings of sociological approaches to law hold value for future academic explorations.

To study law "systematically" and "empirically" means to critically review the knowledge gained by real world observations and experiments by placing all empirical conclusions into a larger design. Systematic analysis can uncover the degree to which empirical evidence reinforces or rebuts a hypothesis, or creates a new one entirely. The discipline of law is already an inherently systematic exercise as it continually strives for standardization, clarity, and control of arbitrariness in social relations. A sociological approach to law seeks systematic knowledge of these social relations by analyzing legal texts and empirical data within broader social contexts and subtexts. Such systematic reinterpretation perhaps comes naturally with the gradual evolution of sociology of law scholarship, described by Sabine Frerichs (2012) in terms of "generations" of socio-legal thinkers. Although Frerichs' (2012) argument is directed more specifically towards studies of law, society, and economy, her guideline is helpful for understanding the general development of sociology of law.

Frerichs (2012:3, 61) describes the first generation of historicists, such as Durkheim, as mainly focused

on the "embeddedness" of law in society, operating in a pre-disciplinary era in which legal theory and social theory had not yet been fully differentiated (Klein 1996:8). The second generation of realists, such as Oliver Wendell Holmes and Richard Posner, focused on the "relatedness" of law and society (Frerichs 2012:7, 61). This era of legal positivism caused the study of law to fragment from the study of society, allowing for analysis of how one affects the other as separate yet interdependent disciplines (see: Moore 1973:719). The third generation of constructivists, such as Jürgen Habermas and Niklas Luhmann, constitutes an age of inter-disciplinarity, as the theoretical boundaries and "complex intersections of the legal and the social" have been rediscovered and appreciated as ever-shifting (Frerichs 2012:61; see: Sarat 2004:6). With this "law *as* society" generation in full swing, socio-legal scholarship is subtly, but expectedly undergoing the next phase of reinterpretation—a fourth generation or fourth "act" in which law is recognized and studied not only as a social *thing* but as a social *phenomenon*.

Frerichs' general timeline of socio-legal studies is used here to shed light on Cotterrell's assertion that law must be "reinterpreted" rather than simply "interpreted." Due to preexisting conceptions of law as a purely legal phenomenon or as a discipline merely linked with sociology, reinterpretation is necessary to view law as an independently *social* phenomenon. Reinterpreting law as a "phenomenon" rather than a social tool, effect, or ideology allows law to be examined, in Durkheim's sociological positivist terms, as a social fact to be observed and measured (Durkheim 1895:71).

However, a sociological approach is not simply a return to "historicist" views, but allows law to be studied as "an aspect of, or field of experience within, the social" (Cotterrell 2011:509). Finally, to "address" the need to reinterpret law as a social phenomenon means to adequately or completely reach an understanding of law as such. This requires a tricky assessment of the "success" of a sociological approach, which must be "measured" in comparison with possible alternative disciplinary approaches to law.

After setting the scene with the text of Cotterrell's statement alongside a brief chronology of socio-legal studies, I will now dig deeper into historical contexts of the socio-legal narrative and reveal some unexpected elements that guide modern sociological approaches to law.

Act I: The Tragedy of the Antiquated Theory

The sociological retelling of law starts from an understanding of why this story must be told. To better comprehend the historical background from which Cotterrell's statement is made, we must first understand how "law and society" as a field of academic pursuit came into being and how it has subsequently become outmoded.

At the turn of the twentieth century, sociologist William Graham Sumner (1906) wrote about law as a reflection of social mores, of unconscious group ways and folkways aimed at the basic human need to obtain pleasure and avoid pain, constituting a utilitarian social judgment. Nearly a century

earlier, German jurist Friedrich Karl von Savigny similarly believed law to be an expression of the *Volksgeist* (spirit of the people) in his adamant hostility to the codification of social norms (Frerichs 2012:21). Nineteenth-century French philosophers and social thinkers, such as Auguste Comte and Durkheim, were interested in the social perspectives gained by looking at the collective will of the people to create state law. Durkheim (1895:71-72, emphasis added) believed that social facts develop and materialize "outside the consciousnesses of individuals"—just as law is formulated and preserved in legal codes—and therefore law is naturally perceived as a social fact having the "characteristic of a *thing*." But, with gradual divisions in social class (in France, at least) came an influx of legislation meant to establish law as a technique of juridical science rather than a philosophy of society. For instance, François Gény put forth that law is formulated from *donné* (existing social relationships), allowing for normative legal principles based on the "verifiable conditions of society" (Koskenniemi 2001:281, 290).

It is worth noting that these sociological perspectives of law were primarily gained amid the historical and political realities of nineteenth-century Europe, which saw European states gradually construct laws upon social relationships and social solidarity. Sociology of law scholarship gained a foothold in the United States by the mid-twentieth century with the "law and society movement," by which academics recognized that law and legal institutions should be understood within their social contexts (Friedman 1986:770). This movement reflected a commitment to seeing law as

a more complex legal phenomenon than originally thought. In essence, law was no longer regarded as the result of "discovered logic," but instead became criticized (and praised) as an "artifact of judging," a politically-infused device capable of affecting society as much as being composed of societal norms (Riles 2010:12).

Cotterrell's statement represents the ushering in of a new era in socio-legal scholarship in which law is to be appreciated as more than a function of social utility or a tool to engineer social change (Tamanaha 2006:34). By reinterpreting law in its twenty-first-century contexts, theorists are attempting to understand the discipline irrespective of its foundations in social *construit* and beyond its existence as a *legal* phenomenon embedded within social layers. In essence, reinterpretation is necessary to understand law *as* a social layer in itself and therefore to escape the tragedy of antiquated theories—namely, eventual irrelevance.

Brian Tamanaha (2006) explains how these prior theories and conceptions of law reflect the evolution of socio-legal thinking, with law at first considered a means of maintaining the status quo of a reasonable society, and later as a method of steering an imperfect society to where it ought to be. For example, in 1917, the Soviets attempted to transform traditional societies of Central Asia by dismantling tribal ideologies and creating a proletariat class of women expected to turn to the new legal order for liberation (Massell 1968:184-186). However, in failing to consider the societal reality that men held the moral and economic means to women's emancipation, the Soviet effort was a di-

sastrous attempt at social engineering. This failed experiment illustrates the fundamental error in wielding law as an instrument of social change without taking into account that legal "virtues," such as emancipation, are *social* phenomena that are not so easily manipulated. The notion that law exists as a non-legal phenomenon is essential for understanding the form that law takes in different social settings, and for more accurately predicting the social effects of law within a given society.

Understanding law as a social phenomenon also addresses past criticisms of socio-legal scholarship—mainly, its focus on factors that shape legal processes rather than actual social consequences of law. Such critiques of the socio-legal field led to the "social effects" research agenda of the 1990s (Kagan 1995:144). In a similar vein, Stuart A. Scheingold (2004) describes the ideological "myth of rights" as the fictitious assumption that litigation automatically evokes the realization of law and meaningful or effective social change. As politics of society, class, and distribution of power become more determinative of who can invoke law and who benefits from social change induced by law, sociological approaches can help to discover the link between law as social myth and law as social fact.

Modern experiments in legal transplantation also affirm the value of reinterpreting law through sociologically informed perspectives. Ramesh Thakur (2001) explains that modern societies often seek to import/export law without ensuring "a degree of congruence" between supposedly "universal" norms and the existing local customs where new laws are to be transplanted. Often aimed at

development, good governance, and the rule of law, international legal transplantation necessitates empirical research of existing cultural traditions or taboos. Franz von Benda-Beckmann (1989:137) studied Minangkabau villagers in Sumatra being asked under state law to register their rice lands despite local customs known in Indonesian-Malay culture as *adat*. His research revealed unexpected interactions between law and "the social." The Minangkabau pointed to their *adat* customs as the reason for the conflict of policies, claiming that *adat* did not allow for individual ownership of property. In reality, *adat* is flexible enough to allow for registration of collective lands had the villagers wanted to cooperate with outside authorities (von Benda-Beckmann 1989:139). When developers and lawmakers use law to engineer social development without understanding law as a social phenomenon, they may fail to recognize when a society uses norms or customs as an "easy scapegoat" to "shield themselves" behind their culture (von Benda-Beckmann 1989:130, 139). A sociological approach to law can go beyond a narrow structuralist critique of the relationship between law and a particular community, and can analyze the actual rather than the assumed (and often flawed) social subtexts that affect legal cooperation or resistance.

Reinterpreting law sociologically can also lead to a better understanding of different hierarchies of legal order and how different societies create or reduce conflict through informal law. For example, informal institutions of justice, such as neighborhood dispute resolution centers or tribal courts, attempt to neutralize undesirable behavior before it reaches the level of criminal action under formal legal structures (assuming such structures have been established) (Abel 1982:289, 305). However, "informal" resolution processes can disproportionately coax certain groups or individuals into adhering to social norms to avoid facing the harsher penalties of "real"—and more "formal"—law (Abel 1982:272). Because informal justice structures often do not have the force of law and are not held to the same judicial standards as formal law (i.e., right to a fair trial, right to counsel), any perceived unfairness in the process can weave its way back into the social fabric, causing more tension or resentment than the process was meant to reduce. As a result, informal justice mechanisms that try to repair or mitigate social problems in the *absence* of law may lead to unexpected social conflicts resulting precisely from the lack of law. This "backfiring" exemplifies how law exists as a social phenomenon and how this phenomenon affects the way that individuals perceive justice, restitution, and the treatment of social conflict.

Cotterrell is certainly not the first scholar to study law from a sociological vantage point. Max Weber's theory of sociology as a means to study social action was famously taken a step further by Eugen Ehrlich, who asserted that law could be properly understood through an understanding of "living law" (Ehrlich 1936). However, law must be continually and consistently reinterpreted as a social construct because "the social" is always changing in the context of other phenomena. For example, the phenomenon of globalization generates a vital need to understand law in the context of relationships between states, societies, and international legal institutions (Nelken 2001:351).

In the debate between international law and international relations schools of thought, liberalists use transnational perspectives to analyze why the behavior of states is increasingly "social rather than systematic" (Slaughter Burley 1993:207, 227). Martti Koskenniemi (2001:268, 306) describes this shift of traditional notions of sovereignty being replaced by the solidarity of human relations as "the great social phenomenon of today." With the growth of individual rights in international law comes the need to study law beyond its previously understood contexts as a reflection of society and as an instrument of social change, both of which merely viewed the function of law differently yet maintained the nature of the phenomenon as legal. In contrast, international law arguably "neither emerged from, nor reflected State interests," but grew from states seeking to realize the best interests of their respective societies through global rules of cooperation (with concerns of international reputation inevitably at play) (Koskenneimi 2001:283; see: Koh 1997:2636). Yet the plurality of law and globalization refers not only to different national legal systems cooperating or competing on the global stage but also to the fragmentation or cohesion of various social communities that create and experience international law. Approaching international law sociologically addresses the need to understand "dimensions of power, meaning, and social relationships" that constitute global legal pluralism (Merry 2007:151-152).

Yehezkel Dror (1959:794) explains the lag that occurs when a substantial shift takes place in either society or law without a corresponding adjustment occurring in the other. Arguably, the emergence of law as a social phenomenon is not substantively new, but simply the new realization of an existing phenomenon. Regardless, reinterpreting law sociologically is critical to alleviate any lag or tension between law as a social phenomenon and existing interpretations of law as a legal phenomenon, social expression, jurisprudential science, or political instrument.

Act II: A Comedy of Systematic and Empirical Errors

Up to this point, I have presented a broad sketch of what a sociological approach to law is and why this approach might be a good idea considering the historical beginnings of socio-legal scholarship and modern contexts of cultural "scape-goating," informal dispute resolution "backfiring," and the globalization of individual rights. But, how is a sociological approach taken and the necessary reinterpretation of law achieved? Cotterrell (1998:187) describes a sociological approach as inherently focused on "the social, the systematic, and the empirical" all at once. However, he emphasizes that this reinterpretation must be performed empirically and systematically, which necessarily entails a bit of sociological trial and error.

Empirical research is fairly straightforward as the collection of quantitative and qualitative real world data supported by secondary sources. A strictly empirical approach to law is useful for evaluating limited aspects of social organization. However, a purely "positivist treatment of social norms" mistakenly assumes that social solidarity is rational-based and automatically promotes

obedience (Elliot 1922:642). To elaborate, at the turn of the twentieth century, Duguit (1921:129) aimed to study law as an empirical social science, agreeing with the likes of Jean Jacques Rousseau that social consciousness results from the "tacit assent which all the members of a group give to common life." Duguit (1921:131) claimed that juridical norms emerge from objective facts about socially necessary behavior, resulting in "objective law." At the time, some scholars regarded Duguit's pragmatic theory of law to be ideological and overly scientific, stating that "objective law" relied too heavily on assumptions that individuals feel a sense of obligation (*devoir*) to follow social rules (Elliot 1922:640-641). Following such criticisms, law as a strictly empirical social science is revealed as an overly narrow approach that does not successfully escape the metaphysical aspects of the discipline. Essentially, there are many factors that do not have an apparent or direct relationship to law that, nevertheless, influence law in terms of its existence as a social phenomenon. This is where systematic analysis is crucial to a sociological understanding of law.

Empirical findings about law must be pieced into broader societal patterns by placing legal data, social facts, and other aspects of "the social" onto one "analytical page" (Perry-Kessaris 2013:90). In *The Making of Law: An Ethnography of the Conseil d'Etat*, Latour (2009:75-76) describes how law is assembled by "putting pieces of empirical evidence into a legal format." Police reports, witness statements, and certified copies—each supported by the appearance of legal truth despite having no legal nature—are melded together to support legal claims

or "productions" (Latour 2009:75-76). A sociological approach to law similarly weaves together social and legal "truths" to create the following socio-legal "production": an understanding of law as a social phenomenon occurring within the larger discipline of law. One such example can be seen with post-conflict societies, which experience different actors struggling to "operate within a social context of shared subjective understandings and norms" to determine the most appropriate structures for legal accountability and social reconciliation (Abbott 1999:367). The transition process of an "atrocities regime" constitutes a social phenomenon occurring within the larger structure of law (Abbott 1999:379). For example, Kenneth Abbott (1999:375) finds that some genocide convictions in the International Criminal Tribunal for Rwanda fed back into society "to reshape how individuals view governance, the duties of states and citizens, even the meaning of statehood and citizenship." Transitional justice in post-conflict societies demonstrates how law appears within local social networks and practices while simultaneously operating within "larger social structures and forces that shape those practices and networks" (Cotterrell 2011:508).

Empirical and systematic methodologies are not without their limitations. For one, law as a social phenomenon may require a more abstract evaluation of symbolical meanings that are difficult to observe or measure through empirical and systematic analysis. For a sociological approach to consistently "construct, compose, and interpret social relations," empirical and systematic research must constantly strive for analytical creativity (Silbey

2010:474-475). To this end, a systematic method of analysis known as Actor-Network Theory (ANT) has proven helpful in exploring social phenomena within law. ANT is not really a theory, but rather an ethnographic and ontological approach that maps social interactions by virtue of their material-semiotic connections with other actors, objects, and networks (Cloatre 2008:264). Such mapping used in socio-legal studies can uncover the absence of socio-legal objects (those actors or objects anticipated to cause a desired result) and the presence of non-legal networks that may produce the desired result instead. In other words, ANT is a way of detecting legal "emptiness" in a social network and discovering the other possible factors and associations that unexpectedly generate a social effect meant to be achieved by law.

Emilie Cloatre's (2008:271-272) study of pharmaceutical drugs and international patent law utilizes ANT to discover how ethnic tensions and communication gaps in government sectors in Djibouti account for the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)—the socio-legal object—not being implemented properly in the country. Cloatre's (2008) interviews with non-legal actors, such as doctors, pharmacists, and health organizations, ultimately expose socio-historical explanations for why one desired result of international patent law (to prevent the sale of generic pharmaceuticals) has been achieved despite ineffective implementation of the treaty. Through an ANT approach, Cloatre (2013:105) finds that generic prescriptions are rarely sold in Djibouti due to post-colonial relationships between French doctors and pharmaceutical companies, on the one hand,

and Djiboutian private pharmacists and importers, on the other. Here, ANT helps to unveil how the market in Djibouti has been ordered by practice and habit towards branded drugs that are known to be reliable and effective, as opposed to a pharmaceutical market ordered by specific international law or government policy (Cloatre 2013:99). Cloatre's study demonstrates how creative systematic analysis can detect unanticipated social networks that may substitute for faulty or disregarded law. This empirically and systematically-generated glimpse of different actors and networks bringing about legally desired behavior in a society—even in the *absence* of law—affirms that law exists as an undeniably *social* phenomenon.

Act III: Drama and Improvisation in Measuring Sociological "Success"

After covering the text, context, and subtext of a sociological approach to law (the what, why, and how), it is important to consider whether this approach adequately "addresses" the need for reinterpretation, as Cotterrell contends. But, how can such "success" be measured? Nineteenth-century sociologist Harriet Martineau emphasized the importance of guiding sociological research to appropriate ends. In her emancipatory efforts towards slavery and feminism, Martineau applied Jeremy Bentham's principle of "the greatest happiness of the greatest number" (Cleary and Hughes 2013). So perhaps the success of a sociological approach to law should be measured in terms of its tangible benefits to a significant portion of society. But, what constitutes the relevant "society" benefited—academia generally, the legal or sociology

communities, the society studied, or perhaps a particular group within "the social"?

Alternatively, in David Nelken's (2001:355-361) discussion of transnational legal transfers, the first step in determining the success of a transfer is to look at "*the types of law* it is intended to transplant." Likewise, a study aiming to reinterpret law must first acknowledge the original interpretation meant to be replaced. As described above, and as Susan Silbey (2010:471) summarizes, law is generally studied as a legal phenomenon or as a social construct, meaning "a system [or] product of social forces." Therefore, success of a sociological approach can be measured against innovative understandings of law as neither a legal phenomenon nor a social construct, but as a phenomenon of society. Even Weber's use of social "ideal-types" to gauge the rationale behind social adherence to law was only meant to study "social action encompassed *within*" legal phenomena (Cotterrell 1992:150, emphasis added). In a subtle but important contrast, a modern sociological approach attempts to study legal concepts existing *as* social phenomena.

However, successes and shortcomings of a sociological approach may turn on the perspective of different judges, whether lawyers or sociologists, or any group able "to impose its interpretation of the outcome…and to tell a convincing story of what has occurred" (Nelken 2001:363). If reinterpretation can be so easily disregarded by scholars, it may be difficult for a sociological approach to bring law any closer to a settled methodology that the discipline arguably lacks. Therefore, assessing "success" in the reinterpretation of law must ques-

tion the adoption of sociology over other disciplinary approaches, such as political, economical, philosophical, or historical-based perspectives.

Returning to post-conflict societies, a political sociological approach that employs international relations theory is often used to study the interaction between international law and local communities following human rights atrocities. Transitional justice in such protracted and post-conflict societies is carried out in a variety of social and legal (and often politically-influenced) forums, including international criminal tribunals, domestic courts, local councils, truth and reconciliation commissions, and tribal forgiveness ceremonies (see: McKnight 2015). Political understandings of law as a social phenomenon can help to examine how domestic and international "attitudes of revulsion" towards human rights atrocities trigger political-socio-legal processes of accountability, reconciliation, and reconstruction—or fail to trigger such processes, as the case may be (Abbott 1999:362, 372). As Chandra Lekha Sriram (2006:477) suggests, "[s]cholarship examining transnational legal processes or transnational judicial dialogue can offer a fresh perspective, given that so many atrocities are not only internal but transnational, while many processes of accountability are purely domestic or international." Just as a sociological approach to law is not solely based on sociology alone, a political sociological approach does not claim to be a purely legal method. Nevertheless, such interdisciplinary approaches can enhance an understanding of post-conflict justice networks by situating legal institutions and processes of accountability within their politicized contexts.

Another possible lens through which to reinterpret law is an economic sociological approach, which strives for understandings of both the "legal" and the "economic" as social phenomena "occurring on all interconnected levels of social life" (Perry-Kessaris 2013:69). Amanda Perry-Kessaris (2013) uses an economic sociological approach to shed new light on the increasingly rationale-focused field of law and development. Looking at wind farm development in Cyprus, Perry-Kessaris (2013:77) discovers that in the process of "solving" carbon emissions problems in the country, unexpected societal conflicts have arisen based on human emotions of animosity and apathy towards development. By placing different levels of Cypriot social life (i.e., the perspectives of developers, civil society actors, and international and local policymakers) on the same analytical page, Perry-Kessaris (2013:80, 90) finds that wind farm development is motivated by the economic rationalism of developers more than the environmental policy participation of Cypriot civil society. Here, a mixed econo-socio-legal approach successfully measures the seemingly un-measurable chaos occurring at the intersection of law, development, and human emotion.

In situations where certain intangible factors may be better left uncalculated or unmeasured, a sociological approach possesses some advantages over more quantitative or "scientific" methods. This is due to a unique characteristic of social science that attempts to understand social actions "as *meaningful* to those engaged in it" (Cotterrell 1992:12). Weber highlighted such subjective actor behavior (*verstehende*) as a critical element in

comprehending any social phenomena beyond the measure of "observable regularities" (Cotterrell 1992:12). Applying this micro-sociology approach to law, concepts that seem purely legal can be viewed in their truly sociological contexts. In the reoccurring example of transitional societies, a sociological approach can analyze post-conflict legal concepts in terms of those engaged in a justice process. The resulting understandings reveal the existence of transitional justice as a social phenomenon revolving around all types of players on the sociological stage: victims and perpetrators of human rights abuse, lawyers, judges, tribal leaders, external influences, and all other post-conflict actors (including objects and networks). These actors are ultimately involved in creating and, at the same time, experiencing a social phenomenon of law (see: Waldorf 2006:4 on "categories" of individuals involved in Rwanda's post-genocide mass justice process). A sociological approach not only informs the interplay between social action and social engagement, it also acts as a testing ground to experiment with how different research methods can aid sociological understandings of law. For instance, Cloatre's (2008:266, 278) study of pharmaceutical patents results not only in conclusions about patent law implementation in Djibouti but also better understandings of how ANT is best utilized in socio-legal research. This constant innovation of research methods to accompany modern approaches to law is reminiscent of the "cultural turn" of 1980s socio-legal scholarship, whereby revamped theories of legality—focusing on legal cultures rather than "law-first" analyses—were linked to a rise in social structures of law (Silbey 2010:473).

The appropriateness and applicability of a sociological approach today may be overshadowed by a different approach in the future, as the sources uniting law and social phenomena evolve from partially or semi-social to some other basis. These future changes may challenge Cotterrell's claim that a sociological approach "permanently" addresses law's reinterpretation. For now, a sociological approach should be appreciated as an effective and valuable means of exploring social engagements with the law, experimenting with sociological methods of research, and ultimately, restaging the narrative of law through a part-dramatic, part-improvisational design. And although a sociological approach to law has been criticized for its supposed reliance on beliefs rather than facts of social consensus (see: Silbey 1991:812), the aim of Cotterrell's (1998:189) sociological approach is not to produce a theory about the ideology of law but simply to "inform and interpret legal ideas" through new perspectives. Therefore, a sociological approach should not be expected to replace law with social science or create a new academic discipline stemming directly from sociology. Social anthropologist von Benda-Beckmann (1989:142) also cautions that "[a]ny attempt to fuse legal science and social science can only work to the detriment of both." Clarification of what a sociological approach is *not* brings us back to the overarching inquiry: What *is* a sociological approach to law, if not a separate social science nor a sub-discipline of sociology?

After cracking the shell surrounding Cotterrell's statement and exploring ways to approach (to "play" with) law on the sociological stage, we find that a sociological approach exemplifies the use of social science as "an analytical *device*…as a way of seeing familiar things in a new way" (Said 1978:259, emphasis added). Despite this discovery, the main challenge of a sociological approach is found in the risk of changing the nature of the object studied. In other words, approaching law as a social phenomenon can easily become the study of law as a *legal* phenomenon. As Nelken (2001:353) describes with the process of applying "universal" international law upon local societies, there is a possibility that law in its original form "cannot survive the journey" of transplantation. Similarly, in discovering new meanings and social realities of law, there is a concern that the discipline will not survive the journey of reinterpretation. Law may disappear "like a mirage…because as sociology interprets law, law is *reduced to sociological terms*" (Cotterrell 1998:175). In order to provide the discipline of law with new sociological reinterpretations, it is important that the phenomenon being studied maintains its nature as *social*.

For example, access to justice issues falls within the discipline of law, while the individualized values, perceptions, and experiences of social events affecting access to justice constitute social phenomena (Felstiner, Abel, and Sarat 1980/1981:634-637). This transformational process of social events becoming legal events is similar to what Latour (2009:80) describes with non-legal files *becoming* legal and giving rise to "legal effects." In this way, social events or social objects relating to law transform as they are processed, yet the transformation remains a social phenomenon, while the discipline to which the phenomenon relates remains legal. Sociological approaches to law similarly maintain their place under the umbrella of the legal discipline, while continuing to explore new sociological footholds below. Therefore, law does not fade in the midst of sociological reinterpretation. Furthermore, there is no real need for concepts of transition and transformation to become completely dreaded events in interdisciplinary or multidisciplinary research, as these very notions often provide the undercurrent that stimulates academic growth and development. Indeed, the field of socio-legal scholarship is a gradually evolving social phenomenon in itself, and one that is heading towards (perhaps already undergoing) an era of transdisciplinarity.

Epilogue: A Fourth Act Emerges

Throughout this article, I have provided examples of each stage of the socio-legal lifespan—from the birth of sociological (and Europeanized) theories on social solidarity, to law as a political strategy for women's "liberation" in Soviet Central Asia, to law revealed as a social phenomenon in the intersection of state law and local customs in Indonesia. These examples highlight previous chapters in the story of socio-legal scholarship in order to emphasize why future chapters must be reinterpreted rather than simply interpreted, and from where this retelling begins.

The continued evolution of socio-legal studies experiences its fair share of skepticism, as seen with criticisms of law's (in)ability to remain an autonomous discipline. I have described how law is, at times, regarded as susceptible to influence by other disciplines, sociology included. However, this is more likely the result of academic "colonization" by one discipline wishing to "expand their empires" rather than a genuine flaw in transdisciplinary research (Balkin 1996:960; see: Posner 1987). The true significance of sociological approaches and sociological understandings of law—as well as an appreciation of these understandings as transdisciplinary—may involve a little imagination.

Cotterrell (1992:6, emphasis added) explains American sociologist C. Wright Mill's concept of the "sociological imagination" in terms markedly similar to those Cotterrell uses to describe the purposes and methods of a sociological approach: "[s]uch an imagination *constantly* seeks to *interpret* detailed knowledge of law in a wider *social* context…and tries always to *approach* these matters *systematically* with a constant sensitivity to the *need* for specific *empirical* data."

Like a sociological imagination, a sociological approach does not attempt to reveal what law cannot. Rather, the value of "playing" with law on the sociological stage lies in the discovery of law's existence as a phenomenon of other disciplines without wholly becoming a product of those disciplines.

I have argued that such transdisciplinary understandings of law are particularly important in the context of modern globalization and global legal pluralism. This transnational phenomenon presents situations where culturally driven decisions are masked with law (seen with Minangkabau customs concealing societal discontent), and where legal development attempts to directly remedy societal problems (seen with wind farms "saving" Cyprus from environmental catastrophe). In such cases,

understanding the more subtle subtexts and non-legal factors affecting the use of law can lead practitioners to realize not only how law *works* (succeeds or fails) in a society but also how law *acts* within a broader social scheme. These perspectives must be gained through a balance of empirical study and systematic analysis so that all pieces of the socio-legal puzzle can be viewed simultaneously on the same stage. In this way, subjects of legal research, such as post-conflict transition, can be analyzed in terms of complex social phenomena that exist within larger legal concepts of justice. Furthermore, socio-legal researchers must continue to experiment with creative methods of systematic analysis, such as ANT, to add a valuable dose of ethnographic or mixed-method evaluation to what may otherwise be viewed as a primarily theoretical approach to law.

As we crack the shell surrounding Cotterrell's strategy for sociological approaches and understandings, we discover that the study of law is not a how-to manual revealing a linear cause-and-effect of the discipline (as previous generations of classical so-ciology thinkers and law "and" society scholars suggested). Neither is law purely an aspect of social life that can be understood in "third generation" terms of inter-disciplinary constructivism, without further insight into how law transcends disciplines when recognized as part of the act on the sociological stage. By finding truth in Cotterrell's words, the storyline of law reads more like a theatrical play with different actors engaged in what is ultimately a social performance—a *social phenomenon*—of law. Therefore, reinterpreting law from a sociological approach is essential for recognizing law as a social (and globalized) phenomenon, for understanding such phenomena from new analytical perspectives, and for keeping up with the evolution of socio-legal scholarship as a transdisciplinary "fourth act" emerges.

Acknowledgments

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