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Interdisciplinary Methodologies in International Law Scholarship: A Lawyer's Journey from the Social to the Life Sciences

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Abstract

This piece explores the engagement of an international lawyer with interdisciplinary methodologies for the study of environmental sustainability and emerging biotechnologies. Using an autoethnographic approach, I discuss key characteristics of the legal discipline, including the link between training and practice, the focus on doctrinal approaches, and the approach on methods and methodology, juxtaposing the latter with perspectives from social scientists. I address the need to challenge basic concepts and question biases and limitations of Western legal scholarship. I explore the usefulness of qualitative methods of social sciences for international law research, and share tools for normative work involving life sciences. Highlighting the need to build interdisciplinary competencies to address complex law and governance questions, I call for rethinking disciplinary boundaries and forming communities of knowledge and practice.

Keywords: International Law – Intergovernmental Negotiations – Qualitative Methods – Interdisciplinary Methodologies – Autoethnography.

1. Introduction

This piece reflects the thoughts of an international lawyer engaging with interdisciplinary methodologies for the study of environmental sustainability and

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emerging biotechnologies. Having decided that a doctrinal (or formalist) approach to the study of international law[1] does not satisfy my research curiosities, I engaged with critical approaches and social science methods. Importantly, I received funding to do so, a necessary precondition for precarious scholars.

My aim is not to theorize about methods of international legal research. To paraphrase Eliav Lieblich, whose two brilliant blogposts[2] assisted me to put my thoughts in order, my aim is rather to share ways to think about methods, starting from the challenges I encountered and the realizations that helped me solve them and go on. I use an autoethnographic approach, providing an account of the events that made me think about methods, accompanied by the ways I approached them and the literature I used to assess my personal insights. Autoethnography is an emerging qualitative research method that allows the author to write in a personalized style, reflecting on lived experience to understand a social phenomenon or practice[3]. Autoethnography thus embraces subjectivity and uses personal experience as a «legitimate and potentially important source of insight»[4]. It remains uncommon in legal scholarship and international studies, where most approaches discourage personal involvement by the researcher[5].

I start with some reflections on what makes «us lawyers» so reluctant to engage explicitly with methodological questions. Admittedly, I use some generalizations to emphasize my experience and potential trends, although I recognize that reality is – fortunately – much more varied than that. I discuss some key characteristics of the legal discipline, including the link between training and practice and the focus on doctrinal approaches. I address our approach to methods and methodology, explore perspectives from social scientists and highlight terminological questions. I focus on the need to challenge basic legal concepts and question biases and limitations of Western legal scholarship, including through critical and decolonial approaches. I then discuss the potential usefulness of qualitative methods of social sciences for international law research. I share practical tools for normative work involving life sciences, underlining the cognitive and other difficulties of researching areas which do not fall squarely within accepted disciplinary boundaries. Highlighting the need to build interdisciplinary competencies and collaborations to address complex law and governance questions, I call for rethinking those disciplinary boundaries and forming communities of knowledge and practice.

[1] See Massoud 2021 on the three canons of international law and interdisciplinary approaches.
[2] Lieblich 2022a; 2022b.
[3] Wall 2006; Ellis, Adams, Bochner 2011; Adams *et al.* 2017.
[4] Brigg, Bleiker 2010: 779.
[5] Exceptions include Brigg, Bleiker 2010; Löwenheim 2010; Rábago Dorbecker 2020; Gregersen 2022.

2. Studying Law and Learning What Law Is

I first studied law in the 90s in Thessaloniki, Greece, learning from the most reputable jurists in the country[6]. The curriculum was heavy on traditional subjects including civil, criminal and public law and procedure, and the approach was strictly doctrinal. We were expected to practice law, thus know the letter and application of the law to best advise our (private and paying) clients. International law courses were few and largely focusing on law of the sea. The few of us that were going that direction were expected to protect the fatherland's interests against potentially hostile neighboring states. There was no course on research methods or academic writing, although we had to write papers for some courses. The rule of thumb was: pick a topic you find interesting; find out the relevant law and jurisprudence; read any literature you can find about it; and then write what you think. A course on legal methodology and philosophy of law was unfortunately scheduled for the first year of studies. The lectures on positivism, legal reasoning and criteria of legal interpretation were interesting but intimidating and exotic, having no evident link to the other courses yet[7].

This account is indicative of three characteristics that shape the legal discipline and deeply influence how most of us lawyers view and understand the world, whether we are aware of it or not. The first one is the inextricable link between legal training and legal practice. Being able to identify the law, apply it to specific facts and predict what a court of law would decide is what we were trained to do and is still considered the cornerstone of legal research. Such doctrinal or black-letter law research is certainly the basis of sound legal practice: clients seek our professional advice built on our knowledge of the law, competent authorities, possibilities and procedures, and our ability to locate such information. They do not seek to understand *why* the law is as it is or *how* the law *should be*. Academic legal research tends to follow the same pattern, with the doctrinal approach remaining the main methodological tradition[8]. This involves desk-based research to find out *what the law is* through primary and secondary sources such as legislation, case law and doctrine[9]. Importantly, good doctrinal research requires a synthetic and analytic effort beyond a mere description of the applicable legislation. To my understanding, it requires identifying and locating primary and secondary sources[10], assessing legislation against constitutional provisions, applicable international law and general principles of law, deriving principles and values, synthesizing law and case law into a coherent framework,

[6] This description refers to 30 years ago. Things may have changed since then.
[7] In addition, we were 18 years' old. Understandably we had other life priorities than engage in a critique of Kelsen's *Pure Theory of Law*.
[8] McConville, Chui 2017.
[9] Van Gestel, *et al.* 2012.
[10] Ratner, Slaughter 1999.

as well as potentially proposing new meanings to the sources of law through interpretation and legal argumentation[11]. Still, often doctrinal research is not accompanied by supporting evidence of the claims made about the state of legal doctrine, which complicates the assessment of those claims' validity[12]. This lack of acknowledgement of the methods used is discussed under the second characteristic below. In addition, as put forward in the 1970s by critical legal studies scholars[13], doctrinal research does not question the application and effects of the law and fails to see and showcase the law's internal contradictions, the interlinkages between law and politics, and importantly, that the law tends to serve the interests of the élite rather than promote justice for the poor and subaltern[14]. As addressed below, non-doctrinal or socio-legal approaches have emerged since, together with theoretical frameworks such as feminist legal studies, decolonial approaches, or law and political economy, and law schools started encouraging the interdisciplinary study of law in their postgraduate programs[15].

The tradition of doctrinal legal research is linked to the second characteristic of our discipline: the deeply-held belief that law is a universe on its own, an «internal self-sustaining set of principles»[16], a «science» insulated from other sciences[17]. This has important implications. Most of us lawyers (at least those of us with a Western legal training) have been nurtured with the positivist view that law is rational and morally neutral. It may be tough, or even in cases unfair, but it is abstract and applies equally to all. Furthermore, legal scholarship rarely engages explicitly with methods and methodological questions as understood by the social sciences. We do have our way of researching things, as described above, but we see it as so self-evident that there is no need to talk or write about it. In fact, a recent tweet by Itamar Mann largely confirms that what I was doing instinctively back in law school still stands for at least part of legal scholarship:

> Methodology for legal scholars, summarized: (1) Pick a topic you find interesting, curious, or enraging. (2) Read everything you can about it, including legal materials. (3) Write what you think about the topic now that you've read; what's wrong with what people write? Lots can be done beyond this drawing on lots of different disciplines, but this is the baseline. Don't let them tell you otherwise[18].

[11] McConville, Chui 2017; van Gestel, *et al.* 2012; Bhat 2020.
[12] Baude, *et al.* 2023.
[13] Building on the American legal realist movement of the 1930s.
[14] Schlag 2010.
[15] McConville, Chui 2017.
[16] *Ibidem*: 11.
[17] Lieblich 2022a.
[18] Mann 2022, available at https://twitter.com/itamann/status/1581881491432566784.

Finally, we tend to be arrogant regarding our sources and our knowledge, and quite content in our desk-based research. Conduct interviews? There is no need, we can certainly find anything we need to know by reading the relevant literature.

Needless to say, we were not taught social science methods in law school. This brings me to the third and final characteristic of our discipline, a characteristic which complicates conversation with social scientists: *What we lawyers talk about when we talk about methodology*[19]. As I hinted above, «methodology» in law has different meanings. It can refer to legal reasoning (of a court decision for example), type of legal research (doctrinal versus socio-legal), or theoretical approach pointing to a specific school of thought (such as positivism or critical legal studies). In addition, it is often conflated with legal theory or philosophy of law[20]. The fact that us lawyers usually *do not talk* about methodology, the same way we do not talk about our research methods, complicates things even further, as these different meanings are not articulated but implied. In addition, unless we specifically work on legal theory[21], many of us often refuse to openly admit that we theorize. This may be out of fear that we appear detached from legal practice[22] or that we are accused of «taking a stance» and not being neutral and objective as lawyers are expected to be, thus losing the respect of colleagues or career opportunities.

On the other hand, from my experience social scientists *love* to talk about methods and methodologies and consider them an integral part of any research endeavor. This observation is confirmed by the existence of several academic journals dedicated to research *on methods*[23] rather than on *substantive areas*. Much of this endeavor is based on what Jonathan Grix sees as the «core concepts of social science» or the «building blocks of research»: ontology, epistemology, methodology, methods, and sources, as well as their interrelationship[24]. Grix sees the research outcome as the logical relationship between a series of questions responding to these concepts: what is out there to know? (ontology); what and how can we know about it? (epistemology); how can we go about acquiring that knowledge? (methodology); which precise procedures can we use to acquire it? (methods); and which data can we collect? (sources)[25].

[19] A nod to Haruki Murakami's 2007 book *What I Talk About When I Talk About Running*.
[20] Van Gestel, *et al.* 2012; Cryer, *et al.* 2011: 5. This is confirmed by the list of contents of Deplano, Tsagourias 2021, which addresses methods, methodologies and theories.
[21] Duncan Kennedy for instance did describe «four steps to follow as one gets ready to do some critical theory within law», which unfortunately is too long a text for me to reproduce here. See Kennedy 2001: 1189.
[22] Van Gestel, *et al.* 2012.
[23] See for instance *Qualitative Research*, *International Journal of Qualitative Methods*, *Qualitative Inquiry*, and *International Journal of Quantitative and Qualitative Research Methods*.
[24] Grix 2002.
[25] *Ibidem*: 180.

While I am not certain that this directional approach as such could apply to legal research, Grix makes a convincing point. He highlights the need to clarify the tools and terminology of social sciences used across disciplines, as «academics argue past each other, using identical terms but attaching different meanings to them»[26]. This certainly applies to lawyers. In addition, the increasingly transnational character of law, the emergence of new actors as de facto law-makers and the development of new relationships traversing the limits between public and private challenge our traditional lenses. Engaging in constructive dialogue with other disciplines, including social sciences and political economy, is needed as a matter of urgency, and having a common language is a prerequisite for such a dialogue.

3. Unlearning What I Knew About Law

During my post-graduate studies, I became aware of the limitations of the doctrinal and positivist approach of my overall training. Courses on international environmental law opened a series of questions about sources and hierarchies of law, implementation and compliance, justiciability, and the difference between treaty law and soft-law, difficult to tackle with my analytical tools at the time. Importantly, many of the research questions lacked a crucial component: evidence of hard law. At the same time, an introduction to «law in context» gave an additional dimension to legal studies: law as part of society rather than as a world on its own, with legal norms and institutions conditioned by culture and social organization[27]. Law may be a solution to social problems, but there can be other solutions, political or social; importantly, law can also be part of the problem[28].

In the years that followed, first as a practitioner and writer for the «Earth Negotiations Bulletin» and then as a researcher of international environmental law and policy, I often acknowledged the limitations of my legal training and increasingly appreciated the view that law is part of society. In addition, nowhere is international law-making more intertwined with politics as in intergovernmental negotiations. Witnessing first-hand how international treaties are negotiated and agreed upon resulted in further disillusionment about the neutrality of law and its role in pursuing justice, and revealed its relationship with power. Participant's observation and analysis of intergovernmental negotiations also resulted in me questioning my own biases and disciplinary boundaries. This was accompanied by readings of critical legal scholarship contesting the international legal order. Marxist and decolonial approaches and Third

[26] *Ibidem*: 175.
[27] Selznick 2003.
[28] McConville, Chui 2017: 11.

World Approaches to International Law (TWAIL) revealed the discipline's links with historical and material conditions of injustice, colonialism, maintenance of the status quo, imperialism, racism, global capitalism and gender oppression[29].

Unlearning some of the basic principles I was taught was a slow process (and is still ongoing). By now I consider it a necessary part of growing and improving, similar to how a physicist needs to relearn physics away from the Newtonian model taught at school, in order to understand how Schrödinger's cat can be simultaneously dead and alive[30]. It is striking however how blind our training makes many of us lawyers at first, how difficult it is to question some of the basic foundations of Western legal science, and how «natural» some legal concepts sound to us when they make no sense to non-lawyers. Take for instance corporate rights. The idea that a legal person is an entity separate from the individuals (or physical persons) that form it is very familiar to us lawyers but odd to others. At the same time, many Western lawyers find extremely odd the emerging concept of rights of nature[31]: «A river with rights? How is it even possible?», a colleague asked me some time ago. That same concept is nothing new to Indigenous Peoples and other traditional communities around the world and has always been part of their worldviews and customary laws[32].

The need to make the familiar unfamiliar and vice versa cuts across legal scholarship. Our biases and limitations on the topic of human rights for instance tend to be clear to all but us. We often fail to see how human rights language and institutions perpetuate violence in developing world societies exactly because they are rooted in Western legal traditions. The structural biases of the law however are clear to those that bear the consequences of the injustice, as well as to many non-lawyers more generally, sometimes making our teaching and writing unbearably naïve. Take for instance the right of access to information. The interlinkages between law and power, knowledge, capability and legal empowerment were clear to Douglas Adams, when he wrote his seminal sci-fi book *The Hitchhiker's Guide to the Galaxy*[33]:

> There's no point in acting surprised about it. All the planning charts and demolition orders have been on display at your local planning department in Alpha Centauri for 50 of your Earth years, so you've had plenty of time to lodge any formal complaint and it's far too late to start making a fuss about it now […]. What do you mean you've never been to Alpha Centauri? Oh, for heaven's sake, mankind, it's only four light years away, you know. I'm sorry,

[29] To mention some basic texts, see: Anghie 2006; Mutua, Anghie 2000; Chimni 2007; Rajagopal 2003; Tzouvala 2020.
[30] My thanks go to Mike Muzurakis for drawing this parallel.
[31] See Borràs 2016.
[32] Tănăsescu 2020.
[33] See Sajeva (2023) in this monographic section of Ragion Pratica.

> but if you can't be bothered to take an interest in local affairs, that's your own lookout. Energize the demolition beams.

TWAIL scholars go beyond formal recognition of equality and rights for all, claiming to «take equality of Third World peoples seriously» as a key analytic technique[34]. This means going far beyond the letter of the law to explore not only its application in real-world contexts but also the sovereign and other hierarchies and power structures behind it. It results in the identification and rejection of international norms that operate like Anatole France's law that «equally» prohibits the rich and poor from sleeping under bridges[35]. Going further, Ntina Tzouvala advances the understanding of the relationship between capitalism, imperialism and international law. She addresses the concept of civilization as a pattern of legal argumentation, used by international lawyers, institutions and policy-makers to create hierarchies, continue with new forms of dependency and exploitation of Third World peoples, and perpetuate the neocolonial enterprise[36]. Linda Tuhiwai Smith highlights specifically the role of Western research practices in perpetuating the alienation and humiliation of Indigenous Peoples caused by colonialism and imperialism, and the destruction of their cultures and languages[37].

When it comes to theory-building, continued observation of intergovernmental negotiations and reading of critical legal scholars resulted in questioning biases and discovering new contexts. When it comes to methods and methodologies, however, witnessing intergovernmental negotiations resulted in an additional layer of arrogance. The arrogance of the lawyer who understands international law development and operation was complemented by the arrogance of the long-term participant and observer. Explaining my methods and methodologies felt redundant.

4. Talking About Methods and Methodology

My take on methodology changed radically from the top-down. Meaning I had no choice. When I was drafting the project application that resulted in my Marie Curie fellowship, I was advised to include «at least one paragraph» on methodology. I decided to be franc, explicit and open to learning. I wrote what I thought was obvious but rarely articulated. I noted that legal scholarship tends to address research methods and methodological questions implicitly rather

[34] Okafor 2005.
[35] *Ibidem*: 179.
[36] Tzouvala 2020.
[37] Tuhiwai Smith 2021.

than explicitly[38]. Only recently had legal scholars started engaging specifically with methodological issues when it comes to environmental law and human rights[39]. I overcame my arrogance and actually wrote *how* I was going to do each part of the research, my methods: literature review, content analysis of UN documents, observer participation at UN meetings, interviews with actors. As I had no training on social science methods, I was going to build new skills by following relevant seminars at my host institution. Colleagues and friends from social sciences inserted words unknown to me, such as «triangulation» and «actor mapping». It worked and I got funded.

My engagement with social science methodology began by following a doctoral seminar on qualitative methods. I listened to lectures and read articles on literature reviews, the principles of research design, case studies, interview methods and content analysis. I certainly learned a lot.

I still have doubts about certain methods, such as content analysis. You assess the language of the document, but how do you assess what is missing from it? *Absence* of specific wording is as important as its presence, particularly when it comes to legal documents. Furthermore, how do you showcase the gap between rhetoric (reflected for instance to written submissions to intergovernmental negotiations) and real policy (reflected orally in the negotiating table) and then actual implementation or lack thereof? Could the analysis of written submissions obscure the real picture? How can we combine methods to show not only how policy issues are framed but also which ones are prioritized and which ones excluded[40]? At the end of the day, how can we ensure that methodology is a means towards an end – the substance of the research question – rather than an end in itself? Can we make sure our methods serve the substance and not merely the form[41]?

Learning on and conducting interviews was a revelation. I discovered that you can learn things, including how law operates in specific contexts and its consequences, not by reading but by actually *talking to people*. I read a lot about interview techniques, got entangled in sociological terminologies, and at the end of the day kept the first-ever advice I got: *Be nice to people and listen, they will want to talk to you*. To be fair, I have only worked in familiar environments: my home country, Europe, conference rooms, labs of Western-type scientists. I did not have to adapt to new cultural contexts, nor did I have to address ethical concerns about interviewing vulnerable populations or Indigenous Peoples[42]. But in this specific context, I realized that behind social scientists' often obscure terminology there may be things that many of us lawyers do intuitively.

[38] Parks, Morgera 2019.
[39] Philippopoulos-Mihalopoulos, Brooks 2017; Andreassen, *et al.* 2018.
[40] Bacchi 2009.
[41] Haack 2012.
[42] Tuhiwai Smith 2021.

Approaching the life sciences is the final piece of the puzzle. How do you do normative work on emerging and rapidly evolving technologies (gene editing and synthetic biology) that are far beyond your expertise and the basic knowledge of biology you have from school? As this part of the research is ongoing, I can only share some cautions and survival strategies. For the time being, I have identified some trustworthy science communicators and I follow important scientific developments and experiments through news outlets and popularized scientific articles. To provide an example, I know that Emmanuelle Charpentier and Jennifer Doudna were awarded the 2020 Nobel prize in chemistry for developing the CRISPR/Cas9 «genetic scissors», a gene editing technique which uses a version of the CRISPR/Cas9 antiviral defense system found in bacteria to alter the genome of living organisms. This is not directly related to the governance of gene editing, it affects however scientific development and funding pathways which will likely impact the development of regulation. Similarly, I have followed the 2022 release of genetically engineered mosquitoes into the open air in the United States of America by a UK-based company as a means to control diseases such as Zika and yellow fever, after a decade of fighting for regulatory approval, despite public opposition. This case is indicative of the complexities arising from the dynamic relationship between international, transnational and national law applied in local contexts with potentially global implications. I recognize both my cognitive limits and the serious limitations of this approach: the same way I cannot grasp the technicalities of scientific developments, I probably fail to understand the nuances related to the politics and economics of biotechnologies. In an increasingly inequitable world and precarious research landscape, I also miss alternate voices that do not reach global outlets due to lack of funding or networks, and gender or language barriers[43].

Reading the news is always a good start, as is taking one of the several, generally free, online courses on public policy, regulation and modern biotechnologies. Similarly, developing collaborations and having informal conversations with people from other disciplines help us challenge our approaches and biases, may result in new research ideas, and help us build the interdisciplinary competencies required to address complex questions[44]. The thrust of my Marie Curie research project was the outcome of discussions with my best friend, an IT expert. While I was boring him with the details of the negotiations on synthetic biology under the Convention on Biological Diversity, he brought to my attention the existence of DIY communities of «biohackers» and «biopunks», experimenting on synthetic biology in publicly accessible labs and in an «open science» framework. Two different worlds resulted in a fascinating research project and a successful funding application.

[43] Bol, de Vaan, van de Rijt 2018; Griffin 2022; Cabrerizo 2022.
[44] Horn, *et al.* 2022.

5. Some Concluding Remarks

I have not reached a conclusion on the best methodology for interdisciplinary international law scholarship and on the value of methods per se. I think that robust academic work certainly involves sound methods and methodologies; sound methods and methodologies do not necessarily result in robust academic work. Engaging explicitly with methods and methodologies assists with transparency, control of results and replicability, and facilitates dialogue. Having a common language helps; but it is rather our beliefs about life, the universe and everything[45] that make us form communities of knowledge and practice. I find collaboration easier with a political sociologist working on sustainability and global justice than with a public international lawyer still believing that international law is a force for good. In that regard, critical and decolonial approaches offer a common language and analytic tools beyond disciplines.

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[45] To quote Douglas Adams again.

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