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"So Lonely": Comparative Law and the Quest for Interdisciplinary Legal Education

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Abstract
For various reasons, that will be recalled and analysed throughout this paper, interdisciplinarity has become the keyword for any debate on legal education reform. However, what is meant by interdisciplinarity and how it should be achieved is open for discussion. Paradigms of "scientificity" of the law vary dramatically among legal cultures. Whereas in the US the advent of a more 'substantial' legal thought after the New Deal went hand in hand with the rise of the interdisciplinary paradigm, in Europe the traditional assumption of law's autonomy has repeatedly been challenged, eroded and adapted, but it still represents the bulwark of the orthodox approach to law and legal scholarship. In the Continent, mainstream legal scholarship does not take as its object the social reality, but only the gamut of rules recognized as binding norms. Coherent with this approach is a model of legal education built around certain axioms, such as the statist and nationalist attitude, the extreme compartmentalization among the various branches of law, and the blindness to its surroundings. Comparative law is one of the few disciplines that provide a different role model for a legal scholar who is apt to confront the challenges of complex societies. Keeping at a reasonable distance the authority paradigm, embodying the spirit of enquiry and cherishing the values of pluralism (both in terms of legal pluralism and cognitive openness), comparativists may give specific content to the paradigm of the jurist as a social engineer. Comparative law may therefore offer an invaluable contribution to the debate on legal education reform.

Keywords Comparative Law · Interdisciplinarity · Legal Education

1 Going Interdisciplinary: Why?

The relationship between law and other disciplines, which was at the heart of Rodolfo Sacco's pioneering work on comparative law, namely his famous theory of legal formants, has lately entered the agenda of researchers, professors and

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politicians. This topic is apparently of the highest interest for academic circles, involving delicate issues of recruitment and research funding, and for institutional decision makers as well. Ministerial commissions and university boards are discussing reforms of legal education aimed at modernizing curricula, and interdisciplinarity has become a keyword.[1]

Why is this happening, and what are the issues at stake?

Let us start by advancing some explanations about the reasons behind such an impressive 'come back' of an issue that may appear new but is indeed quite old. It was strongly debated – together with the general idea of law's 'scientificity' – at the end of the nineteenth century.[2] Among many other factors, two deserve to be specifically mentioned.

First, the autonomy of law is increasingly challenged by various social practices, which are largely driven by technological and scientific development.[3] This is a circumstance long observed by French scholars, among others, who have devoted an impressive amount of research to the phenomenon (real or imagined) of the law's increasing takeover by other systems of regulation. Whereas in the past the emphasis was on "*le droit saisi par la morale*"[4] or "*le droit saisi par la mondialisation*",[5] it is nowadays on "*le droit saisi par la biologie*"[6] or "*le droit saisi par l'intelligence artificielle*".[7]

The challenges brought about, in particular, by digital technologies and by AI are currently of central importance. Digitalization and automatization deeply affect our social fabric, and legal institutions are no exception to this. AI tools make new forms of social governance possible, and they unleash opportunities that could be exploited by the legal system to better achieve its aims. One might think, for instance, about the debate on the 'personalization' of the law: data-driven techniques currently allow us to tailor the content of the rules to take into account objective or subjective variables that may be considered significant for better regulation.[8] This, however, means a radical departure from the legal tradition of liberal democracy, which had among its main pillars the idea of the general and abstract character of legal norms. Not by chance, one of the most striking examples of data-driven governance is offered by the Chinese Social Credit Program, which is predicated on an extreme personalization of rewards and sanctions; as such, it is deemed incompatible with Western values.[9] Alternatively, one might consider the controversial issue of algorithmic decision-making: resorting to automated decisions has become widespread, and proposals have been advanced to make use of AI tools for many decisions, including administrative and judicial decisions, to reduce bias and inconsistency among serial

[1] See [1, 2].
[2] [3, 4].
[3] See generally for the colonizing tendencies of other social subsystems, [5].
[4] [6].
[5] [7].
[6] [8, 9].
[7] [10].
[8] [11: 201].
[9] [12, 13].

decisions.[10] However, to what extent can we accept that judicial rulings are taken by machines? Can we seriously imagine trials without the empathic intelligence possessed by human beings?[11] Not only legal institutions but also legal professions are facing the challenges of digitalization, and indeed, many voices have been raised, denouncing the risk of a 'uberization' of legal services and depicting a grim picture of the future of legal professions.[12]

Such a development has an impact not only on the layer of law as a set of institutions, as was forecasted by Larry Lessig, but also on the law as an object of study and research. Law's disciplinary autonomy is called into question, and many argue that the law should become increasingly closer to computer and data science.[13] The opposite is true as well: computer scientists are increasingly looking for guidance from legal professionals with regard to the fundamental operations of collecting data, testing a model and instructing a machine to make them compliant with the legal system.

Second, even when the autonomy of the law is not directly threatened, the growing complexity of reality makes the traditional model of mono-disciplinarity obsolete. The serious challenges currently faced by our societies (and among others, the ecological crisis) require complex and integrated approaches. This is true for all disciplines, but particularly for the law, given its critical role in regulating social phenomena and educating/selecting political and administrative élites.[14] The labor market itself is rapidly and deeply changing, making the traditional model of legal services obsolete and increasing the demand for new professional roles that combine legal and extralegal skills.[15] New tasks in risk assessment and conflict avoidance, in particular, signal the importance of a more flexible and integrated system of legal education.

Moreover, the increasing 'juridification' of social spheres, which were previously considered beyond the legal domain, has significantly broadened the gamut of choices entrusted to the legal system.[16] Decisions about the human body are among the clearest examples.[17] In the past, to live or not to live, to procreate or not to procreate, to die or to survive were events beyond human control, which depended on natural conditions, or on the law of chance. Since a few decades, scientific and technological developments have brought them back to the domain of choices. As a result, the law has been increasingly called upon to settle controversies originating from new interferences with natural processes and from new uses of the human body. Decision-making has become more complex in many areas, and this has made it necessary to increasingly resort to other sciences (such as genetics, anthropology,

[10] [14].
[11] [15].
[12] [16].
[13] [17].
[14] [1: 146].
[15] [2: 158–160].
[16] [18].
[17] [19: 179].

or psychology) for better understanding and guidance. The increasing policy-making activity of courts clearly reflected this trend and showed the importance of teaching law students to properly evaluate not only the meaning and structure of black letter rules but also the impact of decisions on the behavior of litigants and the society of large.[18]

A third factor is related to the crisis of the university as an institution largely shaped by the needs of the nation-state.[19] During the nineteenth century, universities – particularly in the German model, which influenced almost all of Europe – were considered an important element of nation-building processes and were increasingly put under state control.[20] The state provided funding and, subject to national variations, influenced the process of appointment of professors. In many instances, a rigid system of exams was introduced to certify the skills acquired and supervise the admission to regulated professions.[21] New fields of knowledge emerged, mostly in the domain of the 'social sciences'.[22] The boundaries among the disciplines were strengthened and made less permeable.[23]

Law and legal studies were among the fields most deeply affected by this development.[24] This is not surprising. Even though law was historically one of the oldest and most important subject matters, literally at the roots of European universities,[25] it acquired a new role and significance in the nineteenth century as the main vector of formation and selection of political and administrative elites.[26] Law faculties acted as the gateway for the national bureaucracy (the judiciary being included in this notion). Its relationship with the state was strengthened, and this had a strong impact on the structure of the curriculum, on systems of evaluation, and on legal epistemology in general.[27] Its disciplinary identity was built around the idea that the *proprium* of legal scholarship, what distinguished it from other fields of knowledge recognized within modern universities, was given by its object (and methods) of inquiry. It focused on the positive law of the nation-state and no longer on natural law.[28] The study of the structural connections among the rules and principles of a given legal system, as well as the methods of interpretation, became the core of the newly established 'legal science'.[29]

[18] [2: 160–161].
[19] [20: 132-134].
[20] [21].
[21] As regards the state's role see [22].
[22] [23].
[23] [24].
[24] [25, 26].
[25] [27].
[26] [25: 19]; on the general role of modern universities for the task of elites formation, [22: 25].
[27] [28: 141].
[28] [25: 9–10].
[29] [29: 180].

Today, both the state monopoly of higher education and the traditional structure of modern universities are facing the challenges of globalization and automatization.[30] On the one hand universities tend to be more and more embedded in supranational networks, of a global or of a regional character (one might think at the ongoing project of the 'European alliances'),[31] and compete fiercely in the global market for education, whose highly competitive character is constantly fuelled by the international rankings such as Times Higher Education or QS[32]; on the other hand, Ed-Tech is on the rise, eroding the paradigm of university as a community of persons – in particular students and professors – who teach and learn in the same physical context. Over the last decade, universities organized around the digital platform module have started to challenge the traditional in-person model of higher education, further weakening the link between a university and its social environment.[33]

All such phenomena had an impact on law's disciplinary identity and its position within the university.[34] Law schools are facing a context in which multinational law firms, corporations, and NGOs are competing to recruit the best graduates who possess a transnational education.[35] They also compete against each other to attract the most brilliant students, and one of the elements influencing this choice is the presence of a forward-looking curriculum and an innovative model of education. At the same time, the nation state has lost its importance "as the ultimate reference point for jurisdictional demarcation lines".[36]

As a result, the main pillars on which the modern paradigm of legal education was built have been eroded. As Harry Arthurs put it, "[i]f states do not after all enjoy a monopoly over the making, promulgation, administration and enforcement of law, law teachers and law students will have to start using a new mental map to navigate ordinary courses in contracts, criminal law, labour law and family law. And to do so, they will need a new repertoire of intellectual skills. After all, by whatever means we have traditionally taught students to "think like lawyers", we will have to do something different to teach them not to think like lawyers — or at least not like the lawyers we've been training up to this point. Instead of parsing judicial decisions, for example, they may have to peruse arbitration awards or observe mediators at work; instead of reading legislation, they may be asked to scrutinize corporate codes of conduct or consult ethnographic studies; and instead of being taught to fetishize fairness, rationality, predictability and clarity as law's contribution to social ordering, they may find themselves learning to value pragmatism, imagination, flexibility and ambiguity".[37]

[30] [30].
[31] [31, 32].
[32] [30: 21].
[33] [20: 138-139].
[34] [33, 34].
[35] [35].
[36] [25: 9].
[37] [36: 635].

In sum, due to the loosening of the age-old ties with the state and its institutions, the law's epistemological foundations tend to be critically revisited. Inevitably, even the idea of law's 'scientificity' started to be questioned.

2 Law's Scientificity Claim

The question of whether law can be considered a "true" science is an old one.[38] It may be traced back at least to the nineteenth century, particularly to the famous lecture given by Julius von Kirchmann.[39] Transposed into the context thus far described, it has acquired a different meaning and a more practical significance. As is clearly illustrated by the experience of the European Research Area, one of the most important supranational spaces for research,[40] the traditional paradigm of "legal science" is put under strain. In particular, law's disciplinary autonomy cannot be given for granted.[41] Additionally, due to the disappearance (or better the transformations) of its usual object of study, the normative artefacts of the nation-state, now submerged by the flow of supra-national rules, technical standards, and nonstate law of various origins and characters, law has lost its usual physiognomy.[42] The easiest strategy to cope with this situation has been to look outside of its traditional territories to gain new forms of legitimization. From this perspective, law should be reconceived as the nodal point of a complex web of disciplinary discourses through an interdisciplinary approach.[43] However, this idea has never been undisputed,[44] and an opposite trend is gaining momentum, particularly in the U.S.; it aims at turning back to the past and emphasizing the *proprium* of law as (a set of institutions and) a body of knowledge by focusing on its internal coherence and formal logic.[45]

To better understand the possible trajectories of development, as well as the reasons behind each strategy, it is worth emphasizing that there is no single attitude toward the assumption of law as a 'science'. It is not possible, in other words, to talk in general terms about the "scientific character" of the law, as this discourse is deeply embedded in the specific framework of each legal culture.[46]

[38] [37].

[39] On Kirchmann's discourse see [4]; see also [38: 1175–1177].

[40] [39].

[41] The traditional architecture of the ERC panels — some changes were introduced for the 2021/2022 calls —implies a positioning of the law within the social sciences. This is evinced by the fact the only sub-panel that specifically dealt with legal issues —at least until the 2020 modifications—was "legal studies, constitutions, comparative law, human rights." It is located within panel SH2, which refers to "institutions, values, beliefs, and behavior." The fields covered are related not only to law, but also—and to the largest extent—to disciplines such as sociology, social anthropology, political science, social studies of science, and technology. One may assume, therefore, that the panel set is primarily with social sciences [40: 250].

[42] See among others, [41: 153].

[43] See lastly [42, 43].

[44] On this debate [29].

[45] [44, 45].

[46] [28: 542].

As clearly illustrated by Helge Dedek, the very idea of *Wissenschaftlichkeit* acquired different features on the two sides of the ocean.[47] In North America, and particularly in the U.S., the second half of the twentieth century marked a turning point. Throughout the nineteenth century and at the beginning of the twentieth century, classic formalist paradigms were still dominant, preserving the traditional assumption of the autonomy of the law. After the New Deal the canon changed dramatically. The advent of a more 'substantial' legal thought went hand in hand with the rise of the interdisciplinary paradigm (which, among other factors, was also made possible by the high level of salaries and funding available to law professors, generally regarded as the 'fat cats' of the academia, in US law schools).[48] To be scientific, for the law, essentially meant establishing a close relationship with other disciplinary compounds, such as economics, sociology, or even literature or pop studies, that could contribute to a better explanation of human behaviors and social phenomena. This influenced the curriculum, the pedagogy, the type of scholarship produced, and the recruitment processes.[49] It has been observed that the hiring of new professors in top law schools currently reflects a preference for those candidates who have PhDs in nonlegal disciplines (and in particular those that could contribute to empirical research, such as economics and political science).[50] This trend has become widespread. Not surprisingly, it has come cyclically under fire,[51] particularly in the aftermath of the financial crisis, which affected the career prospects of young graduates. Criticism has been voiced against the excesses of a hyper theoretical approach to the law, which could have led law schools to lose grasp of the reality of the legal process and the real concerns of legal professions. Not surprisingly, an opposite movement started to gain prominence, one which is directed at rediscovering the virtues of formalism and the logic of legal doctrinalism.[52]

In Europe (and particularly on the Continent), by contrast, the traditional assumption of law's autonomy has repeatedly been challenged, eroded and adapted, but it still represents the bulwark of the orthodox approach to law and legal scholarship.[53] To be scientific, in the European tradition, means correctly navigating the web of legal sources, employing proper methods of interpretation to solve ambiguities and fill gaps, and deciding cases based on purely legal arguments rather than according to heteronomous evaluations.[54] As has been thoughtfully observed, the law in the Continental framework developed as (and to a large extent still is) a discipline "preoccupied with normative judgements and not with human interaction and behaviors as such. The object is a body of norms and not humans as an interacting social reality".[55]

[47] [28: 542, 71].
[48] On this point see [46: 361].
[49] [28: 546–548].
[50] [47: 538, 48: 374, 28: 546].
[51] [49].
[52] [50].
[53] [51].
[54] [52: 6].
[55] [53: 292].

In sum, the dichotomy internal vs. external reflects the different attitudes still prevailing on the two sides of the ocean and leads to divergent results in terms of the type of scholarship produced, the style of the legal artefacts, the pedagogy shaping legal education, and indirectly the relative "advantage in global lawyering".[56]

This helps us understand why the 'transnational turn', together with the other factors of crisis, is putting under strain especially European legal scholarship, as relatively less theoretical and more closely tied to positive law. As clearly highlighted by the experience within the European Research Council, a typical transnational context, not only its traditional orientation toward the legal artifacts produced by the nation state, but also its methodological attitudes—or the lack thereof—are currently seriously challenged.[57]

The consolidated architecture of the ERC panels subtly implies the positioning of the law within the social sciences.[58] When the law is confronted with fields of research that systematically employ quantitative methods and tend to assume a nomothetic posture, issues such as "is this frontier research?" and "what is the proper methodology of the project?" inevitably arise and assume greater importance than in the past.[59] Issues that the law, historically one of the most conservative university disciplines, having a rather homogeneous set of methodologies or disciplinary canons, is rather unfit (or simply unaccustomed) to answer.

Not surprisingly, the question of methodology "in the new legal world" suddenly emerged as one of the most urgent, given the widely noted lack of theoretical self-consciousness and the overall not brilliant quality of average legal scholarship.[60] Lawyers are being driven out of their comfort zone, as the traditional emphasis on authoritative sources and systematic analysis of black letter rules does not suffice to raise the law – conceived as a system of thought – at the same level as other social sciences.[61] To be successful before founding bodies, in other words, one should be advised to be more open to interdisciplinarity.[62] A growing tension is therefore produced between the old orthodoxy and the new legal reality.

Openly recognizing the existing tensions is important, but the resilience of the traditional approach to legal scholarship should not be underestimated. There are several institutional factors that, together with the stratification of cultural patterns, create an invisible barrier against the spread of what me might call the "American model of legal education".[63] Among them are the undergraduate v. graduate character of the law school (law students in Europe, unlike in the U.S., have not taken other university courses before starting the law curriculum); the non-elitist character of the European law schools; the type and content of the curriculum; and the closer nexus between the university and the legal practice, ensured by the peculiar system

[56] [54].
[57] [35: 12].
[58] See *supra* note 41.
[59] [55, 56: 74].
[60] See generally [9: 1343 et seq.].
[61] [9, 57: 309].
[62] [29: 171].
[63] [46: 353].

of appointment – based on highly technical exams – of judges and other legal professionals. All of these factors set a limit beyond which the quest for interdisciplinarity will find it difficult to succeed.

3 Comparative Law: Interdisciplinarity By Necessity

The rigidity of the traditional framework prevailing in European legal culture may be seen as a constraint. However, it is also an extraordinary opportunity for comparative law. If the abovementioned factors push towards a critical revisiting of the usual patterns of legal scholarship, the typical flaws of comparative law as a university discipline—the absence of an immediate normative dimension and the lack of an undisputed disciplinary canon—may turn in the new scenario into specific advantages.

On the one hand, comparative law has always been at pain of getting a stronger foothold in academia due to the absence of an immediate normative dimension of the outcomes of its research. Indeed, many authors, at different times, noted a sort of "Cinderella complex".[64] Since the beginnings, one of the most pressing concerns of comparativists has been to highlight the existence of a rigorous set of assumptions and methodologies that could justify the recognition of comparative law as a field of knowledge worthy of integration in the curriculum and in the institutional framework of legal studies. Comparative law, as a discipline born in the nineteenth century, was a late comer that could not invoke noble births or ancient roots in Roman legal culture.[65] Moreover, it lacked the basic element that distinguished law from most other university disciplines, namely, the immediate connection with legal practice.[66] As a result, earlier scholarship on comparative law displayed a marked attitude toward looking at other disciplines to reproduce patterns of 'scientificity'.[67] As I tried to show elsewhere, the inconsistency on the Comparative Method (written with capital letters by the proto-comparativists) was part of this strategy.[68] Only one method was sought for this purpose. It was a seal of quality, usefulness and accountability as a science. According to the nineteenth century, the discipline that truly disrupted the whole field of humanities was linguistics.[69] By resorting to the Comparative Method, such discipline sheds new light on questions – such as the origin of man and the development of human cultures – that were previously left to religion or mythology. With this tool, humanities became more closely related to the hard sciences.[70] Therefore, new disciplines have tried to emulate the success of

[64] [58: 419].
[65] On the formative era of comparative law see [59, 60].
[66] On the strong nexus between law as academic discipline and legal practice, [44].
[67] On comparative law and the paradigms of science, see [61: 67-71, 59: 85].
[68] [62, 63: 9].
[69] On this [64: 69–76].
[70] [65].

linguistics, and among them were comparative politics, comparative legal history, and later comparative law.[71]

In this way, comparative law started to develop a distinctive concern for a 'scientific' knowledge of legal phenomena that was alien to most traditional legal studies. Such a theoretical attitude was never lost, up to the point that some of the most brilliant achievements of comparative legal theory, such as Rodolfo Sacco's model of legal formants[72] and the famous Trento theses,[73] inspired by himself, have been at times criticized for being too deeply embedded in a positivist mindset and therefore reflecting an attitude informed to "scientism".[74] The same debate on comparative law as a science or a method,[75] which would appear meaningless if transposed to private law or criminal law, reproduces the same concern with the epistemological status of the discipline that may be explained only in light of the particular history of comparative law and its loose ties with legal practice.

On the other hand, comparative law never followed just one disciplinary canon, which was accepted as the 'orthodox' form of scholarship; for example, legal doctrinalism may be considered—particularly in Europe—the orthodox form of municipal legal thought. Already at the Paris Congress, two completely different attitudes shaped the contributions presented at the conference: one was oriented towards the *Urrecht,* based on encounters among legal history, comparative law and cultural anthropology; the other was oriented towards the *Weltrecht,* which was less speculative, more practical and focused on supranational harmonization and legal reforms.[76] The comparative law of maturity displays a wide gamut of theoretical attitudes, which span from functionalism, structuralism, culturalism, etc.[77] In this search for its 'scientific character', comparative law has always been working hand in hand with neighboring disciplines, such as sociology, linguistics, anthropology. It has largely borrowed from them, but also exported results and modes of thought.[78]

Examining the most recent trends, we may observe an even closer interaction between comparative law and other fields of knowledge. In his brilliant handbook, Mathias Siems provided a comprehensive repertory of innovative methodologies and ways of performing comparative legal studies.[79] Following his suggestion, three major approaches, implying a strong interdisciplinary attitude, may be distinguished: socio-legal perspectives, numerical comparative law, and postmodern comparative approaches.[80] Sociology, statistics and demography, economics, cultural anthropology, history, philosophy, and literary studies are some of the disciplines

[71] [63: 22].
[72] [66, 67].
[73] [68, 69].
[74] Among the most recent examples of such critiques, [70]. For a balanced assessment of this debate, [50: 253].
[75] [71: 28, 59: 27].
[76] [38: 1182].
[77] [59].
[78] On comparative law's natural attitude towards interdisciplinarity see [71: 15, 28, 7257:].
[79] [19: 113].
[80] For a more detailed discussion see [73].

that contemporary scholars systematically resort to with the aim of deepening their understanding of legal phenomena and increasing the explanatory value of comparisons. Further examples are offered by the recent book by Jaakko Husa on interdisciplinary comparative law.[81] The absence of one single disciplinary canon is a significant advantage from this point of view, as it allows for concurrence and competition among different approaches and leads to a more articulated view of social reality.

Such methodological pluralism is not a sign of theoretical underdevelopment of comparative legal studies.[82] Rather, it is the distinctive trait of a discipline that, because of its aims and its object of inquiry, is naturally oriented toward the context rather than the text of the law. Whereas the point of view of most legal disciplines is epistemologically internal, in comparative law, it is by necessity epistemologically external.[83] Due to the absence of a shared definition of what "the law" is in the various legal traditions of the world, the very basic question that is taken for granted as a methodological a priori by municipal lawyers needs to be problematized and answered by looking at the whole social and cultural compact by comparative law scholars.[84] Furthermore, issues that are perceived as lying beyond the domain of legal doctrinalism, such as "why the law developed in a particular way", "what are the social or the cognitive factors behind certain rules", or "how is the law impacting upon society or specific parts of it", belong to the core of any comparative study. To answer any of these questions, comparative law is naturally led to look beyond the formal surface of legal phenomena and grasp all the threads connecting the law with its surroundings. Comparative law is in the position to do this because it is, or at least should be, structurally freed from the "authority trap" that binds municipal lawyers.[85] This is a very important point that was properly underlined by Geoffrey Samuel, who noted that the law has become a "narcissistic science".[86] It does not take as its object the social reality, or at least that part of the social reality that goes beyond the existence and the implementation of a certain gamut of rules. According to most academics (and we may add by state-imposed curricula), it should limit itself to the mere activity of learning and applying the rules, considered a datum. As such, "the law has as its object only itself"[87]; therefore, it is a discipline considered to be of limited value and interest to social scientists because it contributes only marginally to the knowledge of social facts.[88]

[81] [52: 13, 72: 305–313].
[82] [61].
[83] [52: 6].
[84] [74, 75: 10].
[85] [53: 314].
[86] [53: 295].
[87] [53: 295].
[88] [76].

4 Moving Beyond the Boundaries: How and with Whom?

For the reasons mentioned above, comparative law does not share the same attitude. It cannot be conceived as a sort of municipal law 'on steroids.' Its aim is not simply to provide an analysis of 'rules plus' (of legal systems $a+b+n\ldots$).[89] Rules are embedded in a social and cultural reality, and to understand their meaning and significance for people who 'live' such rules, comparative legal scholars must delve deep into the context. Rules by themselves cannot be the focal point of their analyses; for the simple reason that they are looked at from "the epistemological point of view of an outsider",[90] rules are simply one node of an invisible web that has to be unveiled and deciphered from the external observer.[91] This means that the social and cultural reality is back on the scene, and meaningful comparisons may contribute to a better understanding of such reality. Freed from the "authority trap" and the "narcissistic prejudice", comparative law may sit at the same table as nonlegal disciplines and provide analyses of undisputable interest to most social scientists.[92]

This is the source of opportunities, particularly in a transnational setting but also of additional burdens.

One such limitation is the need for methodology, which is the process of achieving the expected aims. The more comparative law becomes interdisciplinary, the wider the scope of its empirical content, and the stronger the need to provide transparent explanations about the research design.[93] Among these are the nature of the research question, the data used for the comparison, how the data are collected, the criteria according to which they will be processed, how language barriers shall be managed, how knowledge derived from other disciplines shall be filtered, and what kind of preconceptions may influence the research results.

Second, comparative law should reflect the widest cognitive openness in terms of its disciplinary pluralism. Comparative law should ideally be located at the crossroads of the social sciences and humanities. The prevailing trend in recent decades has been to foster collaboration between comparative law and the disciplines conventionally listed under the social sciences, particularly economics, sociology and political science. However, there is no need to narrow the potential scope of the interaction. Social sciences tend to generalize by focusing on recurring trends and general laws. They assume, as is often noted, a nomothetic posture. Accordingly, quantitative methods are frequently used to answer research questions. This, however, risks excluding the idiosyncratic, singular case, which cannot be quantified but nonetheless is of relevant value to understanding cognitive structures and human behaviors.[94] Literature, pop studies, and performing arts may be sources of

[89] [77].
[90] [52: 6].
[91] On the internal/external dichotomy in social sciences and especially in comparative law, [90: 90].
[92] For a practical example, see [78].
[93] See [55, 79: 314–315].
[94] [80].

nonnegligible knowledge for scrutinizing the law's environment and the communication flow between legal institutions and human communities.

It is sufficient to think at one of the most critical issues for any research design, namely, at the selection of data to be processed. How could we obtain information about "the law" in oral traditions or contexts in which there is no rigid or formalized notion of legal sources? What are people's attitudes towards the legal process, and how do they adjust their behaviors *vis-à-vis* formal rules? A cultural approach to the law may result in a surplus of analytical instruments capable of enriching the toolkit of comparativists. As clearly illustrated by the 6 volumes of the recent collection "*A cultural history of law*", this may lead to a significant expansion of the relevant sources from which knowledge about a foreign (or ancient) law may be derived, by focussing, for example, on "the engravings on the stelae of Hammurabi; on the shield of Achilles in Homer's *Iliad* as an everyday scene of legal dispute; on sculpture and pictorial representations; on architecture and monuments (e.g., the Jewish Temple, the Ishtar Gate, the Greek Parthenon as embodiment of Athenian hegemony, or the *Ara Pacis* of Roman peace); on literature and drama (e.g., the Greek theater as a legal-political institution); on objects of clothing and certain garments denoting status, e.g., the Roman toga); and on fine pieces of jewelry, coinage, effigies, and emblems".[95]

In addition to providing new sources, it allows external observers to read them differently by deepening their significance and actual impact on relevant communities. For instance, whereas a comparative law and economics perspective might favor an explanation of the *kula* exchange on the basis of the transaction costs theory, arguing that markets were too costly to develop, a cultural and/or critical economic history approach might provide different insights based on the importance of the gift economy for the strengthening of community bonds.[96]

5 The Value of Comparative Law to Legal Education Reform

In conclusion, comparative law provides a different role model for a legal scholar who is apt to confront the challenges of complex societies.[97] Keeping at a reasonable distance the authority paradigm, embodying the spirit of enquiry and cherishing the values of pluralism (both in terms of legal pluralism and cognitive openness), comparativists may give specific content to the paradigm of the jurist as a social engineer.[98]

As many authors have argued, especially in the Anglo-American world, legal professionals have a particular responsibility, inasmuch that they do not simply explain, interpret, or apply acts of authority (the 'legal provisions'). Rather, they are called

[95] [81: 6].
[96] For a more detailed discussion of this example, see [62: 286].
[97] On complexity theory and comparative law, see [28: 34, 73].
[98] On these points [82: 438].

upon to build stable and flexible infrastructures for human interaction.[99] In contrast to engineers, whose task is to project material tools and techniques to satisfy human needs, lawyers are called upon to build immaterial devices aimed at helping people to establish trusted relationships among themselves.[100] Engineering is undoubtedly a science on its own, with its peculiar terminology, categories and canons. However, to acquire the skills required for this professional function, engineers must build on other disciplines, from mathematics to physics and from chemistry to materials science. It is well known that any infrastructure built with unsuitable materials or against the laws of physics is at serious risk of collapsing.

Law is also a self-standing discipline, with its own toolkit, language, and logic. It involves the acquisition of technical skills, which, as most famously argued by Lord Coke, embody a peculiar form of artificial reason and can be possessed only after long study and years of experience. Its technical element should be cherished as a precious value,[101] also to prevent jurists from coming back home after the "interdisciplinary party" fully drunk.[102] This means that legal reasoning should not simulate the practices and rationalities of other social subsystems to produce its outcomes (as the law and economics theology tried at times to argue).[103] Nonetheless, we should be conscious that effective regulation of human behaviors cannot be achieved without considering the significant amount of knowledge provided by the nonlegal disciplines that study human conduct, both the social sciences and humanities. Immaterial infrastructures aimed at easing social interactions may be flawed not only because of intrinsic defects but also because of an insufficient understanding of how people behave and react to both formal and informal rules.[104]

If the law wants to effectively achieve the delicate tasks increasingly entrusted upon it by modern societies,[105] it should accept cognitive openness while maintaining a certain amount of normative closure. The paradigm of transversality—to recall Teubner's terminology—reflects this idea: the law should "defend itself against any claim to totality of any theory; however, it would accept the intrinsic right of social theories that exist side by side. This would transform the new plurality of language games into the formation of legal concepts and the formulation of legal norms. This is possible if the law insists on the partiality of the various social theories and only opens itself up to their influence to the extent that they make statements, which are valid for their social sphere".[106]

Accordingly, the model of legal education should be aimed at connecting in a closer relationship law with underlying disciplines that study human conduct. Law, as a university discipline, should overcome the narcissistic disorder[107] developed in

[99] [83, 37: 236, 80: 12].
[100] [37–11- 12].
[101] The same point is made by [72, 324–325].
[102] See [84, 72: 314–31 + 5; on the challenges raised by interdisciplinarity in law see generally [85].
[103] [5: 195–196].
[104] [80: 16].
[105] *Supra,* par. 2.
[106] [5: 197].
[107] See [53: 295].

the last two centuries. It should stop looking only at itself, at its internal organization, made up of a complex web of rules, principles and procedures. Rather, it should turn its eyes more decidedly to the social reality, or –as it has been put it– the "vital forces"[108] behind it. This implies, especially for its European continental version, a critical revision of the traditional model of legal education and the axioms around which it was built, such as the statist and nationalist attitude, the extreme compartmentalization among the various branches of law, and the blindness to its surroundings.[109]

Comparative law is probably the only discipline that managed to free itself from each of these preconceptions, embracing a pluralist approach—in the widest sense of this notion—to legal phenomena.[110] By examining the legal traditions of the world, it has been determined that the law not only comprises the artefacts of the nation state but is also the result of a number of social factors that vary significantly on the basis of time and space; it has overcome compartmentalization by forcefully deconstructing the artificial distinctions between public and private procedures and substances; and last, it has decidedly opted for an interdisciplinary approach to legal research.

Going further along this path is the task of comparativists. To look closer look at comparative law as a source of inspiration is an opportunity for all decision-makers engaged in the reform of legal education.

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[108] [81: 6–7].

[109] [9 147–148, 2: 161–168].

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