THINKING LAW: thinking law in motion // *Laura Beth Nielsen*[1]

Keywords
Law in motion / Multiple approach / Law & Society / Employment civil rights litigation

Summary

Abstract
This essay argues that one way to "think law" is to think "law in motion". I will argue that a "law in motion" perspective embodies four core elements or 'multiplicities' which are: (1) multiple methodologies; (2) multiple perspectives; (3) multiple vocalities; and (4) multiple media including objects. As will become evident by the number of inspiring colleagues that have articulated rationales and perspectives for each of these multiplicities, these are not original ideas for which I can claim credit. And yet, the attempt to put them together in a comprehensive schema with consideration for all four of the multiplicities in the same project, demonstrates that a law in motion perspective can bear new fruit. To do this, my article combines analysis of some of the research in Law & Society that exemplifies these trends and my own research on employment civil rights litigation to interrogate the necessity of a "multiple" approach for our "multiple futures."

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PENSANDO O DIREITO: pensando o direito em movimento // *Laura Beth Nielsen*

Palavras-chaves
Direito em movimento / Perspectivas múltiplas / Direito & Sociedade / Litigância de direitos civis no trabalho

Resumo
Este artigo defende que uma maneira de se "pensar o direito" é pensar no "direito em movimento". Meu argumento é que uma perspectiva do "direito em movimento" incorpora quatro elementos fundamentais ou 'multiplicidades' que são: (1) metodologias múltiplas; (2) perspectivas múltiplas; (3) vocalidades múltiplas; e (4) mídias múltiplas, incluindo objetos. Essas ideias não são originais e por isso não posso reivindicar crédito por elas, como fica evidente pelo número de colegas inspirados que articularam perspectivas para cada uma dessas multiplicidades. No entanto, a tentativa de colocar todas essas perspectivas num esquema abrangente, com a inclusão dessas quatro multiplicidades num mesmo projeto, mostra que a perspectiva do direito em movimento pode trazer novos frutos. Para tanto, este artigo combina a análise de algumas pesquisas dentro do movimento direito e sociedade que exemplificam tais tendências com a minha própria pesquisa sobre a litigância de direitos civis no trabalho para discutir a necessidade de uma perspectiva múltipla para nossos "futuros múltiplos."

1 Introduction

The field once known only as Socio-Legal Studies now includes such emergent intellectual and professional associations including Law and Society,[2] New Legal Realism,[3] and Empirical Legal Studies.[4] As the field grows and expands, we have the opportunity to reflect on where we have been, where we are going, and the best ways to study our shared topic of interest. Determining the 'best' way to study the phenomenon of law in all of its doctrinal, real-world, economic, psychological, and anthropological complexity has proved challenging but the myriad approaches developing as the field grows means that although we hold our historical traditions close, our joint venture thankfully is larger than it was when law and society emerged as its own discipline some fifty years ago. That growth, indicated by the proliferation of journals, scholarly organizations, and interdisciplinary law and society undergraduate and graduate programs in universities, demonstrates that the future of thinking law is robust and diverse. Our future is only strong and diverse.

The future of Law and Society research lies in our discipline's history and is one in which socio-legal scholars are mindful about the connections between theory, method, and practice to build on and to create new, empirically-informed, theoretically-rich analyses of contemporary legal and policy questions. While our topics, goals, and methods may be familiar as part of our rich tradition, law, legal analysis, and legal advocacy always are in motion. We face new problems, new dynamic methods, and new practical needs including giving voice to and for different audiences. Law also is embodied in many new localities and objects which merit study. This agenda meets up with new opponents, new power dynamics, and new challenges.

This essay argues that one way to "think law" is to think "law in motion". I will argue that a "law in motion" perspective embodies four core elements or 'multiplicities' which are: (1) multiple methodologies; (2) multiple perspectives; (3) multiple vocalities; and (4) multiple media including objects. As will become evident by the number of inspiring colleagues that have articulated rationales and perspectives for each of these multiplicities, these are not original ideas for which I can claim credit. And yet, the attempt to put them together in a comprehensive schema with consideration for all four of the multiplicities in the same project, demonstrates that a law in motion perspective can bear new fruit. To do this, my article combines analysis of some of the research in Law & Society that exemplifies these trends and my own research on employment civil rights litigation to interrogate the necessity of a "multiple" approach for our "multiple futures."

It may be that a law in motion perspective is impossible to achieve in any single research project and that I am offering an impossible challenge to suggest that sociolegal research should consider all of the various multiplicities I am suggesting. Or, it may be that this is a challenge and whatever part of these that can be met is an admirable step in the right direction. In any event, this paper lays out a brief discussion of what I mean by each multiplicity in turn and concludes with a discussion of the implications of thinking law in motion.

This article proceeds in 5 parts. Part two of the article elaborates the importance of multi-methodological research. Part three articulates a multi-perspectival approach to empirical legal scholarship. Part four explores various kinds of multi-vocalities exploring how to present multiple perspectives to various audiences. The fifth section of this paper, I briefly analyze the value of think about law in objects. Finally, the article concludes with a discussion of the multiple futures for law and society research.

2 Multiple methods

The lesson of multiple perspectives – indeed multiple truths – often is borne out in empirical legal research. In our attempts to thoroughly document some phenomenon, empirical researchers often study a phenomenon very thoroughly but using only one method. That approach may lead us to accurate information about some part of the phenomenon, but as researchers, we typically want to study the en-

2. http://www.lawandsociety.org/
3. http://www.newlegalrealism.org/
4. http://www.lawschool.cornell.edu/sels/

tire problem. To do so, we must use a multi-method research as a comprehensive approach for empirical legal studies.

Empirical research in the Law and Society tradition (which I take to include various schools of research known as 'Sociolegal Research', 'New Legal Realism', and now 'Empirical Legal Studies') has long embraced multi-method research to better understand the relationship of law and the social world. Some of the most enduring findings about important aspects of the legal system come from projects employing multi-method approaches. I suggest that the reason is that the phenomenon of law itself consists of individuals, organizational settings, institutional fields and the interactions among them. Law is practiced by individuals as plaintiffs, defendants, lawyers, and judges. These individuals operate within organizations like workplaces, law firms, schools, to name just a few. These organizations can obfuscate, constrain, and empower individual actors and therefore play a mediating role in how law operates. Finally, law operates in various institutional contexts. Social institutions like race, gender, and class affect legal processes as well. As a result, fully understanding law demands research conducted using multiple approaches.

Not only does the complexity of the social world in which law operates make multiple research methods appropriate, but the empirical study of law almost always is in fact multi-method. Even when a project does not systematically employ multiple methods, empirically oriented scholars of law and legal institutions are almost always using multiple methods whether or not they recognize that fact. For example, reading a case or a set of cases may inspire questions about how business is (or is not) reacting to a body of law (Macaulay, 1963). Or, reading newspaper accounts of a 'litigation explosion' may lead us to wonder about rates of litigation over time (Galanter, 1983). Empirical observations from our own practice of law or anecdotes from our lawyer-friends may lead to questions about how regulatory agencies make decisions or how courts interpret legal doctrine. We may not always conduct *systematic multi-methodological research, but the very process of research necessarily involves gathering information in a variety of ways.*

The multi-method tradition in empirical legal research, defines some basic concepts, discusses when and why multi-method research is useful, and how the different actions of research (reading, counting, and interacting) can provide unique approaches to the same questions. The importance of multi-methodological approaches on the same question is worth repeating especially in light of the current ascendance of single method, quantitative empirical research in the field of law and society and in law schools more broadly. Why?

First, multiple methodological approaches helps us catch error. For example, in my own research on employment civil rights, qualitative, in-depth interviews with attorneys on both sides of the litigation divide revealed a shared belief that motions for summary judgment (a procedural moment in the U.S. civil litigation process at which time the judge can dismiss a case entirely prior to it being heard by a jury if the judge determines that there is no "material issue of fact.") vary depending on the jurisdiction in which they are heard. For example, this defense lawyer expressed a widely-shared sentiment about trends in summary judgment outcomes:

> *Well I think it's changed over time. I don't think the judges like these cases so I think they're more willing to find no issues of material fact which is the standard. [I: Right] And especially here on the seventh circuit where it's like a dream come true. I like to say the seventh circuit has other standards in sexual harassment cases as, "what can't you take a joke?" [laughs] You know it's a great place to be a defense attorney.*

If we had only spoken to attorneys, our research would have concluded that there are more motions for summary judgment granted than there used to be and that there is significant jurisdictional variation. But our project also included a rigorous quantitative study of a random sample of cases over a fifteen year period which we were able to analyze. That analysis showed no significant differences over time or across judicial district (Nielsen, Nelson, & Lancaster, 2010).

This multi-method approach leads inevitably to the question: who is right? The lawyers or the numbers?

This kind of discrepancy between the law in action as revealed by careful empirical study and the law as understood by legal actors also revealed through careful empirical study makes for a terrific research question. In previous work about multi-methodological approaches, I have argued that instead of thinking of the lawyer as "wrong" and the numbers as "right" or vice versa, it is far more fruitful to analyze why there is a shared, but empirically incorrect, understanding of the litigation system (Nielsen, 2010).

One reason that many lawyers may not know the actual number of dismissed cases is that lawyers – especially elite ones – are not privy to the broad mass of cases that are dismissed in our system. Many plaintiffs enter the system without benefit of counsel and their cases are largely unnoticed by lawyers who represent elite clients like corporations and governments. In other words, from this particular lawyer's positions and status, she may be right, but hers is not an accurate vision of the overall system.

Another example of the value of multi-methodological research can be seen in the work of John Hagan and Wenona Rymond-Richmond (2009) in their recent book, *Darfur and the Crime of Genocide*. They combine sophisticated quantitative data analysis to determine in which qualitative data about racial slurs used during quantitatively documented attacks **together** make the most convincing argument to date that this was a crime of genocide. Rather than correcting an error as the example from my research demonstrates, this multi-methodological approach provides new insight into the nature of the phenomenon being studied. Instead of thinking of this mass atrocity as mass murder or even state sanctioned murder, (which are bad enough), the combination of methods allows us to see that the crimes in Darfur were motivated by ethnicity.

Correcting errors, raising new questions, and giving insight into new phenomena are just some of the reasons to conduct multi-methodological research in law and society. While it is important in a variety of disciplines and subjects, the relationship between law and society is uniquely situated to multiple methodological research because of the various actors, institutions, and structures of law itself.

3 Multiple perspectives

The second "Multi-Future" I am proposing as part of a Law in Motion methodological framework is multi-perspectival research. Multi-perspectival research is research that recognizes the importance of the different, situated perspectives that parties have – especially in the context of legal and political disputes. In law, there are always (at least) two sides. That is the nature of a dispute in the legal arena. And yet, much research in law and society focuses primarily on one side of the disputes we study. While this dominant approach has produced elegant and surprising results that make up the body of law and society scholarship, much of this tendency neglects the construction of the dispute from one side and leads to increasingly formulaic models for the relationship between legal process and outcome.

As Max Weber (2008 [1904]) noted, explanations that formulate causal laws about cultural phenomena are not the end of analysis, but the beginning:

> *An "objective" analysis of cultural events…is meaningless…Firstly, because the knowledge of social laws is not knowledge of social reality but is rather one of the various aids used by our minds for attaining this end; secondly, because knowledge of cultural events is inconceivable except on a basis of the significance which the concrete constellations of reality have for us in certain individual concrete situations."*

Weber called on social scientists to produce interpretive understandings of cultural phenomena in concrete situations and this kind of contextual approach has been a longstanding goal of socio-legal research. Nonetheless, when it comes to the typical empirical investigation of law and society, scholars continually try to separate the cultural event from the concrete situations they are situated within. And, research tends to focus on only one side of the litigation ignoring the way that conflicts are co-constructed around claims of 'fairness' with significant material implications.

Despite this characterization, there are notable examples of important scholarship that examines multiple perspectives in the research itself. For example,

a significant body of research analyzes lawyers who work for important social change. Called "cause lawyers," these lawyers use their professional expertise to advance political and social goals (Sarat & Scheingold, 1997). "Cause lawyers" have been studies in the United States, in a variety of international contexts and in the global community (Sarat & Scheingold, 1998, 2001). In response to growing critiques in the research on 'cause lawyering,' that all of the work was focused on lawyers for the disadvantaged (Halliday, 2006), a growing area of scholarship studying conservative 'cause lawyers' has emerged which provides an important new perspective in the study of political lawyers (Southworth, 1999, 2000; Teles, 2010).

Another example of path-breaking work that examined legal and political contests using multiple perspectives is Kristin Luker's *Abortion and the Politics of Motherhood* (1985) in which studying activists on both sides of the abortion debate revealed that attitudes about abortion are less about the role of the state or religion, but rather hinged on activists' attitudes about the proper role of mothers in society and norms about sexual behavior. The shared bases of the ideology across activists on the political spectrum would not have been uncovered without attention to both sides in the debate.

Similarly, the classic, *Divorce Lawyers and their Clients* (Sarat & Felstiner, 1995) makes a significant multi-perspectival intervention in law and society research. In this study, the multi-perspectival approach did not focus on opposing sides in a legal dispute (like the divorcing spouses), instead focusing on divorce lawyers and their clients. Professional ideology tells us that the interests of lawyers and their clients rarely diverge, but by using a multi-perspectival approach, this research reveals that lawyers not only have some competing interests, but also that they must professionally manage that divergence in complex ways. In this context, lawyers often are managing expectations of betrayed spouses. Whereas no-fault divorce law in considers only years of marriage, the earnings capacity of the parties, the number of children, and a few other factors, clients (particularly women) often entered the divorce attorney's office seeking legal recognition of the dignitary harms they suffered. Divorce lawyers had to manage expectations and emotions in ways that transformed the nature of the legal dispute.

My own multi-perspectival research comes from interviewing plaintiffs, defendants, plaintiff's lawyers and defense lawyers in the same cases and hearing how the various parties experience and define the process. A multi-perspectival approach means studying these disputes as dynamic, in which meaning is made at various stages in the process. A multi-perspectival approach explicitly recognizes the co-constructions of disputes in all of law's arenas. Instead of "sides," a multi-perspectival approach studies the dynamic and evolving co-construction between social activists and the legislature which passes laws that give rise to rights, between parties as they try to resolve disputes before coming to law and then within the legal system itself. Theoretically, you might think of this as an attempt to reconcile the linearity of the law with the more multi-directional model social scientists and theorists prefer. A multi-perspectival approach balances path dependency (which is powerful in law) with individual agency and has many benefits.

A multi-perspectival analysis also contributes to a more robust theoretical understanding of inequality in law, showing the role of cultural constructs in constituting and perpetuating these inequalities. Galanter (1994) demonstrated that the seemingly neutral legal rules have structural features that result in inequality. Likewise, we show how the seemingly neutral cultural frame of "fairness" works to make those structural features invisible, thereby perpetuating inequality. The hegemonic notion of "fairness" implies that each side's grievances are equally valid when the nature of what each side is calling unfair imposes significantly different burdens on the opposing side. For defendant-representatives, these burdens are managerialized. For many individual plaintiffs, they are crushing. Procedural justice has generated the valuable insight that law's legitimacy depends on perceptions of fairness, it begs for a more accurate and critical an analysis of these perceptions in *real disputes.* A situate approach directs attention to how people's sense of fairness in the legal system is formed through their subjective experiences within the legal system and in relation to their institutional contexts. In other words, our framework takes seri-

ously structural constraints while recognizing that individuals navigate structures based on their legal consciousness.

One powerful example of multiple perspectives comes from examining the very simple question, "who won the lawsuit?". Empirical scholarship on litigation typically counts plaintiffs who receive settlements as "winners". By that measure, 60% of people who filed federal employment civil rights lawsuits in the period of our study were "winners". And they may be winners from many perspectives. Their lawyer is happy to receive some payment, the business might say they "lost" because the case extracted money from the company, but do plaintiffs who "won" large settlements understand themselves as winners. One plaintiff in our research, Sam Grayson, received a very large settlement: $100,000 from a municipality for disability discrimination (which is significantly higher than the median settlement which is $30,000). When we asked if he felt like he won the lawsuit, Mr. Grayson said his settlement was, "not anything big," noting that a large portion of that went to his attorney. When asked if he thinks $100,000 is a fair outcome, he said: "Well you know what? I didn't want any money, I wanted my job back…and I, actually to be completely honest with you, cried and left and felt like I lost because it wasn't about the money".

Mr. Grayson's dissatisfaction resonates with other plaintiffs who told us they wanted their jobs back more than they wanted a cash settlement. Other plaintiffs echoed the sentiment that it was "not about the money" and that they had other goals in mind in pursuing the lawsuit, such as holding their employer accountable.

If your research question is something about whether large settlements incentivize companies to change their policies and practices in ways that effectively reduce discrimination, then the quantitative data tell you something important. But one of our questions is how people understand the legal system once they have been through it. By interviewing plaintiffs like Sam Grayson and others like him, we see the vast gulf between where most scholars would place Sam Grayson (in the big-winner category), and how he (and other plaintiffs) perceive whether they won or lost with important implications for legitimacy.

Multi-perspectival research has constraints as well. For example, research by the normative categories the law establishes. Similarly, roles are well defined making seeing the other side of a particular dispute. Resources such as organizational routines for managing disputes also make perspectives of elites more difficult to gauge. To develop a multi-perspectival or situated framework, researchers most often draw from legal consciousness to analyze internal schema, dispute processing to analyze structures, and critical legal studies to analyze ideology.

As the study of legal consciousness shows, law is an ever-evolving set of schema that exists in the minds of individual participants.[5] These schema are shaped by many factors: people's social location; the knowledge and resources at their disposal; the specific contexts in which they engage law (or avoid it); their interactions with organizations and legal authorities; and social institutions like the media (Ewick & Silbey, 1992, 1998; Haltom & McCann, 1999, 2004; Nielsen, 2000; Sarat, 1990). Interpretations of law depend upon and change with such factors and may become closely tied to feelings and emotions. Interpretations of law in general, and expectations of fairness in particular, shape people's actions around law and their assessments of those experiences. Potential plaintiffs, who are among the proverbial everyday people that have been the focus of most research on legal consciousness. Their decisions to turn to the law (or not) and to continue to pursue justice (or not) require that they know and believe they have been, or could be, harmed (Felstiner, Abel, & Sarat, 1980; Fiske, 1998, 2005; Major et al., 2002; Major & Kaiser, 2005). Even when they do know, people are reluctant to make a claim because they have insufficient access to law-

5. Some scholars of Legal Consciousness become dissatisfied with the way that concept is used in sociolegal research in the past few years (see, Silbey, After Legal Consciousness). We intend to be following in the tradition of the productive use of the concept in which we begin to articulate "how … different experiences of law become synthesized into a set of circulating, often taken-for-granted understandings and habits" (p. 323) to address legal hegemony. Here we are looking at the way parties construct one crucial concept – justice – to explore the way the weight of the claim can be hegemonic serving to make claims by parties with vastly disparate resources seem morally equivalent.

yers (Curran, 1977) or may not want to be classified as a victim (Bumiller, 1987) or a "greedy plaintiff" (Haltom & McCann, 2004). Potential plaintiffs may prefer not to conform to law's categories because law's "solution" to their "problem" so inaccurately represents how they view the world (Engel & Munger, 2003; Sarat & Felstiner, 1995). When individuals do turn to law, they find their **disputes transformed by lawyers** (Sarat & Felstiner, 1995) and the courts in ways they often find unsatisfying (Merry, 1990).

Such insights into legal consciousness point to the necessity that we examine people's perceptions of fairness in everyday, lived and ongoing interactions with law from the various perspectives that they bring to law with them. Fairness itself is not discrete and immutable. Rather, people "build up" and "negotiate" the meanings of the law through mundane and routine interactions (Blumer, 1962) with legal authorities, procedures, and formal organizations such as law school and in their personal lives.

These legal authorities and organizational contexts create the institutional parameters within which litigants assess fairness. As Galanter (1974) famously argued, the structural features of the legal system may appear neutral but actually favor those parties with more resources and experience. Empirical research on dispute processing shows how these structural features produce material advantages on the ground (Hirsh, 2008). Courts treat employers' equal employment opportunity and diversity policies as indicators of employers' legal compliance, regardless of the policies' efficacy (Edelman, Krieger, Eliason, Albiston, & Mellema, 2008).

Law and its organizational and institutional structures also establish the ideological parameters within which people construct their conceptions of fairness, as shown in critical legal scholarship. Legal categories and frameworks are not impartial constructs; they reflect and often advance the interests of groups in power (e.g., Berrey, 2011), despite law's ideological promise of neutrality. In so doing, legal institutions establish the very "conditions of possibility" that an individual claimant must encounter, setting up the rules and the arena within which the game is played (Bourdieu, 1990, see esp. 135-136).

Thus, ideals of fairness are an important component of the internal schema through which people make sense of law. At the same time, the "law on the books" and "the law in action" combine to create the institutional and ideological premises upon which litigants base such ideals (Newman, 1985; Robinson, 1997), with considerable advantages to affluent defendants and corporate litigants (Galanter, 1974; Grossman, Kritzer, & Macaulay, 1999; Kritzer & Silbey, 2003). Our situated justice approach begins with these premises. Applied to the study of employment discrimination law, it reveals legal parties' conceptions of fairness in their real-life encounters with law and the role of these conceptions in an extremely unequal system of litigation.

In an arena of a litigious policy, we see polarized perceptions, which produce questions about the legitimacy of law – both by plaintiffs and defendants. Critically, defendants do not take claims seriously and therefore denigrate those who raise claims of discrimination. As such a multi-perspectival approach to the study of litigation is crucial.

4 Multiple vocalities

A third multiplicity that a Law in Motion perspective would embody is multi-vocality. Multi-vocality means presenting multiple perspectives effectively, considering our audiences, and giving voice to a variety of people that otherwise are silenced in legal analysis.

4.1 Presenting multiple perspectives

All of the benefits of a multi-perspectival approach cannot be realized without new ways of presenting those perspectives. Traditional academic writing is one of the least effective ways of presenting multiple perspectives because of the linearity of writing. Taking seriously the idea that law and legal conflicts are contradictory and contingent, presenting one perspective followed by the other does not allow us to put those voices into conversation very effectively. As such, we must consider new ways to present the perspectives we study.

One innovative example of a multi-vocal presentation is Michelle Oberman's recent article, "Two Truths and a Lie" (2013), in which she takes a new method-

ological, analytic, and presentational approach to studying teen sexuality and date rape. A claim of rape always involves contradictory interpretations of events, but Professor Oberman's analysis carefully analyzes not just the competing stories, but also the competing constructions of gender, sexuality, and society of the parties alongside the court's construction of those same events.

Instead of relying only on court records, Professor Oberman interviewed as many parties as she was able to in order to give voice to the different perspectives which reveals important new insights about the legal system's inability to adequately conceptualize the events, the role of law in defining what happened, and law's capacity to remedy. But one of the most interesting aspects of Professor Oberman's research is that her unique methodologies translate into how she presents the analysis. In the published version of this article, Professor Oberman presents the stories of the parties (victim, perpetrator, and court's) in side-by-side parallel columns. This simple adjustment allows the reader to compare moments in the stories to easily see where the stories are similar and different.

Professor Oberman's research and presentation begin from the premise that law is all about stories. The conflicts we attempt to resolve with law emerge from stories. The conflicts are articulated and reconstructed through the telling of the stories, and we rely on courts to interpret the stories and apply rules. Professor Oberman's research strategy and presentation innovation prioritize stories in ways that shed new light on the importance of voices with important results.

4.2 Considering our audiences

A multi-vocal approach also means ensuring that our collective sociolegal scholarly voices reach our multiple audiences and not just one another. How do we, as scholars, think about allowing our data and findings speak to different audiences in effective, understandable, and compelling ways? William Haltom and Michael McCann (2004) make a compelling case for using stories to capture political and popular support. One way my own employment discrimination research speaks to different audiences in new ways is by integrating audio, which allows consumers of our research to hear how parties to employment discrimination litigation (Berrey, Hoffman, & Nielsen, 2012). In the audio clips, a listener can hear and identify emotion, cadence, and inflection. The audio is more than a simple, "extra," they are the data.

Multi-vocality also means considering our various audiences. Courts and legislators are a very particular kind of audience that sociolegal researchers must consider. Indeed, we have an obligation to present our research to parties like these so they have the opportunity to incorporate our findings into practices. And yet, courts often have a difficult time understanding our work. Policy research can be difficult to communicate to different audiences, but these ways of allowing data to speak to ordinary people and policy makers have to be our future if we want to continue the endeavor that we call "Law & Society."

4.3 Excluded voices

A third component of multi-vocality is giving voice to participants (or objects) of the legal system whose voices typically have been excluded. Critical Race Theory gave voice to people of color in important ways and demanded a new kind of empirical analysis that takes race seriously. For example, Laura Gómez's Presidential Address to the Law and Society Association (2012) examined our successes (and challenges) bringing voice to the experience of race in law. The emergence of empirically-grounded critical race scholarship is another sign of our multiple futures.

One of the founders of the new Empirical Critical Race Theory group, Osagie Obasogie provides one of the most important and interesting way of adding a new voice to an old conversation that law and society has seen in recent years. In *Blinded by Sight: Seeing Race Through The Eyes of The Blind*, Obasogie (2013) asks how blind people understand race. He differentiates those with sight impairment from birth – who have not seen the 'colors' that largely define race in American society from those who become sight impaired later in life. Of course, it is a truism that race is a socially constructed concept, but asking people to articulate the social construction and what clues, tips, and tools they use to determine race when sight is not available to give them their first clues, introduces new voices into our collective conversation

about race.

A Law in Motion approach to law and society scholarship embodies considering how we present the multiple perspectives, who we give voice to, and how we help other constituencies.

5 Multi-media: objects

Finally, a 'Law in Motion' approach to sociolegal research must carefully consider the question of objects in our research. Not only must we think about the objects we routinely study (such as court records, other documents and forms) it is important to consider and reconsider the role of cultural objects in our analyses.

Law and Society scholars, largely influenced by anthropologists long have been cognizant of the ways that collecting data from documents can be limited (Riles, 2006). Medical records, court documents, census forms, and the like are created for specific reasons and are used by different constituencies. The questions on the form ask about only certain aspects of the object of the form. In the case of lawsuits, for example, lots of details that are considered not legally relevant are not included.

With these limitations in mind, a Law in Motion scholarship methodology explores what is behind the documents. In my own research, this included asking litigants how they understood the physical case file that represented their litigation struggle. Most often, litigants told us they did not understand the legal file that represented their conflict with the company. This disjuncture reveals opportunity for analysis, however. The fact that we, as researchers, had to explain the outcome of cases to plaintiffs tells us quite a bit about the impenetrability of the legal system. These disjunctures between documents and the stories that the documents represent provide wonderful opportunity for sociolegal researchers to gain insight into the relationship between law and society.

In his groundbreaking work, Terrence McDonnell (2010) pushes beyond the study of formal legal artifacts and reminds us not just to examine cultural objects for signs of "culture" that they embody and portray, but also to remember to study these items as objects. In his work, McDonnell carefully documents the fate of HIV/AIDS red ribbons and other symbols deployed by activists in Ghana attempting to raise awareness about the disease. Particularly in locations with deep poverty, the political symbols designed to counteract strong social norms against discussing sexuality, are going to change over time. The political and health messages change as the symbols fade, become covered, or are moved to new locations. In some instances meaning may change and make the deployed symbol less effective, but surprisingly, McDonnell documents 'unintended' uses of these symbols in ways that encouraged HIV awareness in effective ways unanticipated by their designers. For example, one particular set of HIV awareness fliers intended for display in beauty salons were considered so beautiful that they were taken home and displayed by women in their bedrooms. One read of this change of location is that the fliers are no longer effective and yet the women who moved these fliers explained that since the bedroom is where they have sex, the reminder to use a condom is most effective there.

Objects are important to analyze for our understanding of the relationship between law and society. They are not, however, fixed forever. Court records can be misplaces, misfiled, damaged, stolen, misunderstood, or just unavailable. Other objects that embody law and policy, like HIV/AIDS ribbons, movies that portray law, and other cultural objects bear our analysis both as repositories of meaning and as physical objects.

6 Conclusion

Scholars of law and society come to this research primarily to explore possibilities for conducting research that could lead to transformations to improve legal systems and promote social justice. Doing so is difficult, but a Law in Motion perspective embodying multiple methods, multi-perspectival approaches, multi-vocalities, and multi-media is one way to think about creating the kind of holistic research that generates new insights into the relationship between law and society. Multiple methods allows us to ask the same questions using different methodologies which

reveal a more fulsome truth about our phenomenon.

Attention to various perspectives gives traction for understanding how the legal system appears unique to parties entering into it from different perspectives, with different understandings, from different socio-economic backgrounds and the like. A multivocal approach considers who and how we talk to different constituencies. And finally, multi-media means looking to objects and at objects for opportunities to consider the contingent and interdependent relationship between law and society.

To be sure, a research methodology that takes seriously all of these considerations would be lengthy and costly. To carefully consider a Law in Motion methodology may mean it happens over multiple years, multiple sites and even multiple projects with different researchers. And yet, a Law in Motion perspective honors the foundational goals of Law and Society pioneers.

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