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On Pierre Bourdieu's Legal Thought: Toward a Classic of Socio-Legal Studies

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Keywords

Bourdieu, law, Bourdieu's legal thought, sociology of law, socio-legal studies, state of the art

Abstract

Although Pierre Bourdieu is one of the most important and influential sociologists of the twentieth century, his socio-legal thinking has become more widely recognized only recently. This is largely because Bourdieu never presented his own sociology of law; rather, he generated his socio-legal insights in passing while he focused on phenomena other than law. Nevertheless, he contributed extremely important ideas about law in modern societies. This article considers Bourdieu's legal thinking on socio-legal studies and discusses the hitherto untapped potential of his conceptions of law.

"Ah, non, surtout pas le droit!"

—Pierre Bourdieu, cited by Lenoir (2004, p. 251)

1. BOURDIEU AND SOCIO-LEGAL SCHOLARSHIP

This article provides an overview of the consideration of Pierre Bourdieu's legal thinking within the field of socio-legal studies and discusses the hitherto untapped potential of his conception of law. Thus far, scholarly insights into Bourdieu's legal thinking have been related exclusively to the author himself or limited to research in thematic subareas such as the sociology of international law. In this sense, this article remedies an important research gap.

1.1. Bourdieu's Consideration Within Socio-Legal Studies

Bourdieu's thinking on law has been largely overlooked (Dezalay & Madsen 2012), except for the socio-legal work that has been carried out by "a handful" (García-Villegas 2004, p. 58) of his acolytes since the 1980s.[1] Hence, only within the last decade has Bourdieu's legal thinking begun to gain wider recognition. In recent years, increasing numbers of scholars in the field of socio-legal studies have attributed significance to Bourdieu's legal thought, though important national differences have also become apparent. The francophone academic context has been particularly groundbreaking due to its more intensive general reception of Bourdieu's work and continuous work by Bourdieu's acolytes (namely, Bancaud, Boigeol, Y. Dezalay, Lenoir, and others) who applied his ideas to socio-legal scholarship, even as they also published work in English at an early stage. It is to their credit that Bourdieu's socio-legal insights were constantly highlighted and that some of his hitherto key texts became posthumously published.

Accordingly, it was initially scholars in France—especially Bourdieu's acolytes—who attributed a paradigmatic status to Bourdieu's work on law within the sociology of law (Noreau & Arnaud 1998, p. 267). Bourdieu is said to have brought about a "renewal of the sociological perspective on law" (Commaille 2002, p. 8, transl. A.K.; Colson & Field 2016, p. 209), and Vauchez (2020a, p. 758, transl. A.K.; similarly, Commaille 2002, p. 8) even observes that "Bourdieu's work was one of the strongest levers for the revival of the sociology of law in France." Bourdieu's work was also recognized early on in Spanish-speaking contexts. In the anglophone world, references to and engagements with his legal thought have increased significantly over the past decade. In the German-speaking context, Bourdieu's legal thought has been discovered by a broader audience only recently, following the translation of his key texts on law and the first comprehensive systematic exploration of his legal thinking (Kretschmann 2019a). Finally, even though "(i)t is evident that P. Bourdieu harbored a desire to challenge a community (jurists) for whom he had little affection and a discipline (law) that he held in rather low regard" (Caillosse 2004, p. 24)—and despite his portrayal of jurists as guardians of stability and sociologists as advocates of change and progression (Commaille 2002; 2004, p. 12)—the usefulness of his legal thought has also occasionally been discussed by legal scholars (Caillosse 2004, Conradin-Triaca 2014, Sueur 2012).

Bourdieu's perspective on law has not yet become part of the socio-legal canon (García-Villegas 2004, p. 57; Kretschmann 2019a), even though special issues have honored his work in this subfield [e.g., *Droit et Société* (Ocqueteau & Soubiran-Paillet 1996 and Commaille 2004) and *Retfærd* (Hammerslev & Madsen 2006)]. Witte & Striebel (2015, p. 165) even suggest he has received a "stepmotherly treatment." However, we see signs of a small reversal in this trend, including

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[1]These authors were conducting socio-legal research with Bourdieu's analytical tools even before the publication of Bourdieu's texts on law (e.g., Bancaud & Dezalay 1980).

initial entries in textbooks (Kretschmann 2024a,b; Nour 2009), Bourdieu encyclopedias (Sapiro 2020; Vauchez 2020a,b), anthologies on Bourdieu's legal thinking (Kretschmann 2019c), subareas of socio-legal studies (Hirsch & Lang 2020), and methodological reflections on his legal thinking in certain academic disciplines (Scholz 2002).[2] Also, Israël (2017) republished Bourdieu's seminal publication on law and provided it with a long introductory essay. It seems that the sociological classic Bourdieu—with all the associated side effects, namely, fundamental criticism of his approach [e.g., that of Valverde (2006, p. 595), who not only understands Bourdieu's rather structuralist legal thinking as too static but also regards his central essay as "overrated"]—is gradually becoming an indispensable figure in the sociology of law.

1.2. A Sociological Classic Without a Sociology of Law

The delayed engagement with Bourdieu's legal thought can be attributed to the fact that—despite being one of the most influential sociologists of the twentieth century (Schultheis 2017, p. 149)—he never developed a proper sociology of law (cf. García-Villegas 2004, p. 58; Madsen & Dezalay 2002, p. 188; Ocqueteau & Soubiran-Paillet 1996, p. 10). Although he devoted extensive scholarly energy to a wide range of sociological phenomena—including education, lifestyles, art and culture, the economy, the state, and intellectuals—he rarely addressed the law (Lenoir 2004, p. 232; Roussel 2004, p. 42). He also never examined the law empirically (Lenoir 2004, p. 249; Kretschmann 2019a; see, however, Bourdieu 1990a). Nevertheless, Bourdieu developed a body of legal thought that focused mostly on modern law, as he repeatedly touched upon legal issues in his numerous studies. For instance, he addressed legal questions in relation to his concept of habitus in his discussions on a theory of practice (Bourdieu 1986, 1997). Law also played a role in his writings on the nation-state, particularly regarding its genesis (and thus its historicity), its administrative operation, and the field of power (Vauchez 2020a, p. 757). [In this regard, it is important to mention that a hitherto key text of his socio-legal thinking, namely, *Sur l'État* (Bourdieu 2012), was published posthumously, which adds to the delayed engagement with Bourdieu's legal thought.] Whenever he examined these phenomena, Bourdieu inevitably had to engage with law (Bourdieu 1990a,b, 1994, 1997, 2012; Bourdieu & Saint Martin 1990; see Kretschmann 2019a, p. 11 for a detailed discussion). Commaille (2002, p. 8) even identifies a steadily increasing emphasis on law throughout Bourdieu's oeuvre. In a narrow sense, only two of Bourdieu's publications can be classified as truly socio-legal: the essay "La force du droit" from 1986 (Bourdieu 1986), which he wrote after a seminar on the legal field that he organized with his acolytes (Guibentif 2010, p. 274) and which "provides an important analysis of the inner workings of law" (Madsen 2018a, p. 190), and "Les juristes, gardiens de l'hypocrisie collective," a transcribed talk from 1991 (Bourdieu 1991). These texts are purely driven by socio-legal and, simultaneously, social-theoretical interests.

In some publications, Bourdieu was less interested in defining law in a socio-legal sense than in using it as a contrastive lens for analyzing the reproduction of social structures, e.g., when he clarifies the relationship between law, norm, rule, and habitus for developing his analytical tools

[2] Some authors draw on Bourdieu without explicitly citing his terminology (Israël 2019, p. 244), whereas others engage in a close reading of his work. The depth of engagement with Bourdieu's terminology and insights also varies: Because early scholarship was rather descriptive, subsequent work was primarily empirical, with theoretical developments emerging out of it. Therefore, in-depth, critical receptions (Dezalay & Garth 1996, p. 4) and significant further developments of Bourdieu's legal thought were, for a long time, relatively rare. Only in the last decade has more theoretical scholarship emerged. Additionally, it is important to distinguish between a narrow focus on his socio-legal key texts, and the concepts he hints at therein, and the broader reception of Bourdieu's legal thought that considers his entire oeuvre and sociological motivations (similarly Madsen 2018a, p. 189).

(Kretschmann 2019b; Lenoir 2004, p. 244; Ocqueteau & Soubiran-Paillet 1996, p. 10). Other works let legal insights emerge as by-products, e.g., when Bourdieu, with a main interest in bureaucracy, shows how state agents interlink law and power (Bourdieu 1990a). And with a main interest in the sociohistorical formation of the nation state, he describes the indispensable role of the emerging modern law regardingly (Bourdieu 2012). Thus, Bourdieu generated his sociological insights of law often in passing and only within the context of theoretical and methodological discussions that were focused primarily on phenomena other than law. Madsen & Dezalay (2002, p. 189) make a similar observation: "Like most social theorists, Pierre Bourdieu does not primarily deal with law, and yet addresses law, legal logic and the legal profession as central elements in contemporary society." Therefore, as several studies suggest, although law is not central to Bourdieu's analysis, just as it is in the case of other works of classic sociology, "it is a central component of his understanding of the social world" (Guibentif 2019, p. 96).

In broad terms, Bourdieu's legal thought, building on his previous work, developed a constructivist-structuralist understanding of law, which is supported by, and benefits from, the integration of primarily structuralist, interpretative, and phenomenological approaches. This thinking—which cannot be neatly categorized within any specific legal theory, and which Bourdieu developed against both "formalistic" and "instrumentalist" approaches in jurisprudence and sociology (Bourdieu 1986)—is often "far removed from the topics" that are "typically studied in the sociology of law" (Lenoir 2004, p. 239, transl. A.K.). Bourdieu's primary aim in developing a socio-legal analysis is social criticism: By examining the law's conditions of possibility, and its genesis, nature, and effects, he wants to decipher its social significance in its domination and symbolic power effects. For Bourdieu, legal structures are not neutral but are instead closely aligned with the interests of the powerful. He conceptualizes law through key analytical concepts—including, e.g., field and habitus—he develops elsewhere. Accordingly, he views law as a cosmos shaped by cultural (Schmidt-Lux 2019) and socio-structural processes that comes into being and is reproduced through the practices of various actors who have acquired legal capital and possess a juridical habitus (such as lawyers and judges) and who compete for the recognition of their interpretation of the law. According to Bourdieu, more than other areas of society, law exhibits the ability to transcend itself—that is, it has constitutive effects on how people grasp reality across society as a whole, partially because it is backed by state power. Due to space limitations, this article does not provide a full introduction to Bourdieu's legal thought, though it references the relevant introductory literature and reflections on Bourdieu's legal thinking (e.g., Guibentif 2010, Hammerslev & Madsen 2006, Kretschmann 2019c, Lenoir 2004, Madsen & Dezalay 2002, Nour 2009, Ocqueteau & Soubiran-Paillet 1996, Willemez 2015, Wrase 2010).

2. SCHOLARSHIP ON BOURDIEU'S LEGAL THINKING

This section provides a near-comprehensive overview of anglophone, francophone, and germanophone publications that reference Bourdieu's legal thought. These texts cover a wide range of theoretical and empirical topics, including the evolution, nature, and functional logic of legal fields; the internationalization or globalization of law; the characterization of (aspiring) members of legal professions as well as legal laypeople; the social-structural diversification of law; the constitutive meaning-making—and thus, violent power—of law, and its role in the production and reinforcement of social inequality; as well as topics like legal implementation and compliance. These studies typically focus on one or more of Bourdieu's central concepts—which they then build their research on—and are therefore grouped according to those major analytical terms. Importantly, however, like Bourdieu himself, most them are fundamentally shaped by the idea of connecting structure and agency and integrating micro- and macro-perspectives, so that

consequently, many of these studies connect several of Bourdieu's key concepts that are mentioned in subsequent order here.

2.1. Law as a Social Field

Socio-legal scholars regard Bourdieu primarily as a field theorist (Kretschmann 2023, p. 247; Olesen & Hammerslev 2023, p. 177).[3] Consequently, they look at the law through the lens of social differentiation, augmented by a power analysis. Bourdieu assumes that the modern world is characterized by social fields that have irreducible fundamental rationalities. They are defined by the aims, rules, logics, and practices that are consistent to the actors in each field. He conceptualizes these spaces—including the legal field—"in a classically Weberian manner" (Ocqueteau & Soubiran-Paillet 1996, p. 19; Witte 2015), as arenas in which actors, who are competently equipped to interpret a corpus of texts, compete to enshrine the legitimate view of the social world. Thus, in this context, scholars perceive Bourdieu's conception of law largely in terms of its relational, relatively self-dynamic—and, as Brindisi (2022) argues in his theoretical paper strongly in reference to Marx—conflict-ridden, and hierarchical nature (e.g., Arnaud & Fariñas Dulce 1998, Guibentif 2019, Hammerslev & Madsen 2006, Madsen & Dezalay 2002, Ocqueteau & Soubiran-Paillet 1996, Štajnpihler 2012, Willemez 2015). With this, they subsequently "identify socio-legal research with a sociology of lawyers" (critically, Israël 2019, p. 243; Kretschmann 2016, p. 112; 2017). In this regard, scholars are interested in the evolution of law; in the character of the legal field, particularly the degree of its autonomy and its interaction with other fields; and in law's internationalization and globalization.

2.1.1. The evolution of law. Scholars (many of whom are more interested in modern statehood than they are in law)[4] critically discuss how Bourdieu locates law in modern state formation. According to him, bureaucratic fields arise in the modern era in the wake of capital condensation (Ocqueteau & Soubiran-Paillet 1996, p. 19). By no longer operating according to the interests of individual rulers from powerful families when considering the formalization, rationalization, and proceduralization of processes, the law thus create norms that theoretically apply equally to all. For Bourdieu, law is a special form of this kind of bureaucratic field (Lenoir 2004, p. 243). With its legal norms, it has its own set of rules that, since their inception, have been applied to more and more social phenomena. In his view, the genesis of modern law represents the monopoly of the use of force, and thus can be linked to the emergence of the state. He particularly emphasizes the role jurists play when it comes to how the state is constituted and legitimized (Sueur 2012, Willemez 2015), along with their increasingly complex and specialized legal practices (Bongaerts 2008, p. 178; Böning 2014, p. 199): "Law ceases to be personal law and becomes instead public justice monopolized by jurists who invent the idea of the state as an impersonal power" (Riley 2015, p. 272). Accordingly, and following Bourdieu, scholarship from various countries examines "the change from early law to modern politics as a long historical process in which the jurists not only change camp between church and early state but also turn the church against the church to construct the state in Europe" (Madsen 2018a, p. 191) and how that process takes shape. While

[3]The background to this is partly that Bourdieu (1986), due to the genesis of his work (Guibentif 2010, p. 273), centers "The Force of Law" around his field-theoretical perspective. In German-speaking countries, this focus has been significantly reinforced by the immense influence of Luhmann's systems-theoretical sociology of law (e.g., Luhmann 1993), even though the two authors stood in competition with each other.

[4]His posthumously published lectures (Bourdieu 2012) trigger a small spate of such discussions, as they "offer to a large extent what is missing in 'The Force of Law'" for the analysis of the legal field's evolution: Whereas "The Force of Law" considers formal law and legal doctrine, *Sur l'État* allows for "rethinking the genesis of law, jurists, and the state" (Madsen 2018a, p. 190).

Zamboni (2007) explores the development and nature of welfare law, Böning (2014) researches the role of legal science during the building up of statehood. Bongaerts (2008) investigates the evolution of the German and Santoro (1996) of the Italian legal field.

2.1.2. Nature of the legal field and relations to other fields. Because the constitution of the legal field occurs in relation to other social fields—for, as Bourdieu argues, "social reality does not exist in and of itself but only relationally" (Madsen 2018a, p. 192)—scholars are particularly interested in these influences (e.g., Biddulph 2007, Bongaerts 2008). Although the legal field possesses less autonomy than other social fields—making it more susceptible to external influences while simultaneously enhancing its significant impact on the social world—this idea is particularly true for the political field. Hence, scholars have shown a special interest in this relationship (see, e.g., the articles in Commaille & Kaluszynski 2007 that discuss the growing significance of the legal field within the political system). The research gathered here builds on Bourdieu's assumption that law is embedded in the nation-state and permeated by its normative order (Trubek et al. 1994, p. 410). At the same time, it maintains a mutually constitutive relationship with the political field (García-Villegas 2004, p. 61; Terdiman 1987, p. 807). The political field's power legitimizes the legal field, despite tensions between the two.

Under this premise, Hammerslev (2003, 2005) researches the Danish legal field, and Willemez (2015) examines the French legal field based on other empirical studies. Biddulph (2007) explores the influence of the political field and the field of power on legal reforms of police powers in China, demonstrating that both significantly impact the legal field. Engelmann (2007) investigates the emergence of cause lawyering for collective causes within the context of the diversification and democratizing politicization of the law in Brazil. McCahery & Picciotto (1995) examine it for the United States, with a key focus on "interactions of government and private-sector lawyers." And for France, Israël (2007) examines how jurists, despite their official role to neutrally uphold the law, have always advocated for political matters and so influenced the law. From a sociology of professions perspective, Boigeol & Dezalay (1997) examine how French law firms respond to market logics and co-shape legal reform. Bernard (1997) demonstrates how notaries addressed the public and politicians to advocate for a new bill that accounted for their interests. Commaille (1994), refining the Bourdieusian approach, develops a political sociology of law while examining legislative processes in French family law between 1972 and 1993. Garth & Sterling (1989) analyze how, in the 1960s, the Law and Society Association emerged alongside the rise of a new landscape of academic subjects within law and the social sciences, including racial discrimination, poverty, and crime. Dezalay et al. (1989) argue that the law and society tradition in North American academia emerged due to a crisis that affected the professional field. The chapters in Dezalay & Garth's (2011) edited volume address the nature and development of the rule of law in various countries (e.g., Chile, Argentina, Venezuela, China, Japan, Korea, Bolivia, and Italy). Van Krieken (2004, p. 29), combining Luhmann and Bourdieu, empirically researches jurisprudence around native title in Australia to theoretically research law's autonomy and calls for a more thorough consideration of the social sciences and lay knowledge in law. Fuchs (2014) examines implementation problems of corporate criminal law by focusing on actors at the intersection of the legal and economic fields; he concludes that the observed patterns of legal application are effects of conflicts of interest.

Conversely, research that is concerned not primarily with law but with other social fields looks at the interactions between the fields. According to Bourdieu, the legal field is related not only to the field of power but to all other social fields as well. In Sapiro's (2019, p. 183, transl. A.K.) examination of the relation of the emerging fields of law and literature, she states that despite numerous interactions in the eighteenth and nineteenth centuries, "writers and jurists. . .no longer share the same values and no longer have the same reference points."

2.1.3. Internationalization and globalization of law. From the perspective of a sociology of international law, which is often historical in nature and partly overlaps with research on the legal field's evolution (Dezalay & Garth 2002, p. 307), some research examines "the internationalization and globalization of law" (Alter et al. 2018; Dezalay & Madsen 2012; Madsen 2018a, p. 193). These studies expand Bourdieu's perspective, which focuses solely on national law: They examine how an autonomous "world legal field" or "international legal field" (Bourdieu 1995, p. ix), and "a corresponding profession of international lawyers" (Madsen 2018a, p. 194) that has its own market and market incentives, emerge, a process referred to as a "revolution from above" (Dezalay & Sugarman 2005, p. 2).

One strain of this research focuses on the neo-imperialism of the international legal market and the role of North American elites, which is why this perspective is partly regarded as a "political economy of legal change" (Trubek et al. 1994, p. 497). For example, scholars explore how transnational lawyer-elites (Kauppi & Madsen 2013) brought about a growing private arbitration of international business disputes (Dezalay & Garth 1996, Shaffer et al. 2017), or how large, neoliberal-inspired corporate law firms in the United States reshaped legal power structures worldwide (Dezalay & Garth 2021). In addition to this research on the emergence of international commercial arbitration, other studies also look at the expansion of the international field of human rights since World War II (Madsen 2005; Nour Sckell 2019, p. 256); the European legal field (Cohen 2010; Vauchez 2008, 2010, 2013); and the emergence of international courts and tribunals, for example, in the European Union (Christensen 2020, Dezalay & Dezalay 2017, Hagan & Levi 2005, Kelemen 2018, Sacriste & Vauchez 2007), and their authority (Dezalay 2019). Scholars also explore how law shapes international bodies like the European Union and statehood more broadly [e.g., for Europe, North America, and Indonesia (Trubek et al. 1994)], sometimes with a view of postcolonial law as well [e.g., in modern Latin American states (Dezalay & Garth 2002) and South and Southeast Asia (Dezalay & Garth 2010)].

This scholarship is the most well-developed strand of research, primarily because it aligns with the interests of those acolytes to whom Bourdieu had "outsourced" (Madsen 2018a, p. 190) the socio-legal work in his wake. It includes the strongest original theoretical and methodological approaches in scholarship inspired by Bourdieu's legal thought (e.g., Dezalay & Garth 2021). Whereas other currents in the international sociology of law assume that, in the light of globalization, law denationalizes, Bourdieusian scholarship shows that a complex interplay of "interdependent social fields" is actually at stake, in which fields "claim to be autonomous beyond the state but are nevertheless deeply embedded in a national configuration of law and power" (Madsen 2018a, p. 195). These scholars, therefore, do not make the mistake of framing international fields as merely scaled-up copies of national fields. This also applies to capital and habitus, which can also have significant conceptual differences, which is why scholarship along these lines broadly rejects mere theoretical discussions of Bourdieu's concepts and emphasizes the need for empirical analysis (e.g., Madsen 2018a). Unlike many other works of Bourdieusian socio-legal scholarship, this strand of research draws on his entire socio-legal toolbox in connection with his whole oeuvre (e.g., Madsen 2011) and, even from early on, reflects on its own "holistic theorizing" (Trubek et al. 1994, p. 415). Therefore, the primary analytical focus on the legal field in this strand leads to questions about law's symbolic power, the habitus and practices of jurists, and their capital, as well as notions of social interest, struggles over domination in contexts of class, and other power structures.

2.2. Juridical Habitus and Capital

Another strand of research understands Bourdieu's legal thought primarily as a sociology of the individual, as well as of social classes and milieus. Even though Bourdieu views law through the

lens of differentiation theory, thus adopting a system-integrative perspective, he fundamentally grounds his legal field in action (Schimank 1998, p. 64), though he simultaneously relates the actor perspective to social structures. Thus, this strand of research focuses primarily on Bourdieu's key analytical concepts: habitus, capital, and practice.

2.2.1. Habitus. According to Bourdieu, law and its structure emerge through actors' habitually guided practices. He understands habitus as the actors' internal structuring, which, for legal practitioners—and as Litowitz (2000) theoretically elaborates—also manifests as legal identities. Bourdieu addresses this aspect only briefly (Conradin-Triaca 2014, p. 311; Hackler 2019, p. 203). Although he describes the habitus in his other works as socially acquired complexes of cognitive schemata—on the basis of which actors perceive, evaluate, and classify the social world, and on the basis of which they then act (Bourdieu 1977, p. 148) and, thus, reproduce given structures—he says very little about how this applies to the juridical habitus. However, with reference to habitus and social rules, he makes it clear at various points that "it is often not simply the legal rules that guide practices" (Roussel 2004, p. 47, transl. A.K.). Thus, various scholars have discussed when law comes into play (though they have largely done so relatively descriptively) (Kretschmann 2019b; Lenoir 2004, Ocqueteau & Soubiran-Paillet 1996; Roussel 2004; Soubiran-Paillet 2000). In contrast to previous understandings of legal consciousness, among other things, the concept of habitus allows for the analysis of the relationship between the individual and the law to be seen "not as a structure of cognitive categories but as a socialized disposition, distinctive by virtue of its social and historical referents" (Coombe 1989, p. 110).

Some scholarship has addressed this gap in the research. Building on Bourdieu's insight that habitus is acquired through socialization and that education plays a significant role in this process, scholars (partly in close connection with the sociology of the legal profession) explore how legal socialization takes place during academic studies (for Austria, see Sagmeister & Wöckinger 2013; for Germany, see Böning 2017; for the United States, see Jewel 2008, 2012) and in graduate and postgraduate programs (Brachthäuser 2021). Scholars pursuing this line of inquiry—including those who incorporate Bourdieu's insights on the education system's contribution to societal inequality (see Jewel 2008)—foreground students' and scientific scholars' legal socialization and their social positionality. They are particularly interested in social inequality among students and how to decrease it (Böning 2019) and the effects those inequalities have on the law's reproduction.

Scholars also apply habitus analyses to jurists. Hackler (2019, p. 203), for instance, examines "the emergence and functioning of the judicial habitus" in Germany by analyzing the Weimar Republic's critical legal movement, drawing on Conradin-Triaca's (2014) distinction between judges' class-, profession-, or education-specific habitus. He demonstrates how some judges identified so strongly with their profession that they could not recognize how their class habitus biased their court decisions. Morlok & Kölbel (2001, p. 300)—whose work is based loosely on the concept of habitus—conclude that professional patterns of action are guided largely by general, nonprofessional perspectives on problem-solving. Bancaud (1989, 1993) examines the habitus and reproduction strategies of judges at the *Cour de cassation* (Supreme Court of Appeal) between the late nineteenth century and 1985; he demonstrates how judges increasingly became politically dependent while they found refuge in an attitude of political caution. His interest in political influences on judicial habitus is reflected in a later empirical study on the judiciary's loyalty to the Vichy regime (Bancaud 2002). Due to a void in the scholarship that applies habitus to the sociology of international law, Madsen & Caserta (2024, p. 15) use the concept to "map the elites that populate the field," calling for ethnographic participant observation and qualitative interviews.

2.2.2. Capital. Another strand of research uses the concept of capital as a starting point. Bourdieu, in his revision of Marx, extends the notion of capital beyond economic exchanges

to show how it also applies to intangible resources and accumulation (i.e., cultural, social, and symbolic capital). This move allows him to analyze how action in fields is centered around different "currencies," which are shaped by their distinct "economies." In the legal field, he identifies juridical capital as a type of cultural capital. Capital analysis assumes that capital is tied to the objective positions individuals hold in the social world—that is, the constraints and opportunities actors encounter are understood in connection with the varying amounts of capital they possess.

Studies have examined social inequality in legal actors' career paths along the lines of class, race, and gender. This research expands and refines class and discrimination analyses within socio-legal studies. It also conceptually advances Bourdieu's ideas about juridical capital. By analyzing the amount of capital actors hold, Dinovitzer (2006), using the case of Jewish lawyers, examines the role identity categories play in legal career paths. She finds that although they possess the same amount of capital non-Jewish lawyers do, their capital is less effective, leading them to establish networks with other marginalized lawyers and to work in lower-prestige positions. In the same vein, Sommerlad (2012, p. 2489), accounting for the category of class, argues that "career destinies are affected by proxies for class such as attending elite universities, having the 'correct' accent, knowing how to dress, and which cultural tastes to display—or, to express this in Bourdieusian terms, possessing sufficient quantities of the 'right' forms of capital." These capital analyses insightfully show the limitations of using a quantitative logic to describe capital: "We cannot assume that the more capital individuals have, the better they will do" (Dinovitzer 2006, p. 474). Whereas Bourdieu's concept of capital theorizes the gains it might create, theorists in his wake have also conceptualized capital in a negative sense (e.g., Meares 1998). Wald (2015, p. 2522) expands the concept of capital to include institutional capital and identity capital; the latter can be understood as "the values one derives from various facets of one's personal identity—for example, gender, racial, ethnic, class, national, or sexual orientation identity—facets that trigger reactions, perceptions, and stereotypes in others." She assumes that the same capital can have positive or negative effects and observes that, because marginalized actors lack mentoring from powerful colleagues in the profession, they must take on less rewarding tasks. Young & Billings (2020) examine how laypeople make use of cultural capital to navigate the legal system.

Research that draws primarily on the concept of capital often also focuses on the structuring and structuration of the legal field due to accumulated capital. These studies adopt a meso- or macro-perspective and add to the collection of field-theoretical approaches, including those in international law. For instance, Shamir (1995) examines how jurists' disputes over the US New Deal's administrative legislation were structured by the social positionality of elite corporate lawyers and those from the American Bar Association. Dezalay & Garth (1997) research how personal ties reproduce the legal field in Mexico. They describe lawyers as "brokers" in transferring their different forms of capital into legal action, and vice versa (Dezalay & Garth 2011).

2.2.3. Practices. In the scholarship exploring the concept of habitus and capital, a third strand emphasizes a practice-theoretical perspective. These approaches often highlight Bourdieu's cultural sociology foundation of the field concept in his theory of practice, and they are based on what Kretschmann (2019a), in a theoretical discussion, has termed Bourdieu's "practice theory of law." Such a perspective, as Coombe (1989) emphasizes in her theoretical elaboration, for example, advocates for overcoming the analytical gap between structure and subjectivity.

Often, though not exclusively, studies in this area deal with the law outside of institutions and beyond the sphere of legal experts. [For an exception to the rule, see, for example, Dezalay (1990), who examines the commercialization of juridical services in the emergence of an international legal market.] Instead, they examine the everyday lives of those who are subject to the law or who are exploring resistant practices within the law. In contrast to Bourdieu's perspective, these

researchers view the law as a moment of social change. In this regard, scholars have also argued that in Bourdieu's work, the legal practices of laypeople, especially those related to political activism (Israël 2019; Roussel 2004, p. 47), represent a blind spot in the research (Kretschmann 2017, 2019a, 2021, 2023; Kretschmann & Rowitz 2025a,b; Lascoumes & Le Bourhis 1996).

A key and influential area of scholarship in this field is legal consciousness studies (LCS, founded by Ewick & Silbey 1998, Merry 1990, Yngvesson 1993). This research has developed a practice theoretical or ethnomethodological concept of law, which is rooted in the cultural turn. Beyond its references to legal anthropology, poststructuralism, Marxist concepts, and classics from the field of action and practice theories (Weber, Giddens, Goffman), LCS draws heavily on Bourdieu's theory of practice (initially without considering his socio-legal publications; but see nowadays Young & Billings 2020) and adopts some of its implications for its understanding of the individual (Silbey 2005, p. 358). For example, Ewick & Silbey (1998) demonstrate how a legally uneducated habitus and the absence of legal capital can lead to inappropriate legal actions, which in turn can reinforce social marginalization. Socio-legal scholars who align themselves more closely with Bourdieu criticize LCS's "absence of a macrosociological lens," which "lessens the capacity to. . .analyze genuinely efficacious emancipatory options for the excluded" (García-Villegas 2003, pp. 186–87; Kretschmann 2016, p. 212). García-Villegas (2003) also argues that problems, which in Bourdieu's legal thinking are matters of power, are presented merely as problems of knowledge from the LCS perspective.

Kretschmann (2016, 2021, 2023) further targets the gap in research concerning Bourdieu's notion of laypeople in law, developing a conceptualization of their socialization in the "objective" legal field to understand their actions. Based on this, she develops a theory of legal compliance. She empirically investigates compliance in the legalization of 24-hour care work for the elderly in Austria (Kretschmann 2016, 2018) and the police in Germany (Kretschmann 2023). She also explores how juridical learning takes shape among laypeople and, consequently, what legal capital laypeople possess (Kretschmann 2017). Fisahn (1999) develops a theory of legal compliance in connection with Giddens and Bourdieu, whereas Roussel's (2004) theoretical discussion asks how and when legal compliance or deviation occurs. Freymond & Platel (2005) focus on the "individual's relation to the Rule of Law." Conversely, García-Villegas (2012, p. 281) develops ideal types for habitually dispositioned deviant actions, arguing that cultural and politico-social demographic contexts matter: "The noncompliance characters not only represent cultures and ways of seeing power, legality, and social rules but are also relatively stable class structures and visions." Olesen & Hammerslev (2023) discuss how different dispositions and amounts and forms of capital shape citizens' abilities to turn an issue into a legal dispute.

Finally, some research on juridical practices is linked with social movement studies. Buchanan (1994)—though she is more inspired by Bourdieu's practice theory than by his socio-legal thinking, and though she also draws on Foucault, De Certeau, and others—analyzes critical lawyering in the field of what she calls "poverty law" in the United States from the 1960s onward. She identifies "three distinct lawyering approaches: liberal legalist, radical, and critical." Following Bourdieu's scattered references to the agency of laypeople, Israël (2019) aims to examine, from a practice-theoretical perspective, the role social movements can play "in dealing with the law as a possible lever for reversing power relations" (Israël 2019, p. 243, transl. A.K.). Considering relevant texts of socio-legal movement studies, she demonstrates how Bourdieu's work can be developed further.

2.3. The Symbolic Power of Law

Ultimately, previous scholarship positions Bourdieu's legal thinking primarily within his constitutive sociology of domination, which is understood through the concept of "symbolic power"

(Riley 2015, p. 267) or "symbolic violence" (Martin 2019). This research does not principally refer to the legal field's objective, social-structural dimension but rather addresses its ability to create and enforce specific meanings. Based on the assumption that "for Bourdieu. . .law is primarily a discourse," Lenoir (2004, p. 241, transl. A.K.), for example, understands Bourdieu's "references to law. . .mostly [as] part of his studies on symbolic domination" (similar Dębska 2016; Roussel 2004, p. 43).

Thus, this research examines Bourdieu's conception of law along its dimensions of symbolically mediated meaning (Kretschmann 2023; Vauchez 2020a, p. 756), which first affects jurists themselves (Bourdieu 1991) but also extends beyond the legal field into society. Sueur (2012, p. 733, transl. A.K.) writes, "Bourdieu is aware of the uniqueness of law, which lies in its presence almost everywhere, and thus by definition outside the reach of any 'boundary.'" Bourdieu has explained that certain characteristics of the law—namely, codification, formalization, and the habitus of the jurists, but also mechanisms like universalization and neutralization—are responsible for portraying law as "a neutral space governed by formal rules, an entity that does not serve "any particular political interests, but" is "selfless" (Dębska 2016, p. 17). In reality, however, the law secures social inequality (Bourdieu 1986), which gives it world-making powers. "By transforming the words for naming it, by producing new categories of perception and judgment, and by dictating a new vision of social divisions and distributions" (Bourdieu 1994, supra note 2), the law (through misrecognition and, thus, in a magical way) brings about new ways of thinking and perceiving the world.

Witte & Striebel (2015, p. 184), in their theoretical work, highlight Bourdieu's dual approach, emphasizing both the law's "autonomous logic" and its "function as a technique of domination." They praise his radical decentralization, which contrasts with previous concepts of power in socio-legal studies, though they also criticize him for being "rather silent" on a strong concept of culture, even though it is inherent in his socio-legal thinking. Likewise, scholars who offer a materialist ideology critique draw on Bourdieu's concept of symbolic power to differentiate or replace the Marxian concept of ideology (Dębska 2016), connect Bourdieu and hegemony theory (Martin 2019), or combine Derrida and Bourdieu to examine the law's and literature's ideologies (Leckie 1995). Rivera Ramos (2003) deepens Bourdieu's ideas about the law's exercise of symbolic violence when he details how violence is always already inherent in law, which runs counter to perceptions that it is synonymous with nonviolence.

Scholars also examine the various means through which law derives its symbolical force. For instance, they discuss law's performative power, which lies in its linguistic acts. Dolin (2007, p. 12), for example, compares how transformations are brought about through language in the legal and literary fields, whereas Wulf & Wulf's (2019) theoretical discussion explores the role rituals play in Bourdieu's legal thought. Following Lenoir's (2000) theses on the power of law in shaping familial identities in France, García (2019) empirically examines how hierarchies within the category of motherhood are anchored in German and French legal texts about the protection of mothers. In this vein, Roussel's (2004, p. 52) theoretical discussion advocates for an empirical examination of legal practices to concretize Bourdieu's concept of symbolic violence.

Other research examines how and why nontraditional forms of lawmaking—outside and in opposition to state law—emerge in countries where state law is relatively hegemonic. Kretschmann investigates how sovereign citizens in Germany appropriate the authority and legitimacy of existing legal systems that Bourdieu describes in their own legal orders and visions, courts, and legal and political practices (Fuchs & Kretschmann 2019, 2020; Kretschmann & Rowitz 2025a,b). Contrary to Bourdieu's (1986) assumptions, this research demonstrates that the ability to play with and within the rules of the law is not reserved for agents of the legal field; rather, even small amounts of symbolic power are sufficient.

3. FINAL CONSIDERATIONS

The overview of the literature above suggests that the reception of Bourdieu's concepts of law within socio-legal scholarship has been characterized from the beginning predominantly by a macro-perspective, which understands his legal thinking primarily as a sociology of social fields. Scholarship that focuses on actors, their resources, and their practices through Bourdieu's key concepts of habitus, capital, and practice have been less prominent, though they have increased in recent years. The macro-perspective on law (i.e., on social fields) corresponds with an initial primary focus on socio-structural factors. Only through the establishment of more micro-sociologically oriented perspectives (i.e., on habitus, capital, and practice) does Bourdieu's notion of culture emerge as a mechanism through which law reproduces itself or becomes effective. With the posthumous publication of *Sur l'État* (Bourdieu 2012)—which applies Bourdieu's concept of symbolic violence to the formation and operation of law within the state—this perspective has gained somewhat greater recognition also from the macro-sociological side. It is thereby the cultural-theoretical interpretations that are particularly interested in law's potential for social change from below, or in a progressive sense. In contrast, scholars who sometimes regard law from a socio-structural perspective tend to characterize it as an instrument of domination that maintains or exacerbates societal power relations. These scholars often find a fitting intellectual counterpart in Bourdieu, who conducts his legal analyses partly from this very motivation (Guibentif 2019).

A unanimous point among researchers is that Bourdieu, who was not a legal expert himself, often presents the law in a simplified way. This means that his thinking requires differentiation [e.g., Riley 2015, p. 275; Loyal 2017, p. 119, regarding the differentiation of legal rules and the demonolithization of the concept of the state; Lascoumes & Le Bourhis 1996 (however, they argue this before the publication of *Sur l'Etat*), for the greater consideration of bottom-up dynamics in the use of law; Lascoumes & Le Bourhis 1996; Commaille 2015, p. 33; Kretschmann 2016, p. 95, for a clarification about field boundaries (see, for example, Loyal 2017, p. 119 and Roussel 2004, p. 44)]. Scholars also agree that Bourdieu's legal thinking is strongly based on time-bound impressions from France and that extensions are needed in this regard (e.g., Guibentif 2019, Roussel 2004), even though it is in many regards still "highly relevant" (Israël 2017, p. 10, transl. A.K.). As García-Villegas (2003) argues, Bourdieu's critique of law should be understood as an attack on a particular type of political domination through law that had a particularly successful moment in French political and institutional history. That model, nowadays, is in crisis, in France and throughout the world, or at least it no longer has the force that it once had.

In this context, it is fitting that, in recent decades, structuralist theories and concepts, including Bourdieu's work on structuralist constructivism, have generally become less popular than perspectives that rightly emphasize the fluidity of the social in advanced modernity. After all, the law is not entirely exempt from these fundamental tendencies in the social realm. This is evident, for example, in the diversification of the group of legal experts, the increased engagement with the law by nonexperts, and the internationalization of law. Although law still must be understood as a relatively persistent force that is only gradually and belatedly affected by social transformations, the critiques of and calls for renewal in Bourdieu's work in scholarship must nevertheless be accounted for.

It is worth considering, then, whether one can still speak today of a single field of law (Guibentif 2019); whether the notion of a field with overarching rules is justified (Roussel 2004); and whether, in light of law's stronger presence in everyday life, Bourdieu's cultural approach should be given more emphasis (Kretschmann 2019b, 2023), just as the societal transformative potential should be emphasized more strongly (García-Villegas 2004, p. 67; Israël 2019, p. 241; Roussel 2004). Fundamental criticism often comes from jurists, who fail to recognize what Bourdieu was aiming

at with his sociological analysis of law. In this sense, when scholarship states that some criticism misses the point (García-Villegas 2004, Guibentif 2019), jurisprudence should bear in mind the criteria of sociological theory-building rather than unreflectively applying its own disciplinary standards.

The receptions and developments of Bourdieu's legal thought will collectively contribute to making it a full-blown sociology of law someday. In doing so, this line of thinking will fill an important research gap. This is especially true in terms of Bourdieu's unconventional theoretical approach. It is not purely Weberian, purely Durkheimian, or purely Marxist. Rather, it productively integrates and develops all of these approaches for socio-legal studies and thereby complements them in multiple ways. This includes studies that, from a social and societal-theoretical perspective, connect structure and agency, conceptualize a decentered subject and practice, and adopt a simultaneously cultural and socio-structural perspective that is grounded in conflict theory and power theory (Kretschmann 2023).

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