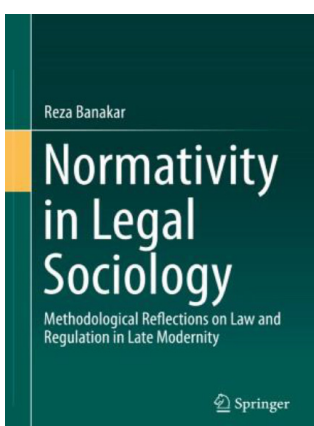




BOOK REVIEW

NORMATIVITY IN LEGAL SOSIOLOGY: Methodological Reflection on Law and Regulation in Late Modernity

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Introduction

Debates on the discussion of the law limits began to emerge along with the development of science. For some circles, interdisciplinary discussions are considered essential because they can complement a mature legal study. This concept also gave rise to legal studies carried out together with other scientific groups such as social sciences. In this context, the combination of the scope of social science and law has contributed to studying the prevailing social conditions by applying the rule of law. The limitations of the extra-legal aspects that appear in the socio-legal study are what then raise and require confirmation to be said as a study that results from the legal study space.

Based on the need to look at the normative side of these socio-legal studies, this book provides an overview of the considerations for developing cross-disciplinary studies as an essential part of the study of legal science. The understanding of the unity between law and justice has rejected the thesis of the sociological school that separates law from morality and legality from justice. Furthermore, this book also emphasizes no separation between factual and normative conditions when discussing law and its legitimacy. In particular, the discussion on normativity from the socio-legal realm proposed by Reza Banakar takes the time setting in the era of late modernity. This period was marked by the state transformation and the legal system, primarily influenced by globalization. New lifestyles and social organizations affected by technological changes have influenced social norms, relationships, and social structures that have been stabilized. Escalating reflexivity at the individual level towards social networks and institutions and the concentration of structural connections, institutions, and legal systems.

Socio-legal normativity as part of the study of legal science in the late modernity era

Socio-legal is a form of cross-disciplinary legal study that has been widely developed to complement the point of view in legal science. This study needs to confirm the ontological boundaries that apply to emerge a logical method as the primary approach to studying sociology of law. In this 292-page book, Reza Banakar provides an overview of the mapping of conflicts and tensions that arise in socio-legal studies that try to incorporate the sociology of law into the corridor of legal science as part of contemporary legal studies. "Socio-legal" discussed in this book refers to socio-legal research, including reflections on legal sociology, sociological jurisprudence, legal anthropology, and the law and society movement. The discussion is carried out by dividing the explanation into 13 chapters. In the first and second chapters, the general methodology of socio-legal research developed so far is reviewed. Challenges stemming from the relevance of socio-legal research to law began to emerge because, in the view of the sociology of law, the practice of social experience is closely related to the values of justice brought about by the normativity of the rule of law. Social changes in the later modernity or post-industrial era have changed the focus of socio-legal studies to see social changes that occur continuously and cause legal uncertainty.

The third part attempts to bridge the conflict between law and sociology by delivering alternative views for conducting socio-legal research. The emergence of "gaps" between law in the books and law in action and (also) the separation between law and justice is a consequence of modern law weakness, regardless of the prevailing social context. This section emphasizes that the separation between law and justice can only be done conceptually. Meanwhile, from an empirical point of view, legality and fairness cannot separate the community's social life related to legal events and experiences. The following three chapters provide an overview of the legal theories brought by Robert Alexy about the gap between positive law and justice, the opinion of Denis Galligan. He examines the development of the concept of law in modern society and the idea of law brought by Franz Kafka, which highlights uncertainty. in the early development of contemporary society, making it difficult to regulate people's behavior

Chapter 7 begins to provide empirical examples from socio-legal studies that show the tension between law and sociology through the duality of norms and facts from the point of view of Hans Kelsen and Eugen Ehrlich. The tension between western and Muslim legal rules shows the existence of uncertainty and fragmentation of the law and legal system. Chapter 8 looks at the methodological issues of socio-legal research and the barriers that hinder the study of comparative law. This section shows the need for a legal context as one of the characteristics of the methodology that needs to be used in conducting legal studies. Legal contextualization will provide a deeper understanding so that the study of law is not only limited to discussing a set of legal rules and doctrines. The influence from a cultural perspective can contribute to seeing the law in certain circumstances. However, this influence should also be understood that is not a prerequisite because some conditions do not require a conceptual cultural power.

The deepening of the concepts in the previous chapters will be developed in chapters 9 and 10. Through looking at case studies from Iranian legal culture as a form of the non-western legal system and the application of the anti-terrorism law in the UK, which has implemented a form of “risk management”. Reza Banakar chose the Iranian legal system to show that the autonomy of the legal system as a characteristic of western legal products cannot be applied in a non-western legal culture. The separation of the judiciary and legislative bodies and the resulting legal products as a form of the autonomous legal system cannot explain the complexity of late modern society, which is included in a non-western society. On the other hand, the anti-terrorism law enacted by the UK is evidence of a shift towards the paradigm of social control. In the traditional form, policymakers aim to regulate people’s behavior by upholding the desired norms. In its development, the era of late modern society changed this goal by focusing on rules that could embody “risk management” efforts. In this context, normativity is no longer used to instill social processes to influence social relationships and institutions. Normativity is more used to incorporate values and norms into social structures without reforming society.

The last three sections of this book discuss the conceptual form of normativity in socio-legal studies in late modernity societies. Chapter 11 provides an understanding of the relationship between norms and normativity more broadly as a logical consequence resulting from the interaction between internal and external factors of the legal system. The ability of the sociology of law to capture the norms applied in everyday life is a form of contemporary legal normativity. This form is then used as a risk management strategy. Then, in chapter 12, it is explained about the theories and methods of legal research from time to time to provide an overview of whether the model applied in the early days of modernity can still be applied in the late modernity era. The economic and political transformation as a globalization consequence has changed the way of production and the concept of capitalism so that then it has an impact on the power possessed by the state.

The description from the sociological field looks at and provides insight into legal practice on social processes to indicate whether or not a legal modification is necessary when there is an application of the concept to legal reality. In this context, the normativity of national law is no longer relevant to be applied as a single legal system in the era of globalization. International law and the policies of multinational corporations have begun to become an essential part of modern society. Based on that thought, the last chapter of this book invites us to look at the reality that occurred in the late modernity era and discuss the types of laws that have emerged to deal with the fluidity of this era filled with uncertainty. The global swift that occurs in people’s social lives continuously becomes the basis for imagining a legal future that can adapt to social needs in society.

Conclusion

This book is a very well-written idea that provides an understanding of the importance of contemporary legal studies that can complement studies in the field of

law. Understanding the law in a complete view is necessary to have a cross-disciplinary collaboration that can be a knife of analysis so that legal studies are no longer only limited to debates about the concept of legal doctrine and the articles in the regulations. The antinomy that arises from the separation of facts from values, law from morality, and legal certainty from justice is a form of conceptual debate that cannot be examined empirically. The government's implementation of the rule of law cannot be separated from the moral values and justice perceived by the community as a social entity. Socio-legal research becomes an integral part of legal studies to see how people use the law to carry out their everyday lives. The current globalization that has hit every aspect of people's lives has also led to the need for new ways of thinking in studying laws and regulations in the context of late modernity. Socio-legal normativity in the post-industrial era has shifted the paradigm of traditional social control into the need to make the rule of law a strategy for risk management. Applying the standard autonomy of the legal system that has been known so far cannot explain the complexity of social reality that arises in late modern society in a non-western society.

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