PROFESSIONS & PROFESSIONALISM

Helena Flam

Civil Society and Professions: US Civic and Politicized Lawyering

Abstract: It is important to include civil society in the purview of the sociology of professions because many professionals and professions interact not just with the state and the market but also with civil society actors. Moreover, members of professions engage in civic action and political activism not just as citizens or single professionals but also as the (founding or regular) members of their professional associations. They also establish think-tanks, research and counseling centres, consortia, and on occasion even citizen initiatives or social movements. Professional life can be explored more comprehensively when these professional interactions and activities are included in the analysis. The text provides a standard definition of professions, argues for considering professions' role in civil society, defines civil society, and draws on US research on civic and political lawyering to buttress its arguments. Some examples from other professions are also offered.

This text proposes a widened perspective on professions. This perspective investigates which issues and contemporary contexts mobilize professionals and professions. It calls for asking why and how they engage with, and position themselves on these issues in their professional capacity. Furthermore, this perspective raises the question of whether and how professionals and professions seek to bring others within and beyond their profession to position themselves on these issues, thereby possibly creating new lines of cooperation and conflict within the profession but also within the civil society and perhaps in relation to the state and the market. It also posits that another question worthy of pursuit is whether such mobilized professionals and professions generate issue-related specialized knowledge, offer new role models of professional conduct, and create both novel work opportunities and issue-related networks.

A profession is often defined as an occupational group whose members claim (even if they do not have) a jurisdictional monopoly on the development and application of systematic, occupationally relevant, scientific knowledge, which it treats as its area of expertise, informing its work standards, procedures, and practices. A profession strives to impose and maintain controls on the selection, education, and certification of new members. When successful, it manages to establish institutions charged with defining and implementing professional knowledge as well as codes of conduct obligatory for its members, and it can claim successes in asserting its institutional and ethical autonomy (Freidson 2001; Pfadenhauer 2003). Professions enjoy high social esteem and relatively high income, providing that the state, the market, and the other competing professions permit this.

Helena Flam,
University of
Leipzig, Germany

Contact:
Helena Flam
University of
Leipzig, Germany
flam@sozio.uni-leipzig.de

To buttress the argument that professions should not be investigated merely along these lines—that is, should not be reduced to their status as occupations chiefly concerned with gaining or defending a (jurisdictional) monopoly of a specialized body of knowledge, educational and training systems, professional ethics codes, working practices, and career paths—this text will draw mainly on the US material pertaining to lawyers.

From the perspective advocated here the question of why and how issue-related professional mobilization results in establishing a variety of professional organizations become an interesting object of study. In contrast, a well-known sociologist of professions, Freidson (2001, p. 133-149), turns to professional associations mainly to contextualize professionalization processes within a four-fold professions-state typology. Similarly, Sciulli (2009, p. 219-343) focuses on professions and professionalization processes from a historical perspective and in this context ascribes a pivotal role to the professional bodies and their leaders, but neither investigates these bodies and their leaders nor other, issue-related, forms of professional mobilization (see endnote 1). Judging by *The Routledge Companion to Professions and Professionalism* (Dent et al., 2016) and a recent—award-winning—overview of theories of the profession (Saks, 2016), professions' issue-related organizational mobilization receives little attention.

As the examples provided further down will illustrate, professionals and professions devoted to or mobilized by specific issues may not just adopt specific work forms but also become involved in (initiating) specialized educational programs; research, professional service or advocacy centres; consortia; and even in establishing citizen initiatives or social movements. Those pushing for social change come to live—depending on the issues and causes they promote—in antagonistic or symbiotic relationships with the state, the market and their institutions, other professional organizations, advocacy groups, and the constituencies these say they represent. They may do so through their occupational practices, but also as members of their voluntary associations, consortia and the like. If they feel confined by local and national communities, they may also pursue their aims in the transnational sphere, even exclusively so (see Dezalay & Garth, 2010 on lawyers, and Avenell, 2017 on biologists).

Although the main part of this text discusses professional initiatives pursued in public interest understood as greater equality, human rights, and environmental protection, neoliberal economists placing freedom from restraint and public choice over public good can serve as a contrary example (Harvey, 2005; Ptak, 2007; see also Conclusion). This is to say, professionals, professions and their professional organizational initiatives are often far from neutral, but instead value-oriented and positioned on the issues of the day (Cohen, 1983). Once we allow this possibility, research can address the causes and organizational expressions of the emerging, possibly diverging, substantive views on various issues adopted within and by single professions.

Advocating a research agenda that focuses on the initiatives and activities of professionals inhabiting or interacting with the organizations of the civil society calls for defining the concept of civil society. The concept was revived in the 1970s to draw attention to the history and consequences of the suppression of nearly all types of non-state individual or group initiatives in the totalitarian systems in general and in the Soviet bloc in particular (Arato, 1981/1982). It was also re-introduced to highlight the presence of the non-state and non-market types of initiatives, organizations and institutions in Western societies (Keane, 1988). Applied to the Western societies, the concept drew attention to the fact that, apart from the capitalist enterprises and government institutions, such entities as households, friendly and professional societies, social movements, religious institutions, independent communication media, cultural institutions, foundations, non-government political parties, etc., populate modern societies (Keane, 1988, p.19-20). British and US research on the civil society

has focused on its various theoretical conceptualizations, historical trajectories hindering or facilitating the development of civil societies in various national and continental contexts, and on the changing positioning of the civil society mainly in relation to the state but also to the market. Despite its great diversity, initially, the main concern was, on the one hand, with the oppressive or civilizing and disciplining powers of the state and capitalism, and, on the other hand, with the emancipatory potential and activities of civil society. The emergence of civil society predominantly in the Central European countries of the Soviet bloc gave this research field a new impetus in the 1980s (Ekiert, 1991; Feher & Heller, 1987; Pelczynski, 1988; Skilling, 1989). Revolts and upheavals on various continents led to the adoption of comparative perspectives and concept modifications (Kamali, 1998; Wagner, 2006), while the breakdown of the Soviet regime raised the questions about the post-Soviet civil societies.

This brief account highlights that civil society is often associated with aspirations to freedom, civic and political engagement, solidarity and humanity, and contrasted with the state and the market. In the present text, a more sceptical position, more akin to that adopted by Foucault is taken (Dean & Villadsen, 2016; Freidson, 2001; Furedi, 2006; Villadsen, 2016). Briefly put, one should not idealize civil society for it is definitely not a sole site of virtuous ethics or truth production (Dean & Villadsen, 2016, p.3). It is ambivalent: it serves as a pillar of the social order and is a source of insurrection. It harbours peace- and violence-espousing individuals, initiatives, associations and organizations (Villadsen, 2016). At the same time, it also harbours solidarity and self-interest, cooperation and competition, tolerance and intolerance, lofty ideals of equality and freedom, and national chauvinism and racism.

Although Foucault warned against idealizing civil society, he did not theorize about it (Dean & Villadsen, 2016; Villadsen, 2016). His focus on disciplining, pastoral and bio-political institutions narrowed his vision to diverse controlled populations defined as either "deviant" or "normal". It was only later in his life that he came to cautiously acknowledge the emancipatory potential of the "bottom-up" counter-discourses emerging from the civil society. However, most of his life, contrary to his own civic and political engagements, Foucault believed counter-discourses mainly fed into the dominant discourses (see endnote 2).

It is the unadorned image of the civil society that is proposed here. This is premised on the idea that it is worthwhile to engage in research exploring under which conditions and how professionals, professions, professional bodies, and various professional associations and initiatives—whether status quo-solidifying, reformist or revolutionary—inhabit and relate to the equally richly "ambivalent" civil society and thereby to the state and the market.

The professional activities that dwell in or engage with the key issues and actors of the civil society deserve to be studied in their own right because they offer a more comprehensive view of professional life. The research agenda proposed here draws attention to i) the (actual or potential) capacity of these to act the part of a social force seeking to influence societal decisions and developments and ii) poses the question of why and how professionals, professions, and their associations and initiatives position themselves on various issues. The premise adopted here is that this is not so much or not exclusively because of their professional knowledge, problem-definitions, general professional values or a profession's professed obligation to activism (Brint & Levi, 2002; Burns & Stöhr, 2011; Dagi, 1988; Freidson, 2001, p.197-222; Foucault, 1965, 1975) or their interactions with the state, the market and other professions. Instead, it is argued here, the burning issues of the time mobilize and some of them emerge from civil society (see below and compare to Furedi, 2006).

This research agenda does not treat professions a priori as arbitrators or mediators of values and norms (Parsons, 1939, 1968). They are not defined here as the third power "upgrading" society and its organizations by spreading superior knowledge as well as the principles of meritocracy, collegiality, transparency, fiduciary responsibility, and so on (Sciulli, 2009; Freidson, 2001). Neither are they a priori defined

as authors and administrators of disciplinary measures (Goffman, 1991, Foucault, 1975) nor as promoters of pastoral care or bio-politics (Foucault in Goldstein, 1984; Dean & Villadsen 2016). Nor finally does this research agenda attribute to all professional initiatives and organizations the capacity and the will to strive for (the left-liberal) "public good" and generate "insurrectionary knowledge" just because they are part and parcel of the civil society (Foucault in Villadsen, 2016, p. 7). Instead, it calls for considering professionals and professions as well as their organizational offshoots as capable, in principle, of arbitration and mediation, disciplining or engaging in pastoral care or bio-politics and upgrading as well as generating status quo-supporting, progressive or transgressive-insurrectional ideas.

Although I advocate a pluralistic image of professions as well as contextualizing their activities, in what follows, my focus will be on a "free" profession—in this case, that of the US lawyers, especially those who take interest in the controversial issues of their time mostly from an emancipatory perspective. This makes them more likely than their peers to cross the lines circumscribing proper professional knowledge and codes of conduct. They act within a pluralistic, democratic state (Freidson, 2001, p. 139; Schmitter, 1974).

Civic and politicized lawyering

The sociology of professions and sociology of law have generated only modest knowledge about lawyers and their civic or political engagements, not to mention anti-state discourses or stands (but see Shapiro, 2002). In the sociology of law (Banakar & Travers, 2005; Banakar, 2009), the scant British, Scandinavian and US research on lawyers has paid much empirical attention to the least prestigious and worst paid end of the profession—criminal lawyers—and their relationship to their clients (for exceptions, see Dezalay & Garth, 2010; Lange, 2005; Pierce, 1995, 2012; Paterson & Teubner, 2005; Scheffer, Hannken-Illjes & Kozin, 2010; Shapiro, 2002) (see endnote 3).

An interdisciplinary survey of literature shows that an American duo, Sarat and Scheingold—a law professor and a political scientist—wrote their own volume and edited several collected volumes on what they labeled *cause* and *transgressive* lawyers who consistently take on controversial issues, such as labour rights, racism, poverty, environment, gender equality, sexual violence, refugee rights, etc., often at considerable risk to their income, professional reputation, and professional career.

The text that follows will lean heavily on their edited volumes to illustrate some of the points made earlier. Also relevant, although not drawn upon here, is a French-US cooperation, involving Karpik and Halliday (2011), and Halliday, Karpik and Feeley (2007)—a French sociologist, a law professor with a degree also in sociology, and a political policy analyst—which resulted in a comprehensive edited volume focusing on the contribution of the legal profession to establishing and defending liberal democracies (see endnote 4). In France, a historian, Liora Israel (2009), edited a special issue of a journal focusing on professionals and their public engagement. Finally, early in 2018 a lawyer-organized symposium entitled, "The Use of Law by Social Movements and Civil Society", with around 100 participants, took place in Brussels to investigate the interface between social movements and lawyers, law, and judicial case reviews. These examples demonstrate that when exploring the various aspects of lawyers' professional life, adopting a broad perspective including their civic and political engagements makes good sense.

Sarat and Scheingold (1998, 2006) offer rich material about US lawyers and their civic and political engagements. They seek to define and to elaborate the contrast between the "conventional" legal profession and cause lawyers, investigating how cause lawyers attenuate and re-shape boundaries between professional and political fields of action, despite their being subject to professional, legal and political constraints.

Before I turn to cause and transgressive US lawyers, let me note that they, although certainly numerous, constitute a minority among lawyers. Conventional lawyers represent citizens or members of the civil society vis-à-vis one another or in relation to the state or business. They work for a fee (the US differs from many European countries in that it features numerous big corporations specializing solely in providing legal services to others, see Pierce, 1995; Shapiro, 2002).

Another group of lawyers plays an important role in state administration or in the judiciary. These are public officials or government employees who are salaried. So-called "corporate lawyers" are employed by private enterprises to keep abreast of new legal developments, monitor compliance with laws and regulations, but they are also employed to discover and use loopholes in laws and to represent their firm in court and other institutional contexts when necessary. US lawyers may be employed by particularly venal, corrupt or discriminating firms and be put under pressure to follow their dictates, but such firms do not exhaust the job universe (Pierce, 1995, 2012; Shapiro, 2002). US lawyers have, comparatively speaking, a great deal of leeway in setting up their own professional associations and organizations. These provide them with additional employment opportunities. US lawyers are also free to work for non-governmental and not-for-profit organizations. This implies that civil society constitutes their fourth type of employment opportunity. It is an empirical question, which cannot be pursued here whether lawyers in other liberal democracies are distributed between similar employment sectors, how these weigh in relationship to each other and what roles can be played within and between them, and whether lawyers are similarly free and willing to pursue civic and political causes.

In effect, lawyers are found playing multiple roles within and in relationship to civil society. In their professional capacity as lawyers they may mediate, discipline, administer bio-politics in relationship to their various clients. They might also represent (conservative or transgressive) causes in courts. In addition, in their professional capacity, they might act as the consultants, founders, or employees of civil society organizations related or unrelated to their own profession. Finally, as members of their professional associations or initiatives, they might be called upon to engage with specific issues, other civil society organizations or initiatives.

Work forms, client referrals, and finances

Political activism/transgressive lawyering affects the work form itself. Lawyers' collectives, feminist or minority firms rely on recruitment practices excluding co-workers and clients not compatible with their aims. They strive for a more democratic relationship with their clients. Some have equal pay and equal work as an ideal, and seek to politicize, de-commodify and socialize legal practice (Sarat & Scheingold, 1998, p. 7-8). In the US activists pursue work with "public interest" law offices (funded by the state or foundations) or subsidized university-affiliated or neighbourhood "law clinics" servicing discriminated or poor population groups.

Sources of referrals tell whether a firm has a civic society as its important reference point. Such referrals may come from minority communities, churches, advocacy organizations, think-tanks, foundations, networks of like-minded lawyers or public service agencies to name a few (e.g. Kilwein, 1998, p. 189). Similarly, civic and political activism can be surmised by the sources of financing. Law firms are financed by client fees, but in the case of cause lawyers also – alone or in combination—by state funds, obligatory court/settlement fees, minority communities, churches, voluntary lawyers' or special cause associations, advocacy organizations, consortia, and foundations. These sources of funding bring the point home that civic or political activism of law firms is often predicated on its symbiotic relationship with the civil society. Cause and transgressive lawyers are also concerned with how they can lower the financial burden of their unprivileged clients: for example, they take on some "regular" cases to be able to balance their books when they offer pro

bono services or introduce income-based fees to their poorer clients.

Substantive focus

To distinguish conventional from transgressive lawyering for the US Scheingold and Bloom (1998, p. 213) proposed a lawyering continuum. At its opposite poles, we find pro bono work and radical-critical, transgressive legal work as illustrated by Figure 1:

Unmet needs . . . Civil liberties . . . Civil rights . . . Public policy . . . Radical critical

Conventional Lawyers   Transgressive Lawyers
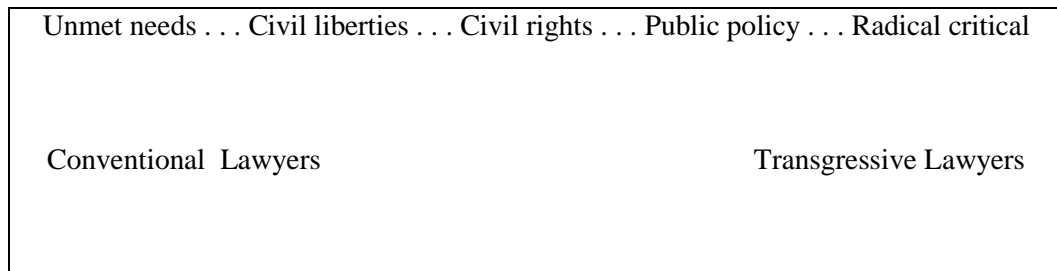
Figure 1. *Lawyering continuum.*

In their view, nearly all law firms provide occasional pro-bono service following professional ideals. Even corporate law firms, seeking prestige, encourage their employees to do a bit of pro bono work. However, pro bono work per se is not transgressive since it only alleviates individual needs. In the US, civil liberties and civil rights cases cannot be seen as transgressive as defending or expanding liberties and rights is part and parcel of honouring the Bill of Rights. Such cases are *raison d'être* for such professional organizations as the American Civil Liberties Union, but even some conventional law firms occasionally take on such cases. Only when these challenge the established power structures and vested interests, can one speak of transgressive lawyering. Similarly, policy contestation is only transgressive when it challenges the power holders to achieve "public good" and mobilizes citizens or establishes advocacy groups, crossing the boundaries of conventional lawyering. Truly transgressive lawyers wish to transform their societies and join hands with social movements pursuing radical change (Scheingold & Bloom, 1998, p. 215). Usually such lawyers become involved in specific areas of law to achieve racial justice, assert feminist or minority rights or they engage in monitoring and challenging the state and the corporations, often at a considerable financial risk to their firms (McCann & Dudas, 2006; Menkel-Meadow, 1998, p. 42-43, 50; Sarat & Scheingold, 1998, p. 9; Trubek & Kransberger 1998;; Scheingold, 1998, p. 128; Sarat & Scheingold, 2006).

Mobilization forms: "legal activism" and "political activism"

Lawyers can still be said to respect the boundaries of conventional lawyering when they mobilize for specific issues within a (regime-loyal) official lawyer organization, lobby governments or try to influence advisory or decision-making committees. In the US, this is the case when they initiate educational public campaigns, advise social movements or set up neutral consortia, research and counseling centres or Think Tanks. (Menkel-Meadow, 1998, p.42-43,50; Sarat & Scheingold, 1998; Trubek & Kransberger, 1998; Scheingold, 1998, p.128; Sarat & Scheingold 2006). Individual lawyers may pursue several of these courses of action, without disrespecting the boundaries of *legal activism*.

Political activism transgresses the boundaries of legal activism since it entails leaving the confines of the office, the court, and the bar as well as the conventional

"extra-effort" or "ethical" lawyering. It stands for involvement in political strategizing, outsider mobilizing and participation in civil disobedience actions. It also entails setting up consortia, research and counseling centres, legal defence leagues or Think Tanks with an explicit political agenda (see History and Forms lower down). For example, both equity and animal rights cause lawyers have relied on litigation and became personally involved in political strategizing, lobbying, networking, organizing public campaigns, demonstrations and voter support, and pushing for and drafting specific changes in legislation as multi-pronged means of achieving their ends—winning the case and improving specific laws or their implementation (McCann & Silverstein, 1998, p. 269,275,282; for Ralph Nader's citizen and lawyer organizing, see Meili, 2006, p. 124-127).

Civic engagement and political activism also take the form of establishing status quo-contesting organizations manned by the members of the same profession with the aim of pursuing transgressive, controversial and risky causes. This form of professional activism also enriches and expands civil society. It may imply partaking in proscribed actions and outsider mobilizing, backed by the coordinated members of their voluntary association:

> The American Civil Liberties Union was founded to raise First Amendment defenses for social protestors and pacifists during World War I and was among the first legal organizations to employ "nonlegal" means in the form of grassroots organizing and demonstrations to raise public consciousness about issues and to create "test" cases for litigation purposes. (Menkel-Meadow, 1998, p.43; on civil disobedience, see also Scheingold, 1998, p.125, 130,138)

Similarly, the National Lawyers Guild (NLG) is a progressive public interest association of lawyers, law students, paralegals, jailhouse lawyers, etc. It was founded in 1937 to protest the exclusionary membership practices and conservative outlook of the American Bar Association. The NLG was the first US bar association to admit minorities and did not bend under the pressures to hunt communists and homosexuals during the McCarthy Era. Its current preamble states that it is dedicated to economic and political change, and it defines human rights as more important than property interests (Kilwein, 1998, p.195; Scheingold, 1998, p.119, 130, 139-141). Up until the 1980s, in a reform-oriented political climate, it was able to consolidate left-wing lawyers. In the ensuing conservative-repressive era, its consolidating powers began to wane and vary by location.

History and forms of professional engagements

Research on the history of a profession's civic and political engagements should become a research area in its own right (see Sarat & Scheingold, 1998, 2006). A historical perspective highlights how changes in the context of professional action influence the forms these engagements take. The present sketch pinpoints that in the US the political spectrum moved from the left to the right by the 1980s, making it much more difficult to engage in cause or transgressive lawyering. During this time, research and advisory councils or legal defence or law research centres gave way to networks and consortia. Their very names trumpet their political intent, speaking of political activism in pursuit of civil rights, equality, environmental and consumer protection, civic and minority rights. In the 1980s, in contrast, profession-led counter-initiatives to cause and transgressive lawyering entered the centre stage.

Starting with the late 1960s, when the political context allowed for many successful law reforms, lawyers and law students set up firms and organizations on special issues:

> The success of many of the new "public interest" law firms [funded by the state]

led to the founding of a variety of new organizations, some associated with particular issues like environmentalism (e.g., Natural Resources Defense Council), free speech and consumer rights, and others with the growing development of "identity" politics (for instance, the Mexican American Legal Defense Fund, Women´s Legal Defense Fund, the National Women`s Law Center, and Lambda Defense Fund), most often patterned on the highly successful National Association for the Advancement of Colored People Legal Defense Fund (now the LDF). (Menkel-Meadow, 1998, p.43)

Once law reforms and impact litigation advancing redistributive, identity or public interest politics became less likely in the conservative-repressive 1980s and 1990s:

> Many organizations have banded together in either loose consortiums (e.g., the Alliance for Justice in Washington and Women´s Way in Philadelphia) for funding, lobbying and legal strategy development or more formal consortium for multi-issue public interest work (e.g., the former Center for Law and Social Policy and the Institute for Public Representation in Georgetown). (Menkel-Meadow, 1998, p.43; see also Scheingold, 1998, p.119,133-134)

Since the 1980s cause lawyers have more often pursued regular court cases on behalf of groups affected by poverty and/or intersectional discrimination (combining "race", gender, age, sexual orientation, etc.). They have focused on client empowerment at micro-sites of power—such as the family, the workplace, schools, social and medical services—thus accepting less popular and less profitable legal activities. Yet specific types of rights-activism continued on issues such as same-sex marriage, disabilities, Native American rights, environmental justice, living wages and AIDS prevention (McCann & Dudas, 2006, p.54). Some cause lawyers have heeded the shift of funds to human rights and have become involved with a number of (T)NGOs to pursue old and new causes from this perspective. Non-profit human rights organizations mushroomed financed by well-known foundations (e.g. Ford Foundation) and citizen donations. For lawyers, Amnesty International, the US Human Rights Network, Women´s Institute for Leadership Development for Human Rights (WILD), the Indian Law Resource Center, and the Center for Constitutional Rights have become both a source of employment and referrals (McCann & Dudas, 2006, p.54).

In a parallel development beginning in the 1980s, conservative counter-mobilization became noticeable among lawyers who organized themselves in the Manhattan Institute, the Pacific Legal Foundation and the Federalist Society (McCann & Dudas, 2006, p.48-50). Conservative cause lawyers (just as conservative churches and fundamentalist evangelical groups) imitated organizational and discursive strategies of their leftist, identity ascertaining, and public interest lawyers. They relied on the language of rights. They declared to defend American values when advocating, law and order, property rights, limited government, the abolition of tort law, right to life, tobacco products, handguns, etc., and established lawyer-staffed Moral Majority Legal Defense Foundation and the Center for Law and Religious Freedom (den Dulk, 2006).

Tensions between lawyers and civil society

At best, lawyers' political activism can spearhead or keep alive an issue, even in the absence of a social movement or citizen initiatives. When a movement emerges, politicized lawyers and lawyers´ organizations can help create a collective, empowering sense of grievance and entitlement to rights, put issues and claims in legal terms, and advise about alternative or complementary strategies (McCann & Dudas, 2006). They can also provide support in confrontations and negotiations with the opponent, use litigation to dramatize abuses while allocating blame, win media attention for

the issue, and, if there are such, execute legal outcomes thus increasing a sense of overall empowerment. However, politicized lawyers and their organizations can pre-empt, deflect or marginalize citizen initiatives or social movements while acting on their own vision of what is or should be a good society. This was the case with the National Association for the Advancement of the Colored People (NAACP) Legal Defense and Education Fund, Inc. As an elite lawyers´ organization, it commanded considerable resources which enabled it to gain much legal and public attention for the issues on which it set priority. NAACP was a movement of lawyers who believed in law, courts and the legal pursuit of rights as the only or main means of achieving social change. An exemplary, it inspired a plethora of similar lawyers' organizations on various—environmental, gay and lesbian, poverty and other—issues. After 1961 it acted under the leadership of a new director who had managed the successful legal campaign which resulted in a de-segregation (known as the "Brown") court decision. NAACP vehemently rejected direct action, seeing it as an illegitimate attack on the rule of law and as detrimental to the pioneering legal campaign it waged against racism, segregation and for equality. In contrast, the Civic Rights Movement and the lawyer who led Student Nonviolent Coordinating Committee (SNCC), after experiencing for several years how old and new legal rights were being disregarded and violated in the South, had no more trust in the legal procedure (Hilbink, 2006, p.60-62). In the 1960s, at the height of the Civil Rights Movement NAACP caused a great deal of anger and resentment among civil rights activists when it openly condemned direct action at a time when the letter of law was daily and massively violated by the very authorities which were supposed to implement it (for a similar constellation, see Levitsky, 2006, p.145,155).

Conclusion

This text showed how every day and more sporadic activities of professionals have been studied to include those shaped by their involvement with key social issues of the day. Specifically for the *cause* and *transgressive* lawyers, it pinpointed that the engagement with the issues of the day has shaped their everyday work: its forms, recruitment and litigation strategies, and financing sources. Sarat and Scheingold's edited volumes also demonstrated that US lawyers concerned with controversial issues of the day have employed a variety of innovative—collegial, associational, citizen—and institution-building—strategies to be able to generate new specialized knowledge, offer services to the unprivileged groups or mobilize others within and beyond their profession on the issue thereby pitting them against the state or the vested interest. The concerns and strategies of lawyers pulled them into the very midst of civil society and its actors. Their organizing and campaigning, when successful, shifted the substantive concerns and the boundaries not just of their own profession, but—correspondingly—also of the civil society, the state, and the market.

As the text showed, sometimes the civil society actors appreciate the advice and strategies advocated by lawyers on an issue, even when these re-interpret or circumvent it to come close to the desired results, while in other cases they react with criticism or even moral outrage at what they perceive as presumptuous and wrong-headed interpretations of the issue and the appropriate ways to tackle it. It also referred to conservative civil society organizations learning from the strategies of the cause or transgressive lawyers how to organize their counter-mobilization. All this could be shown for the US lawyers, but what about other professions and locations?

To realize that professional idealistic engagement is not an isolated phenomenon one only needs to call to mind Médecins Sans Frontières (1971, see MSF.org), and its imitators from other professions, such as Reporters without Borders (1985, see rsf.org), Lawyers without Borders (2000, see lawyerswithoutborders.org), Engineers without Borders (2002, see ewb-international.com), Chemists without Borders (2004,

see chemistswithoutborders.org), Sociologists without Borders (2011, see soci-ologossinfronteras.org), or Biologists without Borders (2015, see biologistswith-outborders.org). Single professionals, groups within a profession, and professional bodies set up transnational non-government organizations (TNGOs) to offer their services to those dramatically deprived of access to fundamental natural resources, basic information and specialized knowledge or affected by deep poverty, illnesses and abuses of their rights.

Brint and Levy (2002) provide an overview of US professional organizations and academic disciplines associations, including the American Chemical Society, the American Institute of Architects, the American Society of Mechanical Engineers, the American Historical Association and the Modern Language Association and their fluctuating civic engagements between 1979/1900-1995. Dagi (1988, p.53-55) lists some policy areas seemingly distant from the key concerns of the medical pro-fession in which it has become involved, carried by the medical paradigms implying or calling for activism: Physicians for Social Responsibility (founded in Boston in 1961) oppose nuclear proliferation, while the medical profession has much to say about occupational health, food inspection, and environmental protection.

Neoliberal economists have pushed for their scientific agenda far beyond the con-fines of their scientific discipline and their respective nation-states. They not only engaged in teaching or publishing or departmental takeovers to promote the idea that individual freedom can only be achieved under the conditions of the free market, but they also developed a four-pronged strategy for gaining academic and political elite support for these ideas. They established the Mont Pelerin Society (1947) as well as many Think Tanks, research centres, business foundations, roundtables, initiatives and lobbies to further develop, discuss and propagate their views (Harvey, 2005, p. 43-44; Ptak, 2007, p.75-86). In this manner, they contributed to the right-wing turn of the civil society and politics in the closing decades of the past century.

In the introduction, I proposed that engaging with issues of the day can lead to the expansion of professional knowledge. For about 100 years, neoliberal econo-mists have been deeply concerned about defending individual freedom against the state, whether in planned or market economies. They developed their scientific ar-guments and then moved to inhabit the elite regions of the civil society and politics to implement their visions.

The case of the US chapter of the Sociologists without Borders (SWB) illustrates the opposite movement. The SWB, established as an NGO-chapter in Madrid, Spain in 2001, is concerned with global justice and focuses on human rights violations. It also seeks to reduce power and resource asymmetries between the global North and the global South. Once a SWB's chapter was established in the early 2000s, the question of how sociologists can contribute emerged. In contrast to doctors or engi-neers, it is not self-evident how their expertise on human rights violations or ine-quality and gender or racialized discrimination can counteract these (Golash-Boza, 2012). They, therefore, set up a journal entitled, "Societies without Borders", a Hu-man Rights section within the American Sociological Association and also an inter-national Think Tank. Moreover, awards went to scholars who advanced research on SWB-related questions. The key point here is that what started as a concern about human rights and global North-South power asymmetries, resulted in setting up an NGO-chapter. Its initiators then engaged in many professional activities with the purpose of generating new specialized knowledge about what sociologists without borders could do and societies without borders could stand for. As this case signals (see also Henriksen & Seabrooke, 2015), civil society constitutes a fourth source of worldviews and ethics, apart from the state, the market, and the professions. Not the least for this reason, as sociologists of professions we should become cognizant of it and its various entanglements with professions and their manifold pursuits.

A research agenda exploring professions and their organizational initiatives could disclose the ways in which professions contribute (or fail to contribute) to the general welfare and democratic life and thus fill the research gap Parsons created according

to his critics when theorizing about the integrative-mediating role of professions in society (see overview in Sciulli, 2005, p. 916-918). It would also hark back to the research programs of historians of professions who were centrally concerned with their positioning in the power struggles between the state and the citizenry over time (see the diverse contributions in Burrage & Torstendahl 1990).

Finally, such a research agenda would dovetail with research on civil society which investigates, for instance, the extent to which and the ways in which civil society organizations, in this case, professional bodies and associations, manage to aid in (or hinder) liberating citizens from the clutches of their (absolutist, totalitarian or authoritarian) states and, not to be forgotten, capitalist forces or out-of-date value and normative constraints. It would call for investigating how professionals and their organizations expand (or curtail) citizen and minority rights in liberal democracies and develop critical (rather than supportive) discourses and activities directed at the governance regimes (alternatively: disciplinary regimes). Such regimes purport to define a given phenomenon as a problem necessitating a solution, bestow authority on and define the formal relationships between the actors to be involved in problem-solving, and specify the objects and the subjects (read: population groups) which the governance regime is to monitor, regulate, care for and, if necessary and possible, discipline (see Burns & Stöhr, 2011; Foucault, 1965; Freidson, 2001, p.182-196; Furedi 2006; Goldstein, 1984, p.181-183). Various citizen initiatives, professions that are to be regulated as well as professional associations claiming expertise in the regulatory area are often found among the critics of such governance regimes, and some manage to modify them and be included among the regulatory actors. Under what conditions they develop a critical stand and manage to assert it, and what happens with this critical stand once they are included among the regulatory actors are all research questions worthy of pursuit.

Endnotes

1. Sciulli's several books feature "civil society" in the title. Sciulli's long-term focus was on private business corporations which, leaning among others on the US courts, he treats as intermediary associations and thus as civil society actors. Sciulli also saw professions divorced from the state and their corporate bodies as intermediary associations. He investigated, among others, how courts and professions made private business corporations more ethical. Apart from private business corporations and professional bodies, his "civil society" is an empty house (Sciulli, 2009, p. 236-2241, 261,266-269, 271).

2. Foucault apparently came to believe that a market society makes for more tolerance and thus more individual freedom than a state-centered society (Dean & Villadsen, 2016, p.158-161).

3. A recent comparative book presents a dynamic ('law-in-action') ethnography of criminal defense in three states (Scheffer, Hannken-Illjes & Kozin 2010). Research on the assertion of state and class power in law and the criminal court cases dates back to the 1980s (McBarnet, 1981) despite repeated calls for such studies (Abel 1980; Banakar & Travers, 2005; Banakar, 2009). Rare innovative research investigates the resistance of judges to the state attempts to dictate judgments (Milburn, 2015; but see Halliday, Karpik & Feeley, 2007). A new line of investigation asks about emotions management in court as a way of upholding professional neutrality (Bergman Blix & Wettergren, 2014; Roach Anleu, Bergman Blix & Mack, 2015; Flower, 2018).

4. Karpik and Halliday (2011) focus on France, Germany, Great Britain, and the US. Halliday, Karpik, and Feeley (2007) include case studies from various continents. Their main thesis is that when lawyers, judges and civil servants practicing law build

an alliance (comprising the "legal complex"), they are capable of winning their battles for the constitutional and civic freedoms. Strong civil society mobilization which shapes and reinforces lawyers' efforts is not focal in their research (Karpik, 2007, p.481-485).

References

Abel, R. L. (1980). Redirecting Social Studies of Law, *Law & Society Review, 14*(3), 805-829. https://doi.org/10.2307/3053198

Arato, A. (1981/1982). Civil Society against the State: Poland, 1981/1982, *Telos 50*, 19-48. https://doi.org/10.3817/1281050019

Avenell, S. (2017). *Transnational Japan in the Global Environmental Movement.* Honolulu: The University of Hawai'i Press. https://doi.org/10.26530/OAPEN_627002

Banakar, R. (2009). Law through Sociology's Looking Glass: Conflict and Competition in Sociological Studies of Law. In A. Denis, & D. Kalekin-Fishman (Eds.), *The New ISA Handbook in Contemporary International Sociology: Conflict, Competition and Cooperation,* (pp. 58-73). London: Sage. https://doi.org/10.4135/9781446214626.n5

Banakar, R., & Travers, M. (Eds.). (2005). T*heory and Method in Socio-Legal Research.* Oxford: Hart Publishing.

Bergman Blix, S., & Wettergren, A. (2014). Emotion work in court—emotion work of objectivity. Paper presented at the 6th midterm conference of the RN11/ESA (Rhodes, 25-27 Sept 2014).

Biologists without Borders (2015). Retrieved from www.biologistswithoutborders.org.

Brint, S., Levy, C.S. (2002). Professions and Civic Engagement: Trends in Rhetoric and Practice, 1875-1995. In T. Skocpol, & M.P Fiorina (Eds.), *Civic Engagement in American Democracy,* (pp. 163–210). Washington, D.C.: Brookings Institution Press & Russell Sage Foundation.

Burns, T., & Stöhr, C. (2011). The architecture and transformation of governance systems: Power, knowledge, conflict, *Human Systems Management 30*, 173-194.

Burrage, M.,& Torstendahl, R. (Eds.). (1990). *Professions in Theory and History: Rethinking the Study of Professions.* London: Sage.

Chemists without Borders (2004). (n.d.). Retrieved from www.chemistswithoutborders.org

Cohen, S. R. (1983). From industrial democracy to professional adjustment, *Theory and Society 12*(1), 47-67. https://doi.org/10.1007/BF00173623

Cummings, S. L. (2006). Mobilization Lawyering. In A. Sarat, & S.A. Scheingold, (Eds.), *Cause Lawyers and Social Movements*, (pp. 303-335). Stanford, CA: Stanford University Press.

Dagi, T. F. (1988). Physicians and Obligatory Social Activism, *The Journal of*

Medical Humanities and Bioethics, 9(1), 50–59.
https://doi.org/10.1007/BF01115243

Dean, M., & Villadsen K. (2016). *State Phobia and Civil Society: The Political Legacy of Michel Foucault.* Stanford, CA: Stanford University Press.

den Dulk, K. R. (2006). In Legal Culture, but Not of It: The Role of Cause Lawyers in Evangelical Legal Mobilization. In A. Sarat, & S.A. Scheingold (Eds.), *Cause Lawyering: Political Commitments and Professional Responsibilities,* (pp. 197-219). Oxford: Oxford University Press.

Dent, M. et al., (Eds.). (2016). *The Routledge companion to the professions and professionalism.* London: Routledge. https://doi.org/10.4324/9781315779447

Dezalay, Y., & Garth, B. G. (2010). Marketing and selling transnational 'judges' and global 'experts': building the credibility of (quasi)judicial regulation, *Socio-Economic Review, 8*, 113-130.

Ekiert, G. (1991). Democratization Process in East Central Europe: A Theoretical Reconsidation, *British Journal of Political Science 21*, 285-313.

Engineers without Borders. (n.d.). Retrieved from http://ewb-international.com/.

Feher, F., & Heller, A. (1987). *Eastern Left, Western Left. Totalitarianism, Freedom and Democracy.* Cambridge: Polity Press.

Flower, L. (2018). Loyalty Work: Emotional interactions of defence lawyers in Swedish courtrooms. Doctoral dissertation, Faculty of Social Sciences, Lund University, Sweden.

Freidson, E. (2001). *Professionalism: The Third Logic*. Cambridge: Polity Press.

Foucault, M. (1975). *Discipline and Punish: The Birth of the Prison.* New York. Random House.

Foucault, M. (1965). *Madness and Civilization; A History of Insanity in the Age of Reason.* New York: Pantheon Books.

Furedi, F. (2006). *Where Have All the Intellectuals Gone?* London: Continuum.

Goffman, E. (1991[1961]). *Asylums.* London: Penguin Books.

Golash-Boza, T. (2012). What Does A Sociology Without Borders Look Like?, *Societies without Borders 7*(4), 397-404.

Goldstein, J. (1984). Foucault among the Sociologists: The "Disciplines" and the History of the Professions, *History and Theory 23*(2), 170-192. https://doi.org/10.2307/2505005

Gordon, J. (2006). A Movement in the Wake of a New Law: The United Farm Workers and the California Agricultural Labor Relations Act. In A. Sarat, & S.A. Scheingold (Eds.), *Cause Lawyers and Social Movements*, (pp. 277-301). Stanford, CA: Stanford University Press.

Halliday, T. C., Karpik, L., & Feeley, M. M. (2007). *Fighting for Political Freedom: Comparative Studies of the Legal Complex and Political Liberalism*. Oxford: Hart Publishing.

Harvey, D. (2005). *A Brief History of Neoliberalism*. Oxford: Oxford University Press.

Henriksen, L.F., & Seabrooke, L. (2015). Transnational organizing: Issue professionals in environmental sustainability networks, *Organization,*1-21.

Hilbink, T. (2006). The Profession, the Grassroots and the Elite: Cause Lawyering for Civil Rights and Freedom in the Direct Action Era. In A. Sarat,& S.A. Scheingold (Eds.), *Cause Lawyers and Social Movements*, (pp. 60-83). Stanford, CA: Stanford University Press.

Israel, L. (Ed.). (2009). Professions et engagement public, special issue of Sociétés contemporaines (Israel, L. (Ed.) (2009). Professions and public engagement. Special Issue of Contemporary Societies)

Kamali, M. (1998). *Revolutionary Iran: Civil Society and the State in the Modernization Process.* Farnham: Ashgate.

Karpik, L. (2007). Political Lawyers. In T.C. Halliday, L. Karpik, & M. M. Feeley (Eds.), *Fighting for Political Freedom: Comparative Studies of the Legal Complex and Political Liberalism*, (pp. 463-494). Oxford: Hart Publishing.

Karpik, L. & Halliday, T.C. (2011). The Legal Complex, *Annual Review of Law and Social Science 7*, 217-236. https://doi.org/10.1146/annurev-lawsocsci-102510-105512

Keane, J. (1988). *Civil Society and the State.* London: Verso.

Kilwein, J. (1998). Still Trying: Cause Lawyering for the Poor and Disadvantages in Pitts-burgh, Pennsylvania. In A. Sarat, & S.A. Scheingold (Eds.), *Cause Lawyering: Political Commitments and Professional Responsibilities*, (pp.181-200). Oxford: Oxford University Press.

Lange, B. (2005). Researching Discourse and Behavior as Elements of Law in Action. In R. Banakar, & M. Travers (Eds.), *Theory and Method in Socio-Legal Research*, (pp. 175-194). Hart Publishing: Oxford: Hart Publishing.

Lawyers without Borders.(n.d.). Retrieved from www.https://lawyerswithoutborders.org.

Levitsky, S.R. (2006). To Lead with Law: Reassessing the Influence of Legal Advocacy Or-ganizations in Social Movements. In A. Sarat, & S.A. Scheingold (Eds.), *Cause Lawyers and Social Movements*, (pp. 145-163). Stanford, CA: Stanford University Press.

McBarnet, D. (1981). Magistrates' Courts and the Ideology of Justice, *British Journal of Law and Society, 8*(2), 181-197. https://doi.org/10.2307/1409720

McCann, M., Dudas, J. (2006). Retrenchment... and Resurgence? Mapping the Changing Context of Movement Lawyering in the United States. In A. Sarat, & S.A. Scheingold (Eds.), *Cause Lawyers and Social Movements*, (pp. 37-59). Stanford, CA: Stanford University Press.

McCann, M., & Silverstein, H. (1998). Rethinking Law`s ´Allurements`: A Relational Analysis of Social Movement Lawyers in the United States. In A. Sarat, & S.A. Scheingold (Eds.), *Cause Lawyering: Political Commitments and Professional Responsibilities*, (pp. 261-292). Oxford: Oxford University Press.

Marshall, A.M. (2006). Social Movement Strategies and the Participatory Potential of Liti-gation, (pp. 164-181). In S. Austin, & S.A. Scheingold (Eds.), *Cause Lawyers and Social Movements*. Stanford, CA: Stanford University Press.

Médecins Sans Frontières (MSF) (1971). Retrieved from: www.msf.org

Meili, S. (2006). Consumer Cause Lawyers in the United States: Lawyers for the Movement or a Movement unto Themselves? In A. Sarat, S:A. Scheingold, (Eds.), *Cause Lawyers and Social Movements*, (pp. 120-144). Stanford, CA: Stanford University Press.

Menkel-Meadow, C. (1998). The Causes of Cause Lawyering: Toward an Understanding of the Motivation and Commitment to Social Justice Lawyers. In A. Sarat, & S. Scheingold (Eds.), *Cause Lawyering: Political Commitments and Professional Responsibilities*, (pp. 31-68). Oxford: Oxford University Press.

Milburn, P. A. (2015). French judicial professions and criminal justice: struggle and adjustments between professional and political dominance. Presentation in a session entitled 'Legal Professions in Unequal Societies', organized by RN19 during the 12th ESA Conference, Prague, 27 Aug.

Parsons, T. (1968). Professions, *International Encyclopedia of the Social Sciences*, *12, 536-547*.

Parsons, T. (1939). The Professions and Social Structure, *Social Forces,* 17 (4), 457–467. https://doi.org/10.2307/2570695

Paterson, J., & Teubner, G. (2005). Changing maps. Empirical legal autopoiesis. In R. Banakar, & M. Travers (Eds.), *Theory and Method in Socio-Legal Research*, (pp. 215-238). Oxford: Hart Publishing.

Pelczynski, Z.A. (1988). Solidarity and "The Rebirth of Civil Society" in Poland, 1976-1981. In J. Keane (Ed.), *Civil Society and the State*, (pp. 361-380). London: Verso.

Pfadenhauer, M. (2003). *Professionalität. Eine wissenssoziologische Rekonstruktion institutionalisierter Kompetenzdarstellungskompetenz.* Opladen: Leske&Budrich. (Pfadenhauer, M. (2003). Professionalism: A sociology of science reconstruction of the institutionalized competence to project competence. Opladen: Leske & Budrich.)

Pierce, J. L. (2012) *Racing for Innocence: Whiteness, Gender and the Backlash against the Affirmative Action*. Stanford: Stanford University Press.

Pierce, J.L. (1995). *Gender Trials. Berkeley*: University of California Press.

Porter, A. (1998). Norris, Schmidt, Green, Harris, Higginhotham & Associates: The Socio-logical Import of Philadelphia Cause Lawyers. In A. Sarat, & S.A. Scheingold (Eds.), *Cause Lawyering: Political Commitments and Professional Responsibilities,* (pp. 151-180). Oxford: Oxford University Press.

Ptak, R. (2007). Das neoliberale Bild der Gesellschaft [The neoliberal image of the society]. In C. Butterwege, B. Lösch, R. Ptak (Eds.), *Kritik des Neoliberalismus,* (pp. 66-88). Wiesbaden: VS Verlag für Sozialwissenschaften.

Reporters without Borders (RWB). (n.d.). Retrieved from https://rsf.org/en.

Roach Anleu, R.S., Bergman Blix, S., & Mack, K. (2015). *Researching emotion in courts and the judiciary: A tale of two projects, Emotion Review, 7*(2), 145-150. https://doi.org/10.1177/1754073914554776

Saks, M. (2016). A review of theories of professions, organizations and society: The case for neo-Weberianism, neo-institutionalism and eclecticism, *Journal of Professions and Organizations,* 1-18.

Sarat, A., & Scheingold, S. A. (Eds.) (2006). *Cause Lawyers and Social Movements.* Stanford, California: Stanford University Press.

Sarat, A. (Ed.). (1998). *Cause Lawyering. Political Commitments and Professional Responsibilities.* Oxford: Oxford University Press.

Scheffer, T., Hannken-Illjes, K., & Kozin, A. (2010). *Criminal Defence and Procedure: Comparative Ethnographies in the United Kingdom, Germany, and the United States.* London: Palgrave MacMillan. https://doi.org/10.1057/9780230283114

Scheingold, S. (1998). The Struggle to Politicize Legal Practice: A Case Study of Left-Activist Lawyering in Seattle. In A. Sarat, & S.A. Scheingold (Eds.), *Cause Lawyering: Political Commitments and Professional Responsibilities*, (pp. 118-150). Oxford: Oxford University Press. https://doi.org/10.1080/09695958.1998.9960449

Scheingold, S., & Bloom, A. (1998). Transgressive cause lawyering: practice sites and the politicization of the professional, *International Journal of the Legal Profession 5*(2/3), 209-253.

Schmitter, P. (1974). The New Corporatism: Social and Political Structures in the Iberian World, *The Review of Politics, 36*(1), 85-131. https://doi.org/10.1017/S0034670500022178

Sciulli, D. (2009). *Professions in Civil Society and the State*. Leiden: Brill. https://doi.org/10.1163/ej.9789004178311.iii-488

Sciulli, D. (2005). Continental Sociology of Professions Today: Conceptual Contributions, *Current Sociology 53*(6), 915-942. https://doi.org/10.1177/0011392105057155

Sociologists without Borders (2011). (n.d.). Retrieved from
    www.sociologossinfronteras.org.

Shapiro, S. P. (2002). *Tangled Loyalties. Conflict of Interest in Legal Practice.*
    University of Michigan Press. https://doi.org/10.3998/mpub.12147

Skilling, G. H. (1989). *Samizdat and an Independent Society in Central and
    Eastern Europe.* Columbus, OH: Ohio University Press.
    https://doi.org/10.3998/mpub.12147

Trubek, L., & Kransberger, M. E. (1998). Critical Lawyers: Social Justice and the
    Structures of Private Practice. In A. Sarat, & S.A. Scheingold (Eds.), *Cause
    Lawyering: Political Commitments and Professional Responsibilities*, (pp. 201-
    227). Oxford: Oxford University Press.

Villadsen, K. (2016). Michael Foucault and the Forces of Civil Society, *Theory,
    Culture & Society 33*(3), 3-26. https://doi.org/10.1177/0263276415581895

Wagner, P. (Ed.). (2006). *Languages of Civil Society*. Oxford: Berghahn.