






Conducting socio-legal research in Portugal: from the experience of the Permanent Observatory for Justice to the study of working conditions in courts

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Abstract

Empirical research on judicial systems requires diversified methodologies adapted to the contexts of courts and judicial actors. The experience gathered through the Permanent Observatory for Justice tells us that the support of judicial and political institutions and professionals' associations are essential to reach a 'hard-to-reach population' and obtain robust results. The Observatory, with its interdisciplinary approach, had a significant public impact and contributed to public policies on justice. It was also fundamental to design and implement judicial training actions, through the Observatory's Legal and Judicial Training Unit. The aim is to discuss the developed strategies to ensure the involvement of the institutional and judicial actors, build trust, and achieve valid results. The use of the project QUALIS, which assessed working conditions in Portuguese courts, allows us to focus on a concrete example of use of strategies and methodologies, with impacts on the improvement of the judicial system.

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Key words

Socio-legal studies; judicial system; trust and involvement; judicial actors and professionals; methodologies; Portugal

Resumen

La investigación empírica sobre justicia requiere metodologías diversificadas y adaptadas a los contextos de los tribunales y de los actores judiciales. La experiencia del Observatorio Permanente de la Justicia nos dice que el apoyo de las instituciones judiciales y políticas y de las asociaciones de profesionales es esencial para llegar a una "población difícil" y obtener resultados sólidos. El Observatorio, con su enfoque interdisciplinar, tuvo un impacto público significativo y contribuyó a las políticas públicas de justicia. También fue fundamental el desarrollo de acciones de formación, a través de la Unidad de Formación Jurídica y Judicial del Observatorio. El objetivo es discutir las estrategias desarrolladas para asegurar la participación de los actores institucionales y judiciales, generar confianza y alcanzar resultados válidos. El uso del proyecto QUALIS, que evaluó las condiciones de trabajo en los tribunales portugueses, nos permite centrarnos en un ejemplo de uso de estrategias y metodologías, con impactos en la mejora del sistema judicial.

Palabras clave

Estudios sociojurídicos; sistema judicial; confianza y participación; actores y profesionales judiciales; metodologías; Portugal

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1. Introduction

Empirical research on judicial systems requires the use and application of diversified methodologies adapted to the institutional and professional contexts of courts. Not only is the support of judicial institutions and professionals' associations crucial to gain access to what may be termed a 'hard-to-reach population' (Dobbin *et al.* 2001), but it also "takes researchers time, flexibility and creativity to find the right strategy to recruit participants while still respecting the boundaries set by GDPR and ethics committees" (van der Ven *et al.* 2022, 1). Additionally, in the field of justice, the conditionality that is inherent in judicial files, of which public secrecy is a part, makes access to relevant information more difficult.

In 2000, the Permanent Observatory for Justice (OPJ) was created at the Centre for Social Studies of the University of Coimbra. Its aim was to develop socio-legal studies by taking an interdisciplinary approach to justice systems. Since 2000, the OPJ has carried more than 40 national and international studies with a high public impact. Additionally, since 2012 its Legal and Judicial Training Unit (UNIFOJ) has carried out more than 300 training actions directed at legal and judicial professionals such as judges, public prosecutors, court clerks, lawyers and notaries, among others.

This experience in socio-legal studies in Portugal made it possible to secure the involvement of judicial actors and institutions, based on strong bonds of trust. This proved invaluable in ensuring access to qualified information, allowing the use of multiple methodologies, ensuring the direct contribution and participation of legal and judicial professionals, involving political and institutional actors and enhancing the public impact of the results obtained. Overall, the work carried out at the OPJ has played a crucial role in supporting the development and implementation of public policies in the area of justice.

This article focuses on a specific research project to discuss the processes and strategies used by the OPJ for achieving robust results and producing recommendations with regard to public policies on justice. The article begins by briefly describing the OPJ's trajectory in terms of research and training and how crucial that was to the external recognition of the excellence of its work, which in turn contributed to acceptance on the part of the judicial and political institutions and actors. It then proceeds to analyse a specific research project (QUALIS), one that sought to assess the working conditions of judicial professionals in Portuguese courts by resorting to a variety of methodologies. The research developed in this context required the creation of an environment of trust and the involvement of the institutional and professional actors of the judicial system, a precondition to obtain better and more far-reaching results and promote the desired change in the judicial system. Finally, it reflects on the difficulties and constraints long encountered by those working in the field of justice and emphasises the future challenges faced by the OPJ – including the digitalisation (zoomification)¹ of the

¹ Zoomification is the term used by the authors to refer to the shift from common face-to-face research methodologies to online practices, a shift that calls for an in-depth assessment of the practices involved and of results as they are adapted to the new digital context in which they are used. Although the principles are the same, the virtual environment involves new specific techniques that need to be further analysed and evaluated.

methodologies applied, made necessary by the restrictions imposed by the COVID-19 pandemic –, taking into account the results of recent research and training activities.

This article was presented as part of the programme of the Workshop entitled “Empirical research with judicial professionals and courts: methods and practices”, held at the International Institute for the Sociology of Law of Oñati, Spain, in June 2022. The workshop addressed the kind of methodological and practical issues that can arise when researching judicial administration/organization and judicial professionals using a range of socio-legal (social sciences) research methods and data as well as conventional legal analysis. It drew on the experiences of socio-legal researchers from different countries, working in areas as varied as anthropology, law, political science, psychology and sociology, among others.

2. Socio-legal studies in Portugal: the emergence of OPJ

Socio-legal studies in Portugal were greatly influenced by the work of Boaventura de Sousa Santos after the 1974 Revolution, a fundamental political moment that changed the Portuguese political regime from a dictatorship into a democracy. Taking advantage of the new democratic wave, Santos promoted the creation of the discipline of Sociology of Law at the Faculty of Law of the University of Coimbra when he returned to the country after completing his PhD at Yale University. Until the mid-1980s, a new generation of socio-legal scholars with a background in sociology was trained, creating a snowball effect in the area of socio-legal studies in Coimbra (Ferreira and Pedrosa 1999). After the 1978 creation, at the University of Coimbra (Portugal), of the Centre for Social Studies (CES), a new generation of researchers developed interdisciplinary research in several areas of the social sciences, arts and humanities. Socio-legal studies were among the most prominent topics developed in the framework of this interdisciplinary theoretical approach.

A survey of papers published in Portuguese journals of the social sciences reveals the CES in Coimbra as the most productive of these centres. ‘Law in Society’ has been one of its main research topics, a priority confirmed by the links between this centre and the Permanent Observatory for Portuguese Justice. This orientation is the direct result of the policy options of its founder, Boaventura de Sousa Santos. In the US, Santos had received a PhD in the sociology of law, based on fieldwork carried out in Brazil on the practices of informal justice in a favela close to Rio de Janeiro. When he returned to Portugal in 1974, it was with the aim of developing the sociology of law in this country. (Guibentif 2014, 539–540)

Santos’ three-month experience in a *favela* of Rio de Janeiro (Brazil) in 1970 led to a sociological analysis of the role of informal law in the resolution of local disputes (Santos 1974). The innovative theoretical approach and the methodologies on which the work was grounded earned international recognition, turning the fictitious term Pasagarda Law into a byword in the studies of sociology of law. A decade later (1983–1984), Boaventura de Sousa Santos developed a study on community justice in Cape Verde (Santos 2015). This study, done at the request of the government of Cape Verde, focused on community courts viewed as an institutional innovation quite different from the models of popular justice that had been implemented in the Socialist countries of Eastern Europe and in Cuba. This research was politically significant in that it established a collaboration with the Cape Verdean government at a delicate moment when an

independent democratic State was being built. It also marked an epistemological shift away from mainstream socio-legal studies and towards a critical socio-legal theoretical stance grounded on interdisciplinarity and on the relevance of the political, social and cultural dimensions of law (Santos 1995, 2002 and 2014, Douzinas and Perrin 2011).

In the 1990s, the first major study of the Portuguese judicial system (1992–1995), funded by the Centre for Judicial Studies (the Portuguese school for judges and public prosecutors), established the foundations for the future Permanent Observatory for Justice. The study entitled “Courts in Portuguese society”, which was awarded the Calouste Gulbenkian Foundation’s Science Prize in 1996, was the first of its kind to be carried out in Portugal. It consisted of a sociological analysis of the performance of the courts of first instance in the fields of civil and criminal justice and used a nationwide questionnaire survey to analyse social representations of justice, knowledge of the law and the experience of litigation in Portugal (Santos *et al.* 1996).

The undertaking of diagnostic studies on Portuguese justice continued throughout the 1990s, including several evaluation projects funded by the Ministry of Justice. During the same period, international studies were also carried out within the scope of the cooperation established with entities and research centres in Mozambique, Colombia and Macao (Santos and Gomes 1998, Santos and Villegas 2001, Santos and Trindade 2003). This led to the international recognition of the expanding research team consolidated at CES in the field of sociology of law.

The process of institutionalisation and expansion of the sociology of law in Portugal developed around four major themes: the sociology of law of inequalities and citizenship; the political, the state, law and society; studies on the administration of justice; and, finally, studies on control, crime, deviance and violence. It should be noted, however, that these are not watertight categories and that much of the research spans different themes, especially as regards the theme of inequalities and the administration of justice, given the centrality of the judicial system in the defence and enforcement of rights. (Branco *et al.* 2018, 243)

This consolidation of the sociology of law in Coimbra led to the creation of the Permanent Observatory for Justice (OPJ) at CES in 2000. Based on the research experience it accumulated over three decades, the OPJ was created with the aim of making interdisciplinary and comparative diagnoses and evaluations of judicial performance and public policies on justice at national and international level (Santos *et al.* 1996, 1999, Pedroso *et al.* 2003, Dias 2004, Santos 2005, Dias and Azevedo 2008, Gomes *et al.* 2016, Gomes 2018, Dias and Gomes 2018, Dias *et al.* 2020).

The dissemination of knowledge aimed at informing the public debate on the relevant issues is promoted through different tools and channels, such as participating in international research networks, organising or participating in scientific meetings and events in collaboration with political actors and judicial, legal and civil society professionals, ensuring a regular presence in the media, and publishing or widely disseminating newsletters, recommendations and briefings resulting from the research. The OPJ also draws up documents to support the preparation of reforms and prepares reform proposals and draft laws in various areas of justice.

The research carried out by the OPJ over the years has earned the institutional recognition, both nationally and internationally, of political and judicial actors,

including multiple funding entities. More specifically, the funding of the work carried out since 2000 has come from two main sources: research-funding agencies and contracts with public entities.² The reason for this lies in the Observatory's very origins, for it was created as part of a service provision contract signed between CES and the Ministry of Justice with the aim of producing a set of studies on specific themes. The diversity of funding sources and the number of projects steadily carried out over the years – in consonance, in fact, with a broader context of “projectification” of science (Dias 2015, Ylijoki 2016, Felt 2017) – have allowed for the continuity of the work developed in different areas and involving several researchers both from CES and other research and judicial institutions.

Socio-legal studies at the OPJ were consolidated through three main strategies. The first consisted in the establishment of multidisciplinary professional teams that included researchers from a variety of scientific domains (law, sociology, psychology, economy, among many others) as well as legal and judicial professionals (mostly lawyers, judges, public prosecutors and judicial clerks). The incorporation of legal and judicial professionals into the research teams, including as coordinators or co-coordinators, facilitated access to the judicial system and other public institutions under study. Therefore, involvement was adopted as an approach from the very beginning, and the approach yielded fruitful results in terms of accessibility to professionals and institutions, credibility of the methodologies applied, and legitimacy of the results achieved. Besides the involvement of professionals, the signing of cooperation agreements with the more relevant public institutions in the area of justice (in the broad sense of the term) and with professional unions and associations was crucial to set up a positive environment.

The second strategy consisted in applying complementary methodologies to the study of the different components and realities of justice, adapting them according to institutional, professional or thematic specificities. With time, the swiftness and efficiency of the implementation of the different methodologies and the quality of the research improved gradually. Nowadays, the accumulated knowledge resulting from the use of combined methodologies is a key factor in allowing projects to be carried out simultaneously, with researchers working in different contexts taking full advantage of their multitasking skills. Research projects may make complementary use of the qualitative and quantitative methodologies described below, depending on their respective objectives, timeline, nature and complexity.³ The following section, on a specific research project, will detail the use of the methodologies *in action*.

The third strategy adopted was the launch of the Legal and Judicial Training Unit (UNIFOJ). Developed alongside the research dimension, it was designed to promote a programme of judicial training based on the scientific results obtained in the research,

² Since 2000, the OPJ has successfully undertaken over 40 funded research projects and consultancy services of varying scope, duration and nature. Almost half of the funded research/services were from international funding agencies and resulted from open tenders awarded through evaluation processes.

³ Several examples of national and international research undertaken at OPJ/CES in which different methodologies were applied can be found in a number of publications, such as: Santos *et al.* 2006, 2007, Santos and Van Dúnen 2012, Ferreira *et al.* 2014, Gomes and Fernando 2016, Lourenço *et al.* 2017, Gomes 2018, Lima 2019, Frade *et al.* 2020, Gomes *et al.* 2021. The OPJ/CES website provides information on the research projects undertaken since its creation: <https://opj.ces.uc.pt/>

with the general aim of promoting a critical reflection on multiple domains of the application of the law and the administration of justice. The activities involved make it possible for judicial actors to update their knowledge and raise awareness of the institutional, professional and social contexts in which they operate. The creation of UNIFOJ at the OPJ/CES, in 2011,⁴ made it possible to conduct advanced training on various issues within law and justice. It is devoted to advanced professional training in the areas of justice and law, both at the domestic and international level. In 2014, e-UNIFOJ was created to develop distance training. Its goal is to provide a dynamic and innovative training methodology suited to new technological possibilities and new processes of access to information, while overcoming barriers of distance and time constraints. Every year, UNIFOJ promotes 65 to 75 training courses on average, reaching more than 2,000 trainees, mostly legal and judicial professionals. Most of the training activities are organised in cooperation with other legal and judicial professionals from private and public, judicial and non-judicial entities, with the aim of making sure that these professionals, practitioners and other interested parties are involved. Some of the training actions are related to the themes of the research being undertaken, allowing for the dissemination and discussion of the findings.

These three strategies led to the consolidation of socio-legal studies in Portugal at the same time that they contributed to the setting up of a cooperative environment with judicial institutions and professionals. These steps proved crucial in carrying out research and consultancy and had a wide impact on the development of public policies in the area of justice.

2. QUALIS – an interdisciplinary approach into working conditions at courts

QUALIS was a research project that studied the “other side of courts” by looking at the working conditions of the judicial professions in Portugal, aiming to evaluate their impact on professional performance and, hence, on the quality of justice provided to citizens. This section presents an overview of the methodologies applied to the judicial professions in Portugal (judges, public prosecutors and court clerks) and identifies the perceptions of professionals regarding working conditions. It is also a good illustration of the strategies adopted by the OPJ.

At a time when judicial systems are considered an especially important institution for the safeguarding of the rights and citizenship of the people on the metropolitan side of the “abyssal line” (Santos 2017), it is crucial to ensure that its professionals have the best conditions possible to carry out their duties with quality. The working conditions of courts are a key element to certify the quality of justice, as previous research by the OPJ clearly shows with regard to the Portuguese context. In the current context of judicial reforms and amid the anxiety detected in a previous survey (Ferreira *et al.* 2014), QUALIS used an interdisciplinary approach (mostly law, sociology and psychology) to develop a multidimensional analysis intended to have a grasp of the impact of the legal changes, both organisational and environmental, on the work of the judicial professions. The research team included experienced researchers from the scientific areas mentioned above and with long experience in researching legal, judicial and working conditions. Among its consultants were experienced judicial professionals and also Sharyn Roach

⁴ The UNIFOJ website can be found here: <https://opj.ces.uc.pt/unifoj/>

Anleu, an international expert with previous publications on related topics (Roach Anleu and Mack 2013, 2014 and 2016).

This research project, funded by the Portuguese Foundation for Science and Technology (2018–2022), required the formal authorisation of several governmental and judicial institutions, namely the Directorate-General for the Administration of Justice of the Ministry of Justice (the body with authority over the Council of Court Clerks), the High Council of Judges, the High Council of Administrative and Tax Courts and the Public Prosecution Office (which includes the High Council of Public Prosecutors). The support and engagement of the unions and associations of judges, public prosecutors and court clerks were also secured, which permitted greater access to these professionals, dissemination of the methodologies and the participation of the professionals at several stages of the research. Once the formal framework of cooperation was in place, it was possible to move forward with the implementation of the work plan.

The methodologies selected for use in the QUALIS research project consisted of:

(1) The collection and analysis of documents and reports from national and international institutions and agencies as well as academic publications (the state-of-the-art of working conditions at courts) containing relevant information on the work done in a number of countries (Casaleiro *et al.* 2021). The analysis of experiences in countries other than Portugal allowed for comparisons that proved important to prepare and apply other methodologies, mainly surveys and the drafting of proposals and recommendations.

(2) The analysis of legislation on a variety of topics deemed relevant for an understanding of working conditions at courts, such as the competencies of each judicial profession, the judicial organisation, or existing institutional mechanisms aimed at evaluating and improving working conditions in general. All the relevant legislation, including legislation pertaining to the competencies and activities of the judicial institutions and professions, was publicly available.

(3) The analysis of official statistics and reports of the judicial institutions, both national and international, deemed necessary to understand the performance of courts, professions and institutions, which is to say, to arrive at a detailed map of the situation of courts in what relates to working conditions. In this regard, the annual reports of the Directorate-General for the Administration of Justice, High Councils, Management Boards of the Courts of First Instance and Appeal Courts, as well as the statistics from the Justice Statistics Information System of the Ministry of Justice (which provides relevant and detailed data) were a primary source of information.

(4) The organisation of panel discussions, focus groups and co-creation workshops with legal and judicial professionals, political actors, experts, members of associations/unions and other institutional representatives. Also the organisation of two international seminars, one at the outset of the project, to identify problems, questions and possible paths, the second to present the findings, with the participation of academics as well as political and judicial actors. This led to important contributions and permitted the sharing of experiences that were valuable in drafting the methodologies and, most important, validating conclusions and recommendations. In order to identify the main problems to be addressed, two co-creation workshops with policymakers and

stakeholders were organised for the discussion of topics that had proved to be pertinent in the surveys and interviews carried out at the earlier stages of the collection of information. The trust and involvement of judicial actors was also crucial to ensure quality participation conducive to concrete and practical recommendations.

(5) Exploratory semi-structured interviews with legal and judicial professionals, experts, political and judicial actors and associations/unions' representatives. 13 exploratory interviews were conducted in the initial phase, mainly with judicial professionals working at courts with different levels of competencies and coming from the three judicial professions (including representatives of the professional associations/unions). By identifying relevant topics, specificities, problems and challenges, this qualitative dimension was of crucial importance to provide solid information on which to base the survey that was later to be applied.

(6) A nationwide questionnaire survey of all the judges, public prosecutors and court clerks working in courts. Launched with the collaboration of the governing and management bodies of the judiciary (High Councils) and the professional associations and unions, the questionnaire survey was sent to all the 10,978 professionals officially working at courts on December 31st, 2020, and achieved a good response rate of 16.2 percent (1,780 responses). It showed an approximate proportional distribution of the universe of court clerks, judges and public prosecutors, including such independent variables as profession, gender, years in the profession, category, place of work, and legal area. Overall, this nationwide questionnaire survey was a valuable source of information that contributed to the validation of the global findings.

(7) The use of two case studies based on semi-structured interviews. The 73 interviews that comprise the two selected case studies were conducted with judicial professionals (judges, public prosecutors and court clerks) working in the various court buildings of Central Lisbon and Coimbra district courts. These are courts of first instance of the judicial branch. The Central Lisbon district with its multiple services comprises 9 locations and 11 different buildings spread over 7 different municipalities. The Coimbra district includes 20 buildings spread over a large area encompassing 17 different municipalities. In spite of the diversity and size of the buildings and the nature of the services operating in each of them, interviews were carried out with the goal of ensuring that there was at least one interview per building. In the majority of the buildings, due to their size, two or three interviews were conducted among different professions (judges, public prosecutors and court clerks). Also included in the interview sample were the buildings of first-instance administrative courts (a parallel branch of judicial courts) located in these geographical areas. This amounted to the addition of two buildings. Although interviews were focused only on the district courts of Coimbra and Central Lisbon, those districts present a wide variety of situations and contexts due to their large geographical expanse. The inclusion of experiences, stories and cases to illustrate the quantitative results contributed to a more robust analysis. Thus, the qualitative analysis and discussion can be applied to the national results of the questionnaire survey, because they cover very similar situations and contexts and are nationally representative. In addition to the conducting of interviews, other relevant information about these two districts was collected, specifically management reports, official statistics of the workload, the distribution of judicial professionals among the

courts and buildings, among other. The results achieved were very important in terms of providing information for the co-creation workshops, the final seminar and the draft of conclusions and recommendations.

QUALIS is a typical research project in that it included almost all the methodologies normally used by the OPJ (analysis of samples of case files was deemed unnecessary for this particular project, although it is used in other research projects on a regularly basis). The implementation of this multi-method approach, with its combination of 7 different methodologies, made it possible to overcome the individual limitations of each method, which, as shown by past experience, tends to adversely affect the quality of the results. The contrast, overlap and complementarity of different methodologies is more likely to yield better results, including the formulation of practical recommendations with a positive impact on the setting up of public policies. The validation of results also becomes easier with method triangulation, attainable by means of a complex analysis of these phenomena. Researching judicial professionals and studying their working experience and personal perceptions demands a broader set of methodologies due to their higher qualifications and knowledge of judicial contexts. These contexts are not easy to understand and analyse by outsiders, such as researchers. In fact, it is often the case that judicial professionals – especially when they are not in agreement with the findings of the research – claim that a deeper knowledge of the judicial system is crucial to obtain credible results. Method triangulation is, therefore, important to obtain robust results while offering a credible strategy in response to the reservations and scepticism of judicial professionals (Hammond 2005, Nielsen 2012, Seawright 2016, Blackham 2022).

This project was carried out during the COVID-19 pandemic, which caused several delays due to the lockdowns and restrictions. These constraints were overcome thanks to the close cooperation and the understanding of the judicial professionals. As part of the restrictions imposed by the pandemic, the “zoomification” of the research activities required the adaptation of well-proven methodologies and an ongoing learning process in the effort to achieve best results (Dodds and Hess 2020, Newman *et al.* 2021). The level of cooperation and participation of professionals and institutions that was required in the shift to online platforms proved to be higher than initially expected and the outcomes are satisfactory. Nevertheless, some methodologies continued to be applied on site. That was the case, for instance, with non-participatory observation of workshops, which tends to be more successful when carried out in person. It should be pointed out that the use of online platforms required a strengthening of existing ethical standards to safeguard the trust of participants, particularly when participation involved live recording.

Proof of the quality of the work here described is the recent invitation to undertake two further studies: one at the request of a partnership involving the Professional Association of Portuguese Judges, the High Council of Judges and the high courts (three bodies with legal and financial autonomy), the other at the request of a partnership involving the Union of Public Prosecutors and the Public Prosecution Office. These two new studies aim to provide quality information specifically relating to professional exhaustion and the burnout effects caused by the performance of their duties and the impact on the professional activity of judges and public prosecutors. With all the similarities and differences of their respective work plans, determined by the way in which they are

organised and the nature of their respective goals, the two studies are unprecedented in terms of collaboration and of the fact that both judicial institutions and professional associations/unions have joined as procuring entities for the first time.

3. A “hard to reach population”: trust and involvement of judicial actors

In recent decades, several socio-legal studies have described the judicial professions as difficult populations to involve in research, deeming them to be “a ‘hard to reach’ group” because of obstacles to their participation (Cowan *et al.* 2006, 548), their social status and distance from society (Dobbin *et al.* 2001, 287) and their concerns about the confidentiality of responses (Hunter *et al.* 2008, 87). Thus, difficulty in accessing professionals, time limitations resulting from their workload, and reservations about the usefulness and applicability of socio-legal studies and of social sciences in general, proved to be significant challenges for empirical research that seeks data directly from these professions.

The research activities undertaken since the 1980s and the creation of the OPJ in 2000 ensured the gradual involvement and cooperation of public bodies, judicial actors, professional associations and civil society organisations, along with the legal and judicial professionals. The specific involvement of judicial actors and professionals in the empirical work – along with the perception of the importance of both the results of the studies and the recommendations for public policies – secured the trust and recognition of these professionals.

The public impact of the research was reflected not only in the increase in knowledge of the socio-legal conditions and challenges to the mobilisation of fundamental rights, but also in the contribution to the reforms introduced in the area of justice by successive governments over the past decades in Portugal. Public recognition of this impact allowed for the building of strong professional and institutional relations based on trust and resulting in the long involvement of judicial professionals and institutions with the OPJ, as shown in the following sections.

The success and recognition of UNIFOJ at national and international level also turned this OPJ unit into a reference for the training of professionals. As a result, it designed several training programmes to be applied in different countries and received a number of requests to carry out specific training activities in various Portuguese-speaking countries. The involvement, as trainees, of hundreds of highly qualified judicial actors who have the recognition of their peers has helped create a special relationship between the OPJ and the justice sector. This strategic option contributed enormously to the creation of a research environment in which accessing a traditionally “hard to reach population” was no longer a problem.

4. Constraints and difficulties: experience(s) of the OPJ/QUALIS

Based on the experience of the research carried out at the OPJ, described in further detail in the QUALIS case study, several points should be made on constraints and difficulties, which emerged from the intense and continuous work with judicial actors and professionals. In this section we highlight the four main constraints and difficulties felt by the researchers over the last decades.

The first relates to the difference between the political agenda and the research agenda. Although one of the main objectives of the OPJ is to generate sound diagnoses of the judicial system that are conducive to public policies recommendations, the potential conflict between a systemic and an ad hoc approach to the judicial system does exist and is obviously dependent on multiple factors and conditions (political, financial, resource- and infrastructure-related, etc.). Thus, for example, improving the functioning and quality of the judicial system can be achieved through several strategies that may require short, medium and long-term measures. When choosing the most adequate strategy, the evaluation made by the researchers differ from the perspective of political actors or judicial actors. Depending on the perspective – research-oriented, political or judicial –, the setting of priorities, the research work itself and the evaluation of the judicial system will be faced with different agendas, which will inevitably have an impact on the available funding from different institutions. Such a context calls for a strategy regarding the dissemination of the research findings and recommendations and an ongoing pedagogical interaction with public institutions in the area of justice, highlighting the relevance of their contributions and the public impacts achieved (and expected). Increasing awareness of the public impact of the research and of its contribution to the formulation and reforming of public policies on justice is an ongoing priority.

The second constraint has to do with the nature of the different sources of funding. When funding is obtained through competitive research calls, whether from national or European research funding entities, there is greater autonomy in what concerns the research objectives and the duration of the projects tends to be longer (2 to 5 years). When the research work is contracted following calls for tenders or contracted directly by public entities such as the EU Fundamental Rights Agency – or, at the national level, by the Ministry of Justice, other public entities with specific competencies within the judicial system, or any judicial entity (High Council of Judges, Public Prosecutor’s Office, among others) –, the degree of autonomy is lower due to the narrower focus of the research. In any event, the degree of independence, the research activities involved and the findings are ultimately not affected. The limitations most commonly felt in the case of contracts are the following: (1) duration of the contracts (in general, between 3 months and two years); (2) lack of flexibility of the terms of reference of the contracts regarding scope, timeline, objectives and even applied methodologies, especially when the funding comes from international agencies; and (3) restrictions regarding the dissemination of the findings, having to do with the ownership of the research materials and the desire of the funding entity to make the results publicly available (or not).

The third constraint or difficulty concerns the duration of the research work. Competitive research calls with long-term funding allow for a slow pace and a well-thought-out implementation of the planned activities and the various methodologies, which may even encompass the undertaking of comparative studies of other realities and contexts. By their very nature, these kinds of project tend to generate not only various outputs for dissemination in multiple scholarly journals, but also the production of research materials in support of public policies. The studies that are especially aimed at supporting public policies demand a greater focus on the specific research topic. As a consequence, there is less time to carry out the activities involved and to reach the expected results. What we have here is the classical distinction between fundamental and applied research, the latter being an important factor in supporting impactful public

policies. In order to be able to explore innovative topics that may be central in the near future while supporting the resolution of problems within a short time frame, the approach needs to strike a balance between the two research strategies. The OPJ's work and experience have greatly benefited from articulating both strategies to carry out its mission.

The fourth and final constraint derives from the proximity, trust and involvement of the OPJ with the judicial actors and professionals, which have been steadily built in the last decades. Regular cooperation with judicial actors and professionals is clearly an added value to accomplish the research objectives and obtain better and more far-reaching results. Nevertheless, this proximity also entails several risks. If not adequately weighed and/or addressed in a preventive manner, the following three risks can occur and lead to detrimental effects: (1) favouring and selecting professionals who cooperate with the OPJ on a regular basis, but who, by reason of this familiarity, end up becoming too acquainted with the methods and expectations of the researchers and causing the exclusion of many other participants with potentially relevant insights; (2) lack of impartiality and losing sight of the research objectives due to excessive proximity with the researchers, which can turn out to have a positive effect (informed and committed) but can also have a negative influence (manipulation of the expected results); and (3) information bias resulting from working closely with the same judicial professionals and institutions, who therefore become excessively familiar with the researchers, the methodologies, and the impact of their own role and contribution regarding the final results and recommendations. The extensive experience and knowledge of the OPJ's researchers tend to reduce these risks, although complete elimination of risk is always difficult.

The OPJ's researchers regularly identify new constraints and difficulties, facing new challenges as they develop new activities and apply their methodologies in multiple socio-legal studies. The degree of engagement and the trust built by the OPJ and the judicial institutions and professionals over the last decades, together with the experience and awareness of the risks involved, makes it easier to overcome most of these risks and find the best tools to neutralise them in order to achieve the desired objectives and results. It is not an easy or unproblematic task, for it demands constant and full attention as well as the capacity to engage in alternative strategies, but the results obtained so far prove that the added value largely exceeds the potential risks.

5. The future of socio-legal studies: the post pandemic contexts

The work performed by the OPJ during the last 22 years has been a gradual process of legitimation and recognition that turned it into an institution of reference for the study of socio-legal matters, the involvement in institutional evaluations and the contribution to public policies in the area of justice. The origins of this process can be traced to the early work of Boaventura de Sousa Santos in the 1970s and 1980s, which has been reinforced since the 1990s by interdisciplinary researchers trained and professionalised in the domain of socio-legal studies both in Portugal and in countries in South America, Africa, Asia and Europe.

Since the foundation of the OPJ, the involvement of legal and judicial professionals and the collaboration of judicial and political institutions have proved to be key features in

building a trusting environment, with fruitful results based on the access to relevant sources of information and the effective participation of justice professionals and institutions in socio-legal studies. The wide range of topics covered by the research has translated into in-depth knowledge and cooperation at the service of the relevant institutions to achieve the planned objectives, with innovative contributions to the reform of judicial systems in Portugal and elsewhere. Continuous work in the training of justice professionals (through UNIFOJ), involving them in the organisation of the activities, was also important to maintain and reinforce this trust between the OPJ and the judicial actors, highlighting the latter's relevant contribution to the quality of the training of professionals who work at and with the courts.

The OPJ, however, is not immune to the difficulties experienced by research centres in general, particularly the scarcity of funding, the labour precariousness of researchers and the complex challenges encountered by any attempt to contribute to the improvement of the functioning of the judicial system. A threefold challenge faces the future work of the OPJ: political, financial, and human resources-related.

The political challenge has two dimensions: (a) collaboration of judicial, political and professional institutions and associations/unions, which is essential to secure access to the relevant sources and data and, consequently, ensure the quality of the research, of the implementation of the methodologies and the results obtained; and (b) continued demand for the OPJ to further develop studies and services that contribute to public policies, so that it remains a relevant actor in the process of evaluating the judicial system and designing public policies.

The financial challenges are very significant for the OPJ. Its daily work requires continuous funding to maintain and develop its capacity and to attract and retain, as far as possible, human resources with relevant expertise. This challenge has three main dimensions: (a) continuously applying for research funding from international and national bodies, such as the European Union (science and justice areas); (b) competing for national and international tenders aimed at improving public policies; and (c) celebrating (whenever possible) research contracts with national institutions such as the Ministry of Justice, in order to foster a stable basis of cooperation, both in the medium and long term, for the undertaking of research projects and institutional evaluations. The ability to establish formal agreements and thereby guarantee a diversified range of funding has a highly significant impact on the third challenge and is key in terms of allowing the OPJ to continue its work.

The final challenge is that of human resources. This issue has become increasingly pressing because of the difficulty of finding experienced researchers with socio-legal (multidisciplinary) profiles, an ever more important criterion for integrating research teams faced with highly complex projects. Having the necessary financial resources is imperative to be able to attract and retain experienced researchers and to work on socio-legal themes in an interdisciplinary environment, where flexibility to combine basic/fundamental and applied science is of the essence. These profiles are difficult to find. In fact, that is one of the main reasons CES offers an international PhD Programme in Sociology of Law and Justice. The programme is taught in part by members of the OPJ, who are thus in a position to disseminate the results of our research and support the training of early-career researchers, not to mention the possibility of PhD students

writing their theses in an OPJ setting. The current precariousness of scientific careers and of academic and research institutions is due to the volatility of the funding schemes and presents an obstacle to the stabilising of qualified research teams.

A final challenge faced by the OPJ and all social sciences studies in general is the one posed by the impact of the COVID-19 pandemic. Since 2020, researchers, institutions and professionals in general have been confronted with the need to adapt the nature and scope of their research, objectives, methodologies and tools of dissemination, in an ongoing process that has brought benefits as well as obstacles, difficulties and challenges. The “zoomification” of some – mostly qualitative – methodologies are underway and has had a number of positive effects, including the quality of the results achieved, downsizing the costs, and making the participation of professionals and representatives of institutions and associations/unions in the research not only easier but also less time-consuming. Nonetheless, it is not yet possible to know with certainty what the actual qualitative impacts and possible limitations of the results of the fieldwork will be. After two years of pandemic, we have been managing adjustments with regard to the issues mentioned above and many doubts remain on how to optimise the use of digital platforms to study, apply methodologies and discuss and disseminate results.

The extensive research carried out by the OPJ helped sustain a favourable institutional environment to conduct socio-legal studies in Portugal, based on tested and approved sets of methodologies. The trust and involvement of institutional and judicial actors was fundamental to achieve robust and credible results and to influence justice policies in Portugal and elsewhere. The academic and political recognition, both domestic and international, of the work undertaken was earned in a natural manner, elevating the OPJ and its researchers to the role of key research actors in the discussion and search for solutions of problems in the judicial system.

References

- Blackham, A., 2022. When law and data collide: the methodological challenge of conducting mixed methods research in law. *Journal of Law and Society* [online], 49(S1), S87–S104. Available at: <https://doi.org/10.1111/jols.12373>
- Branco, P., Casaleiro, P., and Pedroso, J., 2018. Sociologia do Direito made in Portugal: o contributo do CES no panorama nacional. *E-Cadernos* [online], 29, 237–252. Available at: <https://doi.org/10.4000/eces.3529>
- Casaleiro, P., Relvas, A.P., and Dias, J.P., 2021. A Critical Review of Judicial Professionals Working Conditions’ Studies. *International Journal for Court Administration* [online], 12(1), 1–28. Available at: <https://doi.org/10.36745/ijca.334>
- Cowan, D., et al. 2006. District Judges and Possession Proceedings. *Journal of Law and Society* [online], 33(4), 547–71. Available at: <https://doi.org/10.1111/j.1467-6478.2006.00370.x>
- Dias, J.P., 2004. *O mundo dos magistrados: a evolução da organização e do auto-governo judiciário* [online]. Coimbra: Almedina. Available at: <https://estudogeral.uc.pt/bitstream/10316/79933/1/O%20mundo%20dos%20magistrados.pdf>

- Dias, J.P., 2015. Ciências em sociedade: diálogos interculturais e ecologias de saberes perante ameaças neocoloniais. *Textos & Debates* [online], 27(2), 257–278. Available at: <https://doi.org/10.18227/2317-1448ted.v2i27.3205>
- Dias, J.P., and Azevedo, R.G., eds., 2008. *O papel do Ministério Público: estudo comparado dos países latino-americanos* [online]. Coimbra: Almedina. Available at: <https://estudogeral.uc.pt/bitstream/10316/96243/1/O%20papel%20do%20ministerio%20publico.pdf>
- Dias, J.P., and Gomes, C., 2018. Judicial Reforms ‘Under Pressure’: The New Map/Organisation of the Portuguese Judicial System. *Utrecht Law Review* [online], 14(1), 174–186. Available at: <https://doi.org/10.18352/ulr.448>
- Dias, J.P., Casaleiro, P., and Gomes, C., 2020. Os "invisíveis" da justiça: condições de trabalho dos/as oficiais de justiça em Portugal. *Revista Culturas Jurídicas* [online], 7, 1–31. Available at: https://estudogeral.uc.pt/bitstream/10316/90961/1/Os_as%20invisiveis%20da%20justica.pdf
- Dobbin, S.A., et al., 2001. Surveying Difficult Populations: Lessons Learned from a National Survey of State Trial Court Judges. *Justice System Journal*, 22(3), 287–307. <https://biblioteca.cejamericas.org/bitstream/handle/2015/3479/ncsc-survey-judges.pdf?sequence=1&isAllowed=y>
- Dodds, S., and Hess, A.C., 2021. Adapting research methodology during COVID-19: lessons for transformative service research. *Journal of Service Management* [online], 32(2), 203–217. Available at: <https://doi.org/10.1108/JOSM-05-2020-0153>
- Douzinas, C., and Perrin, C., eds., 2011. *Critical Legal Theory – 4 volumes*. London: Routledge.
- Felt, U., 2017. Under the shadow of time: Where indicators and academic values meet. *Engaging Science, Technology, and Society* [online], 3, 53–63. Available at: <https://doi.org/10.17351/ests2017.109>
- Ferreira, A.C., and Pedroso, J., 1999. Entre o passado e o futuro: contributos para o debate sobre a Sociologia do Direito em Portugal. *Revista Crítica de Ciências Sociais* [online], 52, 333–361. Available at: <https://hdl.handle.net/10316/40644>
- Ferreira, A.C., et al. 2014. *Quem são os nossos magistrados? Caracterização profissional dos juizes e magistrados do Ministério Público em Portugal* [online]. Coimbra: Centro de Estudos Sociais. Available at: <https://estudogeral.uc.pt/bitstream/10316/86801/1/Relat%c3%b3rio%20Final%20Ouem%20s%c3%a3o%20os%20nossos%20magistrados%202014.pdf>
- Frade, C., Fernando, P., and Conceição, A.F., 2020. The performance of the courts in the digital era: The case of insolvency and restructuring proceedings. *International Insolvency Review* [online], 29(3), 346–359. Available at: <https://doi.org/10.1002/iir.1390>
- Gomes, C., 2018. A formação de magistrados como instrumento de transformação da justiça. *Revista Crítica de Ciências Sociais* [online], Special Issue, 237–260. Available at: <https://doi.org/10.4000/rccs.7881>

- Gomes, C., and Fernando, P., 2016. *Justiça e eficiência. O caso dos Tribunais Administrativos e Fiscais*. February. Coimbra: Centro de Estudos Sociais.
- Gomes, C., et al., 2016. *Violência Doméstica. Estudo avaliativo das decisões judiciais* [online]. Coleção Estudos de Género 12. Lisbon: Comissão para a Cidadania e Igualdade de Género. Available at: <http://hdl.handle.net/10316/44015>
- Gomes, C., et al., 2021. *Para uma reforma do sistema prisional. Caso da aplicação do Estatuto do Corpo da Guarda Prisional* [online]. Coimbra: Centro de Estudos Sociais. Available at: <https://opj.ces.uc.pt/wp-content/uploads/2022/12/Relato%CC%81rio-Aplicac%CC%A7a%CC%83o-do-Estatuto-do-CGP-vFinal.pdf>
- Guibentif, P., 2014. Law in the semi-periphery: revisiting an ambitious theory in the light of recent Portuguese socio-legal research. *International Journal of Law in Context* [online], 10(4), 538–558. Available at: <https://doi.org/10.1017/S1744552314000305>
- Hammond, C., 2005. The Wider Benefits of Adult Learning: An Illustration of the Advantages of Multi-method Research. *International Journal of Social Research Methodology* [online], 8(3), 239–255. Available at: <https://doi.org/10.1080/13645570500155037>
- Hunter, C., Nixon, J., and Blandy, S., 2008. Researching the Judiciary: Exploring the Invisible in Judicial Decision Making. *Journal of Law and Society* [online], 35(S1), 76–90. Available at: <https://doi.org/10.1111/j.1467-6478.2008.00426.x>
- Lima, T.M., 2019. A reparação dos acidentes de trabalho em Portugal e as influências do modelo de proteção social da OIT. In: A.C. Ferreira, ed., *A Organização Internacional do Trabalho no Direito do Trabalho português: reflexos e limitações de um paradigma sociojurídico*. Coimbra: Almedina, 151–178.
- Lourenço, R. P., Fernando, P., and Gomes, C., 2017. From eJustice to Open Judiciary. An Analysis of the Portuguese Experience. In: C.E. Jiménez-Gómez and M. Gascó-Hernández, eds., *Achieving Open Justice through Citizen Participation and Transparency*. Hershey: IGI Global, 111–136.
- Newman, P.A., Guta, A., and Black, T., 2021. Ethical Considerations for Qualitative Research Methods During the COVID-19 Pandemic and Other Emergency Situations: Navigating the Virtual Field. *International Journal of Qualitative Methods* [online], 20, 1–12. Available at: <https://doi.org/10.1177/16094069211047823>
- Nielsen, L.B., 2012. The Need for Multi-Method Approaches in Empirical Legal Research. In: P. Cane and H.M. Kritzer, eds., *The Oxford Handbook of Empirical Legal Research* [online]. Oxford Academic, 951–975. Available at: <https://doi.org/10.1093/oxfordhb/9780199542475.013.0040>
- Pedroso, J., Dias, J.P., and Trincão, C., 2003. *Por caminhos da(s) reforma(s) da justiça*. Coimbra Editora.
- Roach Anleu, S., and Mack, K., 2013. Judicial authority and emotion work. *The Judicial Review*, 11(3), 329–347.

- Roach Anleu, S., and Mack, K., 2014. Job Satisfaction in the Judiciary. *Work, Employment and Society* [online], 28(5), 683–701. Available at: <https://doi.org/10.1177/0950017013500111>
- Roach Anleu, S., and Mack, K., 2016. Managing work and family in the judiciary: Metaphors and strategies. *Flinders Law Journal* [online], 18(2), 213–239. Available at: <http://www.austlii.com/au/journals/FlinLawJl/2016/8.pdf>
- Santos, B.S., 1974. *Law Against Law: Legal Reasoning in Pasargada Law*. Cuernavaca: CIDOC.
- Santos, B.S., 1995. *Toward a new common sense: law, science and politics in the paradigmatic transition*. New York: Routledge.
- Santos, B.S., 2002. *Toward a new legal common sense: globalization and emancipation*. London: Butterworths.
- Santos, B.S., 2005. A justiça em Portugal: diagnósticos e terapêuticas. *Manifesto*, 7, 76–87.
- Santos, B.S., 2014. *O direito dos oprimidos*. Coimbra: Almedina.
- Santos, B.S., 2015. *A justiça popular em Cabo Verde*. Coimbra: Almedina.
- Santos, B.S., 2017. The Resilience of Abyssal Exclusions in Our Societies: Toward a Post-Abyssal Law. *Tilburg Law Review* [online], 22(1-2), 237–258. Available at: <https://doi.org/10.1163/22112596-02201011>
- Santos, B.S., and Gomes, C., 1998. *Macau: O Pequeníssimo Dragão*. Porto: Afrontamento.
- Santos, B.S., and Trindade, J.C., eds., 2003. *Conflito e transformação social: uma paisagem das justiças em Moçambique*. Porto: Afrontamento.
- Santos, B.S., and Van Dúnen, J.O.S., eds., 2012. *Sociedade e Estado em Construção: Desafios do Direito e da Democracia em Angola – Luanda e Justiça: Pluralismo jurídico numa sociedade em transformação (Vol. I)*. Coimbra: Almedina.
- Santos, B.S., and Villegas, M.G., eds., 2001. *El Caleidoscopio de las Justicias en Colombia*. Bogotá: Uniandes/Siglo del Hombre.
- Santos, B.S., et al., 1996. *Os Tribunais nas Sociedades Contemporâneas: O Caso Português*. Porto: Afrontamento.
- Santos, B.S., et al., 1999. *Porquê tão lentos? três casos especiais de morosidade na administração da justiça*. Coimbra: Centro de Estudos Sociais.
- Santos, B.S., et al., 2007. *Tráfico de mulheres em Portugal para fins de exploração sexual*. Lisbon: CIG.
- Santos, B.S., Trindade, J.C., and Meneses, M.P., eds., 2006. *Law and Justice in a Multicultural Society: The Case of Mozambique*. Dakar: CODESRIA.
- Seawright, J., 2016. *Multi-method social science: combining qualitative and quantitative tools*. Cambridge University Press.

Van der Ven, L.G.L., *et al.* 2022. How to involve 'hard to reach' population groups in research projects. *European Journal of Public Health* [online], 32(3). Available at: <https://doi.org/10.1093/eurpub/ckac129.476>

Ylijoki, O.H., 2016. Projectification and Conflicting Temporalities in Academic Knowledge Production. *Teorie vědy/Theory of Science* [online], 38(1), 7–26. Available at: <https://doi.org/10.46938/tv.2016.331>