

THEORIZING FORMAL PLURALISM: QUANTIFICATION OF LEGAL PLURALISM FOR SPATIO – TEMPORAL ANALYSIS

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Introduction

Israel is a legally pluralistic society. So is India. And they both have been legally pluralistic societies throughout their history. This is also true of every human society. The forms and levels of legal plurality that we observe across different societies and over time have been extensively studied by many anthropologists and legal scholars. But, what about the intensity or degree of pluralism? Does it always stay the same or does it ever change over time? Israel is legally pluralistic today; as it was fifty-seven years ago. However, the fact that Israel has always been pluralistic does not mean that the nature, characteristics and intensity of its plurality have not changed within last six decades. Legal pluralism is the reflection of complex human interactions on our normative universe. It changes as a society evolves. With these changes in its form and structure, the degree of plurality also changes. As a result, societies constantly become ‘more’ or ‘less’ pluralistic over time.

Hence, in order to answer the question of ‘how much plurality’, we should be able to capture spatio-temporal variations in the degree of legal pluralism. In this regard, this paper aims to introduce a simple technique of quantification which could capture variances in the degree of legal pluralism over time and across localities. In addition the paper will also offer a number of theoretical, methodological and ontological novelties to better facilitate a diachronic analysis of legal pluralism.

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A New Perspective on Legal Pluralism

There are two types of legal pluralism: weak and strong (Griffiths 1986), or, in Woodman's terminology, state law pluralism and deep pluralism (Woodman 1999). Weak pluralism exists when the sovereign commands different bodies of law for different groups in the population by incorporating their normative orderings into the central administration of law and courts. This type of pluralism can be seen as a 'technique of governance' or a mere arrangement within state law, as the normative existence of non-state norms depends upon their recognition by the central administration (Griffiths 1986). Strong pluralism, on the other hand, resembles an inexorable state of affairs in which all normative orderings regardless of their origin and mutual recognition by one another co-exist side by side within a normative universe (Cover 1995). From this point of view, state law is just one among many other normative orderings in society. In fact, Griffiths argues that only legal pluralism in the latter form can serve as a basis for analytic and descriptive framework, as weak or state law pluralism is no more than a statement of legal doctrine, and hence irrelevant to sociological investigation. This view has been widely shared, albeit with serious reservations, among scholars (F. von Benda-Beckmann 1997; K. von Benda-Beckmann 2001; Tamanaha 1993).

Griffiths argues that the central objective of a descriptive conception of legal pluralism should be the destruction of the ideological backbone of legal centralism which is that law is a single, unified, and exclusive hierarchical normative ordering stemming from the power of the state (1986: 4-5). Such conceptualizations of legal pluralism scholarship as an intellectual crusade have led to the banishment of state law pluralism in academic circles because of their strong emphasis on anti-étatism. In fact, theories of legal pluralism with lenses focused on society have become quite fashionable among the scholars who have pioneered this field of study (Merry 1988; Snyder 1981).

The project of legal pluralism cannot be confined only to the investigation of social fields which are not penetrated by the state law. Today, in the reign of the absolute nation-state, almost no source of law, either customary or religious, can manage to stay intact (Unger 1976: 66-86). "In a legal field, there is neither absolute isolation nor absolute autonomy" (Yilmaz 1999: 73). In other words, state laws and non-state normative orderings are not two different and completely separate entities. They rather coexist in the same normative universe and dynamically interact with

one another in a number of ways. From a relational perspective (Hunt 1993), state law and non-state laws are mutually constitutive (Fitzpatrick 1983, 1984; Silbey 1992). In short, as opposed to Griffiths, the instances of non-state normative orderings, incorporated within a so-called ‘unified’ central administration under the auspices of the state should well be construed as a remarkable instance of legal pluralism, and as a relevant sociological fact worthy of further examination.

The state-society dichotomy in the study of legal pluralism should not be exaggerated. After all, the state is a social construction. It does not exist outside of social reality; but it is part of it. The boundaries between state and society are blurred. It is almost impossible to tell where the boundaries of state end and those of society start. The distinction should be taken not as a simple border between two free-standing domains but “as a line drawn internally within the networks of institutional mechanisms through which a social and political order is maintained” (Mitchell 1991: 78). Moreover, the state is not the omnipresent, omnipotent organization that we all think; it is rather a contradictory entity that acts against itself. Understanding this paradoxical character of the state requires a dualistic approach, “one that recognizes the corporate, unified dimension of the state in its image, and one that dismantles this wholeness by means of examining its contradictory practices and alliances of its disparate parts” (Migdal 2001: 22). This is a “limited state” with a certain degree of autonomy embedded (Evans 1995: 59) in a concrete set of ties that bind the state and society together, and provide institutionalized channels for continual negotiation of the rules of the game. This constant renegotiation of the normative universe between the state and society leads to an accommodation which often takes the form of state law pluralism (Scharf and Nina 2001; Wilson 2001).

However, the phenomenon of state law pluralism has often been treated as an anachronistic legacy of colonialism (Benton 2002; Darian-Smith and Fitzpatrick 1999; Galanter and Dhavan 1989; Griffiths 1986; Hooker 1975; Larson 2001; Thompson 2000; Young 1994). According to these accounts, postcolonial states have simply continued down the same path as their colonial predecessors, and conserved the plural systems of law in their territories. Furthermore, such explanations not only consider the existence of state law pluralism as an anachronistic phenomenon, but also systematically treat the postcolonial states as disempowered and incapacitated entities which have not been able to overcome the resistance of social groups, and have weakly recognized the jurisdiction of non-state rule-making and -implementing communities (Vanderlinden 1989).

QUANTIFICATION OF LEGAL PLURALISM
Yüksel Sezgin

The path dependency (Mahoney and Rueschemeyer 2003; Pierson 2000, 2004; Thelen 1999) or colonial legacy approaches to the study of state law pluralism also offers a homeostatic vision of pluralism. This is mostly caused by a wholesale subscription to the Griffiths' project of anti-étatism. From this perspective, 'normative vitality' is exclusively attributed to the 'living law' which could only survive in the domain of deep legal pluralism while state law pluralism is seen as a homeostatic domain which has already lost its 'normative vitality' as a result of incorporation by the state. In addition, this strong anti-étatism has also reduced the role of the state to a mere passive and disempowered object in the creation of polycentric legal systems, as ethnographic and micro-sociological investigations have often adopted society or social formations as their unit of analysis (Snyder 1981).

This article aims to present an alternative view of legal pluralism from the state's perspective at a higher level of abstraction (Sartori 1984) through macro-sociological and comparative analysis. However, this new approach will necessitate the introduction of a new concept: *formal plurality*. It is well established that even when it is domesticated or incorporated by the state in the form of 'weak' or 'state law' pluralism, a polycentric normative universe will still continue reproducing its stronger versions under the 'implicit' recognition or purview of the state (Woodman 1999: 19). Hence, the concept of 'formal plurality' refers to the façade of state law pluralism, whereas 'informal plurality' indicates the stronger versions of state law pluralism which can be found in grey areas of the normative universe where the jurisdiction of non-state norms and institutions are subsequently acquiesced in by the state without a formal acknowledgement such as recognition or incorporation. In short, formal and informal plurality can be respectively seen as 'weak' and 'strong' versions of state law pluralism¹.

¹ For example, despite the fact that the Islamic law has been recognized and incorporated into the unified body of Indian family laws since the colonial times, an alternative network of Islamic Shari'a courts (*Dar-ul Qaza*) has recently emerged in some parts of the country. These courts are run by the Indian Muslims themselves, independent of government bodies. Although these courts have no official status, their existence is somewhat tolerated as alternative dispute mechanisms by the Indian state, while some of their decisions are also officially recognized as arbitration rulings by the national courts (S.T. Mahmood 2001; T. Mahmood 2002). In brief, these courts were founded as a response to popular discontent over the application of Islamic law and principles in the secular courts

Formal plurality indicates the extent to which the reality of living plurality is reflected in modern nation-states' legal systems. It is the embodiment of the state's formal response to the existing multiple normative orderings which claim to regulate the same socio-legal space simultaneously with state law. Since formal plurality is just a reverberation of living plurality in the book of the state, it should always look tidier, more organized and centralized than informal plurality, as it will also show signs of a weaker or lighter version of living plurality in degree and magnitude.

The recruitment of the concept of formal plurality helps us understand better the choices of states and answer such thorny questions as: Do states always act out of weakness and passively accept whatever form of plurality is imposed upon them by the social forces? Can modern nation-states prefer legal pluralism? Can they intentionally 'regulate' or 're-design' existing multiple jurisdictions in accordance with their ideological preferences? If they can do so, then, how can they do it? Which communal jurisdictions and policy areas do they choose to reform? What factors influence their choices of reform?

Understanding the state's role in creating or designing its version of pluralism in the form of 'formal plurality' requires a new set of tools with some theoretical, methodological and epistemological innovations. Legal pluralism (formal or informal) is an ever-changing, dynamic, living structure (Yilmaz 2005). It is not frozen in time. Neither is it a monolithic, uniform phenomenon. Hence, an innovative approach should be able to diagnose legal pluralism without neglecting the spatio-temporal differences in its structure, degree and forms (for example, between colonial and post-colonial forms of pluralism) (Sezgin 2004).

The approach that I suggest will look at the dynamic *mélange* of state-society relations not from a synchronic but rather from a diachronic, process-oriented perspective to understand the spatio-temporal variations in the degree, level and form of legal pluralism. Broadly speaking, it will attempt to explain variations across countries (ruled by the same colonial power), and across different groups within the same country; and variations across different policy areas and over time, in a somewhat consistent and generalizable structure. Only then could we,

of the Indian state. Hence, Indian formal plurality has reproduced its stronger versions in the form of informal plurality.

QUANTIFICATION OF LEGAL PLURALISM

Yüksel Sezgin

for example, qualitatively and quantitatively account for the changes in the structure and degrees of legal pluralisms found in colonial and postcolonial India. Or it will explain to us why we do not observe the same type, level and degree of legal pluralism across countries which share the same history (e.g. Pakistan and India). Moreover, such a theory will also explicate the differences in the degrees of legal pluralisms found across various subgroups within the same society (e.g. Hindus and Muslims in India).

However attempts at a macro-sociological theory built on a somewhat nomothetic base should not come at the expense of an acknowledgement of the intricate idiosyncrasies of a society we study. Rather we should innovate with methodological and epistemological novelties that will allow us to examine the variants and the differing degrees of legal plurality as we maintain a centered focus on the state and keep a second eye on societal structures. The “New Institutional theory” (Hall and Taylor 1996; North 1990, 1991) and the “state-in-society” approach (Migdal 2001) will simultaneously equip us with ‘macro’ and ‘micro’ tools that will help us find this very delicate balance, as providing a more explicit political analysis of legal pluralism by focusing both on strategic interactions between state leadership and social actors and on the broader political context in which the formation of formal plurality takes place.

Is Quantification Possible?

A diachronic or process-oriented theory will urge us to ‘quantify’ and ‘qualify’ the phenomenon of legal pluralism so as to be able to see the changes in its structure and degree both over time and across different localities. And the problem is then how we can tackle the question of quantification. In this paper, I attempt to introduce a rather simplistic and parsimonious method to distinguish among the varying degrees of plurality.

At the outset, it must be noted that any methodology which assigns numeric values to represent non-empirical data makes a number of normative judgments. This is unavoidable and permeates much of the analysis which follows. However, once the investigator, who is in the position of making such normative judgments, has a clear understanding of the methodology employed, and knows what is measured and for what purposes, then the benefits of quantification can well outweigh its potential cost.

With this in mind, we shall use the technique of quantification to gauge the extent to which a non-state normative ordering is incorporated within a unified legal system. In other words, the score of pluralization that we aim to compute can be also read as a ratio of unification, integration, or fragmentation within the context of formal plurality. For experimental purposes, we carry out the task of quantification on a model of personal status regime² as it exemplifies a strong instance of formal plurality. We would assume that each non-state normative order within a personal status regime is simply composed of three major elements: code (or substantive norms), judge and court. These three elements are translated into two distinct component variables in this study: *Code* stands on its own, while the other two components are put into a single combined variable of *Judge/Court*, as they are intimately interrelated. These variables are also operationalized to facilitate valid and reliable measurement. Hence, to measure or quantify the plurality of a particular legal system, we specifically need to decide by looking at every single communal jurisdiction in the country, which is officially recognized and incorporated: first whether the court system of this jurisdiction is absorbed into a unified hierarchy of national courts; *second*, whether the legal code of this jurisdiction applied by the courts is codified (that is, written) and territorially unified; and lastly, whether the judges who sit on the bench are trained, salaried, and appointed by the central government and will rule on a case regardless of the identity of a particular litigant.

Table 1 operationalizes each variable by situating it on a continuum of unification/fragmentation. A score of 0 for a variable on the table will attest to a fully unified territorial administration of law and courts, whereas a score of 100

² By ‘personal status regime’ I refer to a single polity with several bodies of law in which every individual will be subject to her faith’s communal jurisdiction in regard to matters of personal status such as marriage, divorce, maintenance and inheritance. The existing family law regime of Israel, where fourteen different ethno-religious communities’ jurisdiction over their members’ matters of personal status are recognized by the government, is a great example of such regimes. The structure and characteristics of personal law systems also vary from place to place. In some countries, non-state normative orderings will be fully recognized and incorporated including their norms and court-like structures (institutional recognition), whereas in some countries the recognition will just be confined to normative recognition, as only religious and customary norms of communities will be codified and integrated into a national system.

QUANTIFICATION OF LEGAL PLURALISM
Yüksel Sezgin

Table 1: Operationalization Table

CODE:	%
Subject to unified, codified law (same uniform territorial state law for every group; fully codified norms)	0
Subject to unified, partially codified law (same uniform territorial state law for every group; norms partially codified, some unwritten, customary norms recognised)	12.5
Subject to unified, un-codified law (same uniform territorial state law for every group; uncodified norms)	25.0
Subject to partially-unified, codified law (law unified for some groups and regions; fully codified norms)	37.5
Subject to partially-unified, partially-codified law (law unified for some groups and regions; norms partially codified, some unwritten, customary norms recognised)	50.0
Subject to partially-unified, un-codified state law (law unified for some groups and regions; uncodified norms)	62.5
Subject to non-unified, codified law (Communal law – every group has its own particular set of norms; norms fully codified)	75.0
Subject to non-unified, partially-codified law (Communal law – every group has its own particular set of norms; norms partially codified, some unwritten, customary norms recognised)	87.5
Subject to non-unified, uncodified law (Communal law – every group has its own particular set of norms; uncodified norms)	100.0
JUDGES/COURTS:	%
Fully centralized state court (with state-trained/appointed/salaried judges for everyone)	0
State court with different state-trained/appointed/salaried judges for litigants from different groups	12.5
State court with communal divisions (structural divisions such as circuits)	25.0
State court that recruits communal experts	37.5
State court that requires endorsement from communal authorities for further legal impact within communal hierarchy	50.0
Communal courts with state representatives	62.5
Communal courts whose rulings require state endorsement	75.0
Communal courts administered by the government (with communal judges appointed/salaried by the state)	87.5
Fully autonomous communal courts (with communal judges appointed/salaried by the community)	100.0

will manifest the total disunification or fragmentation of the court structure and law administration in the country. Between the extreme situations with scores of 0 and 100 there exist seven other possible forms that non-state law and institutions could take in their every-day interactions with the state law.

Let us explain how this whole process of computation works through an example. Let us imagine a country, X, with formal plurality. In other words, suppose that country X has recognized and incorporated the jurisdiction of two distinct ethno-religious communities (A, B) in matters of family law or personal status (which is confined to areas of Marriage and Divorce, Inheritance, and Maintenance for purposes of this study). To calculate the degree of formal plurality for the entire country in the field of personal status law, we need to look for a description that will best approximate features of each policy area (of Marriage and Divorce, Inheritance, Maintenance) in terms of its component variables (Law; Judge/Courts) on Table 1. Then we fill in each Policy Area/Component grid on Table 2, by copying its corresponding numerical value ranging from 0 to 100 from Table 1.

Thus, if Community A's communal law in regard to matters of marriage and divorce is recognized and incorporated into country X's national legal system, the communal law is 'non-unified' in the sense that there is no uniform law territorially applicable in regard to matters of marriage and divorce. Rather, every ethno-religious community has its own particularistic norms which are recognized by the central administration. As we see in its real world applications, whenever such ethno-religious systems are recognized, this recognition is often extended to include not only the codified parts of the communal law but also some of its oral and customary practices. This non-unified, partially-codified communal law is applied in the national courts by judges who are trained, appointed and salaried by the government. Let us further assume that the rulings of these courts require endorsement by the communal institutions to produce enforceable legal results within the community (e.g. approval of divorce decrees, issued by civil courts, by ecclesiastical authorities may be required if the parties involved wish to re-marry in church). Similarly, in regard to matters of maintenance, the non-unified, partially codified communal law is also applied by the government-trained-and-salaried judges at the fully centralized national courts; but in this case their rulings do not require the approval of the communal institutions. The same national judges and courts also apply the inheritance laws of different communities which are partially unified and partially codified. In other words, unlike marriage and divorce laws, inheritance laws are somewhat unified across different communities or regions. Having carefully scrutinized each variable and found a corresponding

QUANTIFICATION OF LEGAL PLURALISM
Yüksel Sezgin

value for its descriptive features on Table 1, we should now proceed to assign the values 87.5, 50, and 87.5 to the Marriage and Divorce/Code; Inheritance/Code and Maintenance/Code cells respectively. By the same token, for the Marriage and Divorce/Judge-Court, Inheritance/Judge-Court and Maintenance/ Judge-Court cells we should fill in 50, 0, and 0 respectively.

Table 2: Country X, Component Scores

	Marriage/Divorce	Inheritance	Maintenance	
Community A	87.5	50	87.5	Code
	50	0	0	Judge/Court
Community B	87.5	50	87.5	Code
	0	0	0	Judge/Court

As the next step, we should take the total of individual component scores across policy areas. For example, for the Code variable, the total will be $87.5 + 50 + 87.5 = 225$; the Judge/Court variable will add up to 50 (i.e., $50 + 0 + 0$). Each of these totals should also be divided by three in order to calculate their average or arithmetic mean. The arithmetic means of individual component variables will give us the *Componentwise Degree of Pluralism* (CDP) scores. CDP scores can equally be equally seen as a score of decentralization or fragmentation for each component. In our example for Community A, these scores will be

$$\text{Code} = \frac{87.5 + 50 + 87.5}{3} = 75\%; \text{ and Judge/Court} = \frac{50 + 0 + 0}{3} = 17\%$$

These scores mean that country X's court structure in the field of personal laws is relatively unified across different ethno-religious groups (with a score of 17%) while the laws applied by these courts are highly decentralized or pluralized (75%).

Moreover, the arithmetic mean of these two scores will give us another very important ratio, the *Degree of Communal Autonomy* (DCA) in matters of personal status. This score - ranging between 0 and 100% - will indicate the extent to which

a particular community's personal laws are integrated into or independent from the unified national family law system. For Community A, the DCA score will be:

$$\text{DCA} = \frac{75 + 17}{2} = 44\%$$

In order to calculate our overall *Degree of Formal Pluralism* (DFP) score for Country X, we first need to calculate the same DCA score for Community B also:

$$\text{Code} = \frac{87.5 + 50 + 87.5}{3} = 75\%; \text{ Judge/Court} = \frac{0 + 0 + 0}{3} = 0\%$$

$$\text{Therefore DCA for Community B} = \frac{75 + 0}{2} = 38\%.$$

The DFP score will indicate the overall degree of centralization, unification or pluralization of a particular legal system. For example, for country X, the DFP score can be worked out by taking the arithmetic mean of DCA scores for Communities A and B. Therefore,

$$\text{DFP} = \frac{44 + 38}{2} = 41\%$$

By comparing DFP scores across two different points in time we can determine whether a normative universe has become more fragmented or more unified over time. For example, in order to answer the question that we posed at the beginning of this paper, whether Israel was more pluralistic in 2005 than in 1948, it is necessary to find Israel's DFP scores from those two years. DFP scores could also help those students of legal pluralism who wish to undertake more macro-sociological and cross-national analyses to reach some theoretical generalizations and compare different legal systems at a higher level of abstraction. For example, we could calculate the DFP scores for both Pakistan and India in order to compare the changes in their individual scores from 1947 to 2005. Since they started from the same point we should be able, current DFP scores in hand, to tell how each country has performed. If we find that one country has lagged behind the other in terms of either its fragmentation or its centralization scores, this would surely pose

QUANTIFICATION OF LEGAL PLURALISM
Yüksel Sezgin

a very interesting puzzle for any investigator with a serious interest in the study of legal pluralism.

Lastly, another very useful score - the *Policywise Degree of Plurality* (PDP), could be computed by taking the arithmetic mean of individual component scores within each policy area. For example, for the field of marriage and divorce in Community A:

$$\text{PDP} = \frac{87.5 + 50}{2} = 68.75\% \text{ for Community A (Marriage and Divorce)}^3$$

To calculate the overall DFP score for the entire country, we also need to calculate the same score for community B. Thereafter, we again take the arithmetic mean of community A's and community B's PDP scores to produce the nationwide PDP score:

$$\text{PDP} = \frac{87.5 + 0}{2} = 43.75\% \text{ for Community B (Marriage and Divorce),}^4 \text{ and}$$

$$\text{PDP} = \frac{68.75 + 43.75}{2} = 56.25\% \text{ for Country X (Marriage/Divorce)}$$

The PDP will tell us to what extent a particular policy area is centralized or fragmented across the different legal communities within the same country. By the

³ In the same way, Community A's PDP scores for the maintenance and inheritance fields could be calculated as:

$$\begin{aligned} \text{PDP (Maintenance)} &= (87.5 + 0) \div 2 = 43.75\%; \\ \text{PDP (Inheritance)} &= (50 + 0) \div 2 = 25\%. \end{aligned}$$

⁴ Similarly, Community B's PDP scores for maintenance and inheritance fields will be:

$$\begin{aligned} \text{PDP (Maintenance)} &= (87.5 + 0) \div 2 = 43.75\% \\ \text{PDP (Inheritance)} &= (50 + 0) \div 2 = 25\% \end{aligned}$$

same token, we could also determine which policy area, in which community, is more centralized or fragmented. For example, in both communities A and B above, we see that inheritance laws are much more unified and centralized than both the marriage and divorce and the maintenance laws. These findings will automatically lead to such questions as: Why are the inheritance laws more centralized than the laws of marriage and divorce? Does it mean that the field of inheritance is more heavily regulated by the central administration and that the central administration has a particular interest in this policy area? What are dynamics of state-society relations in regard to rules of inheritance? What about comparing PDP scores across different communities? What if we find that marriage and divorce rules are more centralized in community B than A (meaning that B will have a lower PDP score in the field of marriage and divorce, as in our example)? Further, after a combined reading of these PDP scores with each community's DCA scores, what might be said about the relative balance of power between the different communities and the central state administration? If we find that community A also enjoys a higher ratio of DCA, could we say that community A has more autonomy in this field because it commanded a better bargaining position vis-à-vis the state at the time of incorporation?

Benefits of Quantification

The degree of formal plurality will range from 0% to 100%, both of which resemble ideal types. A DFP score of 100 % will exemplify an extreme version of formal plurality, as a score of 0% will point to the existence of extremely powerful centralist and monistic institutions and practices put in place by the state.

In the existing literature, state law pluralism and its variants, mostly in the form of personal status regimes, have often been portrayed as a timeless and static phenomenon. This has rendered the comparative analysis of such normative systems across localities, communities, policy areas and time impossible. However, the theoretical approach and the method of quantification that I have proposed here should make the cross spatio-temporal analysis of legal pluralism a possibility. For example, Country X's degree of plurality in the field of family law is 41%. In addition, we could calculate the degree of plurality at some other point in time and compare it with the current score of 41%. Hence, the comparison of two ratios measured at two different points in time will help us discover the temporal changes in the structure and form of pluralism within the same country. Or the comparison of degrees of plurality measured in different countries can help

QUANTIFICATION OF LEGAL PLURALISM

Yüksel Sezgin

us explain cross-national variations. Moreover, we could also categorize countries based on their DFP scores such as countries with high degree (67-100%), medium degree (34-66%) and low degree (0-33%) pluralism. We could then try to correlate these scores with some common characteristics widely shared across countries within the same category. For example, if we study personal status regimes in a cross-national sample and find that countries with high DFP scores also exhibit strong theocratic tendencies, then we could perhaps nomothetically infer that all theocratic regimes will denote high degrees of formal plurality.

Cross national and temporal analyses will also aid us to closely study the performances of various governments in reforming their legal systems. First, by looking at their componentwise plurality scores over time, we could analyze how national governments regulated their formal plurality: whether they attempted to unify the codes of various communities or centralize the national court structures, as in the case of Egypt which absorbed the religious courts of various communities into the national court system while leaving these communities' laws non-unified under a central administration (Law No: 462 of 1955). Likewise, the comparison of degrees of autonomy across sub-national communities should also tell us a great deal about the relationship of states with various ethno-religious groups under their rule. The example of Country X above starkly exposes these differences across various communities within the same polity, leading to the question, why is there such a difference between the two communities' autonomy scores? The reading of communal autonomy scores along with such scores as policywise plurality and componentwise plurality scores, we could better elaborate on communal differences. For instance, we may see that central governments are more active in undertaking procedural reforms than more substantive reforms, since they can with relative ease alter the court structures but not the norms of certain communities for pragmatic reasons. Or, as was the case in Israel, governments may prefer stricter regulation of some policy areas directly related to the exchange of land and capital, such as inheritance and maintenance, over such sensitive issues as marriage and divorce. Eventually, spatio-temporal analysis of formal plurality may also demonstrate whether variations in the degrees of autonomy, shown by componentwise or policywise scores across different ethno-religious groups, have become more or less visible along the lines of national majorities and minorities since independence, as is the case in India.

As a final note, an investigator should always keep it in mind that the feasibility and reliability of this technique of quantification is limited in several ways: First, like any other research project, it is limited by its database. The technique can be

used as a tool of analysis only if there is hard data in the hands of the researcher. As seen, the operationalization of variables entails an extensive amount of data which can be gathered only through ethnographic research. This means that the study of legal pluralism still primarily relies upon the collection of primary and secondary data through field research. Second, this paper has offered a simplified and parsimonious vision of formal plurality. But in reality, formal plurality could also get as messy and tricky as informal plurality. We frequently find that the nature of the relationship between state law and non-state law may not be straightforward. Both state and non-state normative orderings may enjoy concurrent jurisdictions in some policy areas. For example, in Israel individuals have an option to take their maintenance or inheritance related matters to either a religious court or a civil family court. In such cases it may not always be very clear how to operationalize the variables of code or court and judge. Thus the investigator who has a good understanding of the actual legal practices in a society and is knowledgeable about the formal legal structure, should have the flexibility to modify the model to meet the practical needs of his research.

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QUANTIFICATION OF LEGAL PLURALISM
Yüksel Sezgin

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QUANTIFICATION OF LEGAL PLURALISM
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