LOCATING MEANING IN THE METHODS OF LAW & TECHNOLOGY

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For to be possessed of a vigorous mind is not enough. . . . The prime requisite is rightly to apply it.

—Rene Descartes[1]

Philosophers have hitherto only interpreted the world in various ways; the point is to change it.

—Karl Marx[2]

Ryan Calo's *Law and Technology: A Methodical Approach* grapples with an ever-vexing question in the field of law & technology, and in legal scholarship writ large: What are we doing here? As legal scholarship continues to excavate and experiment with methodology, Calo's contribution focuses on how researchers generate knowledge and understanding of the law specifically in its complex relationship with technology. In a time of technology-facilitated violence of the most horrific kinds,[3] and unspooling threads of global technofascism, excavating the intersections of law and technology has never felt more urgent. Understanding which objectives motivate this subfield carries a political significance that cannot be ignored.

In his book, Calo proposes a methodical approach for legal scholars examining technology through the lens of law.[4] This is done optimistically, with an ambition of generating coherence in a field of inquiry that is growing in both popularity and credibility within and beyond the academy. Calo's framework can help researchers build stronger legal arguments by transparently considering

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[1] RYAN CALO, LAW AND TECHNOLOGY: A METHODICAL APPROACH 85 (2025).

[2] Karl Marx, *Theses on Feuerbach*, MARXISTS INTERNET ARCHIVE (1845), https://www.marxists.org/archive/marx/works/1845/theses/theses.htm [perma.cc/CV36-ZZCZ].

[3] History repeats, as technology has recurrently facilitated genocide, forced labour, land dispossession, sexual violence, and other systems of violence against people and planet.

[4] The framework is set out and explained in Chapter 3. *See* CALO, *supra* note 1, at 104-11. Calo emphasizes that law pays "scant attention" to methodology, which can certainly be or seem true in some contexts, particularly where law's methodology is not formally discussed. *See id.* at 9.

their steps to understand law's relationship to technology. Calo emphasizes looking beyond the law in one's research, as is common in law & technology work, and calls on authors to be more candid and descriptive about their investigatory choices. Among other things, he emphasizes that this can improve the rigour of research, increasing credibility outside the discipline and the academy.[5]

In the natural, applied, and social sciences, methodology is forefront in ascribing credibility to the knowledge and insight produced through research. This is often the case because so much of the investigation happens separately from the published write-up, in a lab or an interview. Readers cannot test conclusions unless they know how they were reached. That has been less concerning for law, where the researcher's investigation is often performed for the reader, in the form of legal analysis. For this reason, it is less common to find doctrinal legal scholarship that devotes much if any writing to methodology, compared to scientific fields.[6] "Law has no methodology" rings out occasionally in the hallways of law school graduate departments.[7] Graduate cohorts nevertheless proceed to sit together and learn of a buffet of different research methodologies. In addition to law's often undescribed methodologies like inductive, deductive, and analogical reasoning,[8] many extensively debated, trans-disciplinary methodologies are pursued in legal subfields. Methodologies and practices like collaboration,[9]

[5] *See id.* at 89.

[6] This distinction is helpfully set out in, Paul Chynoweth, *Legal Research*, *in* ADVANCED RESEARCH METHODS IN THE BUILT ENVIRONMENT 28, 37 (Andrew Knight & Les Ruddock eds., Wiley-Blackwell) (2008) (describing legal methodology: "In common with other humanities' disciplines, most legal scholarship is not concerned with empirical investigation, but with the analysis and manipulation of theoretical concepts. The methodologies employed therefore differ from those of the sciences and are probably more accurately categorised, in social science terms, as techniques of qualitative analysis. . . . [A]s the process is one of analysis rather than data collection, no purpose would be served by including a methodology section within a doctrinal research publication and one is never likely to find one.").

[7] This impression can be explained in part by how legal methodologies are taught through exposure. Students learn doctrinal methodologies by doing in class and in practice, rather than in more formal and explicit ways as seen in many other disciplines. This is not exclusive to law, and as suggested by Chynoweth, might be reflected in disciplines like education and social work too. *See id.* at 35.

[8] *Id.* at 37.

[9] *See, e.g.*, Loveday Hodson, *Collaboration as Feminist Methodology: Experiences from the Feminist International Judgments Project*, 8 OÑATI SOCIO-LEGAL SERIES 1224 (2018).

suspicion,[10] narrative and counter-storytelling,[11] imagination,[12] genderfucking,[13] oral history,[14] land-based learning,[15] statistical or machine learning-based analysis,[16] interview, small-group discussion, survey,[17] first-hand account,[18] art, film and poetry,[19] and others exist in our ambit. Law does not have a methodology problem, but it might have an association problem. What drives a researcher, or a whole subfield, to adopt, debate, refine, or reject a given methodology?

Something in common across the legal subfields that have well-recognized methodologies is that these fields usually articulate a *raison d'etre*—a normative purpose around which its community will coalesce. This purpose might be ambitious, sometimes hotly debated; disagreement might generate new subfields,

[10] Suspicion is a *philosophy* in Third World Approaches to International Law ("TWAIL"), rather than a *method*. However, even if distinct from the other examples, I include it here because of how suspicion informs the researcher's production of knowledge in TWAIL. *See, e.g.*, Antony Anghie & B.S. Chimni, *Third World Approaches to International Law and Individual Responsibility in Internal Conflicts*, 2 CHINESE J. INT'L L. 77, 96 (2003).

[11] These methodologies appear in different subfields. *See, e.g.*, Jasmine B. Gonzales Rose, *Critical Race Theory as Legal Epistemic Justice*, 104 B.U. L REV. 1295 (2024) (explaining epistemic justice flowing from and informing narrative and counter-storytelling as methodologies in Critical Race Theory).

[12] *See, e.g.*, RUHA BENJAMIN, IMAGINATION: A MANIFESTO (2024).

[13] *See, e.g.*, Florence Ashley, *Genderfucking as a Critical Legal Methodology*, 69 MCGILL L.J. 177 (2024).

[14] *See, e.g.*, Sarah Morales, *A 'lha'tham: The Re-Transformation of s. 35 through a Coast Salish Legal Methodology*, 37 NAT'L J. CONST. L. 145, 148 (2017); SYLVIA MCADAM SAYSEWAHUM, NATIONHOOD INTERRUPTED: REVITALIZING NÊHIYAW LEGAL SYSTEMS (2015).

[15] *See, e.g.*, John Borrows, *Outsider Education: Indigenous Law and Land-Based Learning*, 33 WINDSOR Y.B. ACCESS JUST., no. 1, 2016, at 1.

[16] *See, e.g.*, Sean Rehaag, *Luck of the Draw III: Using AI to Extract Data About Decision-Making in Federal Court Stays of Removal*, 49 QUEEN'S L.J. 73, 73 (2024); Jon Khan, Deliberate Design: Why Canada's Legal System Needs It (Ph.D. dissertation, York University) (on file with author).

[17] *See, e.g.*, SUZIE DUNN, TRACY VAILLANCOURT & HEATHER BRITTAIN, SUPPORTING SAFER DIGITAL SPACES (2023), https://www.cigionline.org/static/documents/SaferInternet_Special_Report.pdf. These methodologies are wide-ranging; this publication shows an example of the use of a large survey to inform technology policy and law reform recommendations.

[18] *See, e.g.*, PATRICIA J. WILLIAMS, THE ALCHEMY OF RACE AND RIGHTS: DIARY OF A LAW PROFESSOR (1991); Felicity Adams & Fabienne Emmerich, *Nurture, Pleasure and* Read and Resist!*: Abolition Feminist Methodology for a Collective Recovery?*, 29 FEMINIST LEGAL STUD. 399 (2021).

[19] *See, e.g.*, Jeffery G. Hewitt, *How Indigenous Art Is Challenging Colonial Law*, CTR. FOR INT'L GOVERNANCE INNOVATION (Sep. 27, 2017), https://www.cigionline.org/articles/how-indigenous-art-challenging-colonial-law [https://perma.cc/RMF5-ECSH].

or the purpose might be framed broadly to permit a range of normative goals.[20] Informed by the shared community philosophy, different methods of inquiry will be adopted, debated, amended, or rejected.

Calo opens his book with examples of community reflexivity, recounting how Amish, Orthodox Jewish, and neo-Luddite communities make collective normative choices around new technology.[21] I think this book can now invite our own community reflexivity about the deeper normative and political orientations of law & technology as a global subfield. An "apolitical" paradigm could rightly undermine the public credibility of a field that sits on the fault lines of significant movements and abuses of power.[22]

Calo provides some valuable foundations for this conversation, though not directly—he says the book has no particular moral position.[23] But in my reading, Calo's encouragement that scholars look to Science and Technology Studies ("STS") for the insight that technology is a social fact with political significance signals a normative positioning for law and technology. Calo encourages scholars to seek out knowledge beyond the texts of judicial decisions and statutes, including by engaging people with firsthand understanding of the impact of new technology or its regulation.[24] This engagement requires care and reflexivity. It also projects a political recognition that some groups, due to their social location, are the best positioned to identify the fault lines of oppression from law and/or technology. Calo also encourages researchers to explicitly reflect on the normative standpoints informing their research—essentially to understand and make known their own politics. Several of these methodologies already exist in other critical legal subfields, and law & technology can learn from existing insights into the benefits and boundaries of these methodologies, as well as the normative positions they enliven.

Methodology is driven by purpose. The subtext of Calo's book and much of the law & technology scholarship cited within it points to a political vision for

[20] *See* Michelle Burgis-Kasthala, *Scholarship as Dialogue? TWAIL and the Politics of Methodology*, 14 J. INT'L CRIM. JUST. 921 (2016) (discussing dynamic relationship between objective and methodology in both international criminal law and TWAIL).

[21] CALO, *supra* note 1, at 1.

[22] For instance, at the time of writing, this is frequently noted in the public discourse around the appearance of names of prominent individuals in the United States and global tech industry in the Epstein emails, recently released by the U.S. DOJ. *See, e.g.*, Brian Barrett, *The Tech Elites in the Epstein Files*, WIRED (Feb. 2, 2026, at 15:27 ET), https://www.wired.com/story/epstein-files-tech-elites-gates-thiel-musk.

[23] *Id.* at 110 ("None of this is to deny the possibility of non-normative, constructivist, or positivist law and technology scholarship. *This very book* espouses no particular moral commitment beyond surfacing one's normative baseline. To say that most legal scholarship is normative and pragmatic is not to say that all law and technology scholarship must be."); *id.* at 88-89 (describing many methodological commitments of the field as "assumptions about the nature of the object under investigation and the field's normative and pragmatic orientation").

[24] *Id.* at 108-11.

the field conceivably aimed at protecting U.S. liberal values (individual rights, inclusion, democracy) in spite of, or perhaps through, the emergence and regulation of new technologies.[25] This is a common orientation in North American legal scholarship, and one that will nevertheless benefit from ongoing reflexivity. At a time when new technologies are simultaneously facilitating genocides, suppressing the most basic democratic expressions, linking the theft of land and planetary destruction across geographies, and where the violence of U.S. technology regulation and imperial imaginations is often enacted in the Global South and on Indigenous populations globally, a philosophy aimed at protecting individual freedoms threatens to be insufficient.[26] By contrast, the subfield could orient toward a more radical objective, informing a different arrangement of methodologies including those set out in Calo's book. The *raison d'etre* of the field will of course be debated, hopefully by many global voices. I am grateful Calo has catalyzed a conversation toward the existential function of this impactful subfield: What are we doing here, and maybe, can our work contribute to a safer,[27] less harmful, more globally thriving world?

[25] *Id.* at 54 ("Law and technology has its own burgeoning tradition, one characterized by a normative and practical commitment to safeguarding rights and interests in the face of technological change and to promoting human flourishing."); *id.* at 76 ("To me, it seems self-evident that discussions of law are discussions of justice.").

[26] *See* Anghie & Chimni, *supra* note 10, at 102 ("[M]ethodologies that purport to be 'universal' and that rely on concepts posited as having the same valence everywhere—'the individual,' 'cost benefit analysis,' etc.—often prove to be narrow and particular, a mechanism for advancing certain unacknowledged but specific interests as being for the universal good."). In referring to such a philosophy, I am speaking of and to the subfield quite broadly.

[27] Of course, we also need community clarity on the meaning of our objectives. *See, e.g.*, Kristen Thomasen, *Safety in Artificial Intelligence &Robotics Governance in Canada*, 101 CANADIAN BAR REV. 61, 63 (2023) (calling for prison abolitionist understanding of meaning of "safety" as principle for technology governance in contrast to other, often narrower, definitions used in law and technical fields).