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Citation

Canfield, M. C. (2025). The promises and tensions of socio-legal participatory action research. *International Journal Of Law In Context*, 21(4), 560-575.
doi:10.1017/S1744552325100219

Version: Publisher's Version

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Downloaded from: <https://hdl.handle.net/1887/4286649>

Note: To cite this publication please use the final published version (if applicable).

SPECIAL ISSUE ARTICLE

The promises and tensions of socio-legal participatory action research

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(Received 1 October 2025; revised 1 October 2025; accepted 1 October 2025; first published online 03 November 2025)

Abstract

Socio-legal scholarship has long been driven by a commitment to social change. Yet scholars continue to debate how best to pursue politically engaged empirical research – especially in relation to the elite audiences that influence the production of socio-legal knowledge. Increasingly, researchers are turning to participatory action research (PAR) as a strategy of scholar-activism. PAR centres the knowledge and agency of marginalised communities by involving them as collaborators in the research process, with the aim of producing knowledge that supports their struggles for justice. As socio-legal scholars experiment with PAR, they may encounter tensions both with their research participants and within the broader scholarly community, particularly over the role of ‘law’ in their work. Drawing on my experience using participatory methods to study data governance in Kenya, I explore the challenges and possibilities of integrating PAR into socio-legal inquiry. I suggest that when socio-legal scholars adopt PAR, they are likely to fall short of PAR’s radical participatory ideals and the conventional framing of socio-legal research. Yet, as I argue, this friction is generative. Adopting PAR can transform socio-legal inquiry to be more responsive to contemporary political struggles.

Keywords: participatory action research; socio-legal inquiry; technology governance; scholar-activism; social movements

Socio-legal scholarship has long sought to advance social change. From its roots in legal realism to the development of the ‘Law and Society Movement’ (Friedman 1986), law and society scholarship often aims to contribute to social justice by identifying and illuminating gaps, harms and injustices produced through law (Munger 2001). With the rise of right-wing populism, leaders in the field are now reaffirming this commitment. As Kim Lane Scheppele emphasised during her 2019 presidential address to the Law and Society Association, ‘We need to own what we value and what we know – and bring crucial public audiences onside’ (Scheppele 2023, p. 426).

Yet while socio-legal scholars share commitments to social change, they have long debated the strategies and methodologies for politically engaged empirical research. Scholars associated with the ‘Amherst Seminar’ in the 1980s and 1990s challenged the field’s preoccupation with the ‘gap’ between law on the books and the law in action, and the tendency toward reformist policy engagement. They warned that appealing to policy-makers within dominant liberal frameworks narrows the prospects for transformative change (Sarat and Silbey 1988; Harrington and Yngvesson 1990). They advocated for a more critical and interpretive approach to socio-legal research. However, amid rising illiberalism, such an approach is now being scrutinised. In her 2019 address, Scheppele argued that the focus on critiquing liberal legalism within interpretive

socio-legal scholarship risks 'lend[ing] support to the autocrats' deconstruction' of the rule of law (2023, p. 426). She argued for a more direct engagement with the political and legal crises of democratic decline, urging scholars to move beyond preoccupation with the limits of policy reform.

Participatory action research (PAR) approaches offer a different path. PAR is an approach to scholarly investigation that includes oppressed and marginalised grass-roots communities in collaborative research, with the aim of producing knowledge that empowers people in their struggles for social change. Unlike other models of politically engaged socio-legal research, which often position the researcher as a critical interlocutor or public intellectual, PAR shifts the emphasis toward enhancing the agency of everyday people to understand and confront the injustices they face. By engaging communities in every step of the research process and prioritising the production of locally relevant knowledge, PAR poses a radical challenge to conventional, positivist approaches to social science and offers a different model of scholar-activism.

PAR has become widely adopted across many academic and community-based research fields, particularly in the context of rural development and innovation (Whyte 1991; Chambers 1994; Pretty et al. 1995; Seelmann and van Veldhuizen 2000). But only recently have socio-legal scholars begun to explicitly conceptualise participatory approaches within socio-legal research.¹ For example, Emily Houh and Kristin Kalsem developed the practice of 'legal participatory action research' as an extension of critical race/feminist theory. Using PAR to integrate their commitments to critical race and feminist research, they have deployed participatory methods to study 'unbanked' people in the USA and the problems of predatory lending practices (Houh and Kalsem 2013) and gender violence (Kalsem 2019). In a different iteration of PAR, Rachel López (2023) has advocated for 'participatory law scholarship'. She builds on critical race theory and emerging movement law scholarship (Akbar et al. 2021), but her focus is less on social science research methods than on working with 'organic jurists' – in her case, people in prison – to develop legal meaning based on their own experiences. And in another creative adaptation of PAR, Carmalt (2023) describes designing a course at John Jay College of Criminal Justice in New York City based on PAR to explore the everyday human rights violations faced by marginalised populations.

These diverse applications of PAR reflect its flexible, context-driven nature. Yet they also reveal important tensions. PAR foregrounds the concerns of communities, often prioritising root causes of injustice – such as racialised and gendered power relations, economic inequality and epistemic domination – that are deeply entangled with, but not reducible to, formal legal systems. As socio-legal scholars therefore embrace PAR, they are likely to encounter methodological and conceptual dilemmas: if we fully centre community concerns, we may drift away from analysing the 'law' (even understood expansively to encompass non-state law), but if we prioritise legal frameworks, we risk marginalising community voices and replicating the hierarchies that participatory methods are designed to challenge.

These dilemmas are not merely theoretical. In this paper, I explore them through my own experience attempting to incorporate PAR into a socio-legal research project on the governance of digital agricultural technologies in Kenya. Working alongside a network of farmers and civil society organisations, we co-developed a research agenda to examine the impacts of digitalisation on rural smallholders, with particular attention to data collection, extraction and surveillance. PAR enabled us to centre the voices and priorities of farming communities, illuminating social, economic and ecological challenges that might otherwise remain obscured in conventional socio-legal scholarship. Yet the project surfaced tensions, as participants encouraged me to draw on my legal expertise to develop actionable policy recommendations. This prompted me to confront

¹ I recognise that socio-legal scholars have likely long drawn on participatory approaches in their work, particularly in fields interrogating issues such as access to justice and land rights. However, participatory approaches to socio-legal research have rarely been conceptualised as a framework for the production of socio-legal knowledge or within the field of law and society.

difficult questions about my role as a researcher, the place of legal knowledge within participatory processes, and the broader ends of socio-legal scholarship. As I argue, tensions over these issues lie at the heart of reconciling participatory commitments with the conventional demands of socio-legal scholarship.

My experience suggests that integrating PAR into socio-legal research raises difficult decisions, potentially falling short of both PAR's radical participatory ideals and socio-legal scholarship's conventional expectations. However, this very integration holds the potential to transform socio-legal scholarship and make it more responsive to contemporary political struggles. Indeed, as socio-legal scholars adopt participatory methods and recognise those previously treated as 'objects' of research as co-researchers and subjects in their own right, they open the possibility of overcoming the subject/object distinction that critical socio-legal scholarship has long sought to transcend. Doing so requires relinquishing control over the research process and may shift the analytical focus away from law toward broader structural forces. As a result, I suggest that adopting participatory approaches may reconfigure the (inter)disciplinary contours of socio-legal studies – pushing it beyond its current interdisciplinary orientation toward a more integrative and holistic transdisciplinary field. This shift raises important challenges, but it also offers new opportunities for socio-legal scholarship to contribute more directly to collective political transformation.

The paper proceeds as follows. First, I survey recent developments in activist scholarship within socio-legal studies, outlining competing critical theoretical and methodological frameworks. Second, I introduce PAR, examining its diverse paradigms and the challenges it poses for socio-legal scholarship. Third, I reflect on my own engagement with PAR methods in Kenya, analysing both the opportunities and constraints that emerged in practice. Finally, I reflect on my experience to argue that incorporating PAR into socio-legal research is not merely a methodological choice, but a transformative project that challenges the field's core commitments and practices.

1 Activism and political engagement in empirical socio-legal research

In her recent study demonstrating the use of PAR, legal scholar Kristen Kalsem opens by explaining, 'I was a frustrated legal scholar . . . I read, wrote, and taught about the urgency of putting theory into practice. But the truth that kept stopping me in my tracks was just how difficult it was to actually *do* that.' (2019, p. 43). Reading her words, I deeply empathised. I shared Kalsem's frustrations. For the past decade, I had worked directly with activists and social movements as a participant and observer. While I contributed in different ways to movement-building, coordination and mobilisation, I found it difficult to reconcile these activist activities with my scholarship. In seeking to contribute to socio-legal scholarship, I found myself ultimately writing about social movements – treating activists and movements as *objects* of research to develop larger theoretical insights on the shifting practices and politics of law, activism and social change (Canfield 2022). In order to meet the expectations of academic audiences, I reframed my political engagement as a methodological tool for acquiring 'insider knowledge' of movements, following what Juris and Khasnabish (2013) term 'insurgent ethnography'. The result, as with Kalsem, was a growing frustration: the theoretical knowledge I was producing felt disconnected from the political action I had set out to support.

Both my own frustrations and Kalsem's reflect deeper, structural tensions within socio-legal research itself – particularly in how empirical inquiry has historically been positioned in relation to social and legal change. The early generation of what we now recognise as the originators of the field of law and society – the legal realists – were Progressive Era reformers who sought to incorporate social science research into legal decision-making to make it more responsive to social conditions. Despite disagreements among the legal realists over the nature of law and knowledge, the dominant wing that ultimately prevailed embraced positivist frameworks of 'objective' social

science, aiming to lend their research greater authority and thereby spur legal reform. This orientation was largely carried forward by the early Law and Society Movement, which likewise saw its political intervention in the use of social science research to address the gap between law on the books and law in action (Sarat and Silbey 1988).

The ‘gap approach’ came under criticism in the 1980s, at a time when both neoliberalism was in ascent and post-structural theory was re-shaping the social sciences. In their famous essay ‘The Pull of the Policy Audience’ published in 1988, Austin Sarat and Susan Silbey challenged this approach, tracing the history of knowledge production in socio-legal studies. They argued that socio-legal researchers had largely aligned themselves with the liberal elite. Despite their critiques of law, both legal realists and law and society scholars, they contended, ultimately worked to ‘democratize and thus buttress, American liberal capitalism. Both sought to work with rather than challenge or criticize the dominant political consensus’ (1988, p. 113). Sarat and Silbey further critiqued the embrace of ‘normal science and the claims of positivism’, including its assertions of objectivity, and called for a more critical and interpretive approach – one that would reject reformist inclinations and resist the instrumentalisation of knowledge for policy reform.

Sarat and Silbey emphasised that a fundamental problem with positivist empirical approaches lay in their reliance on a ‘subject/object’ divide, which framed researchers as detached observers and research objects such as activists as objects of analysis, thereby treating research objects as mere sources of data for abstract theorising. They argued that overcoming this position ‘requires, or invites, an effort to overcome the subject/object distinction and to consider the way sociolegal research constitutes its object of study’ (1988, p. 131). In other words, transcending the subject/object divide – and thus the ‘gap’ between law and society – required recognising their *mutual constitution*.

The scholarship that emerged from the Amherst Seminar, of which Sarat and Silbey were a part – alongside Christine Harrington, Sally Engle Merry, Barbara Yngvesson and others – developed a more interpretive and ethnographically sensitive approach to this mutually constitutive relationship (Harrington and Yngvesson 1990). In doing so, they placed socio-legal scholarship on a more explicit political footing, analysing the inequalities produced and reproduced through liberal legalism and illuminating the everyday forms of resistance it engenders (Benavides-Vanegas 2003). Indeed, it was this turn in socio-legal research that laid the foundation for my own work: it opened space for explicitly acknowledging the researcher’s political commitments, recognising that all analysis is already shaped by political values, whether acknowledged or not. It also expanded the scope of socio-legal research, creating room for cultural and ethnographic analyses of phenomena not immediately legible as ‘legal’ on the surface by engaging more deeply with legal pluralism.

But despite their aim to overcome the subject/object distinction, the turn advocated by Sarat and Silbey ultimately reproduced it, albeit in a more reflexive form – the critical ethnographic approach to law still kept the researcher–analyst at the centre of the analysis. In pushing socio-legal scholarship to become more explicitly political, they shifted the audience from policy elites to a different kind of elite: critical scholars and theorists.

This repositioning has recently come under critique. In her presidential address, Kim Lane Scheppele engaged directly with Sarat and Silbey, warning that critiques of liberal legalism, once largely confined to academic debates, have been appropriated and distorted by right-wing movements and authoritarian leaders. ‘What’s a sociolegal scholar to do?’ she asks. Scheppele argues that ‘We should stop cringing in corners hoping that aspirational autocrats will ignore us as we talk among ourselves and as they steal many of our ideas for purposes we find abhorrent’ (2023, p. 426). She points to her own research challenging what she has termed ‘autocratic legalism’ and exposing its contradictions, inaccurate histories and brutal effects as an example of what her model of ‘activist scholarship’ might look like (Scheppele 2018).

Scheppele neither advocates a ‘return’ to liberal legalism nor for scholars to re-embrace positivism. Her main message is to stress the importance of greater attentiveness to our audiences

and a clear-eyed understanding of the contemporary political context. She emphasises that ‘we are called upon now more than ever to imagine that another world is possible’, describing her own approach in creating ‘counter-constitutions’ as ‘one way to contribute to that project’ (2023, p. 441). Yet in highlighting her own work as an example, she neither engages with the broader frameworks of knowledge production that were central to Sarat and Silbey’s critique nor does she identify other projects or approaches that might align with the vision of scholar-activism – or, perhaps more precisely, public intellectualism – that she models. Without addressing the subject/object distinction within socio-legal scholarship, such an approach risks reverting to a more positivist mode – one that seeks to reassert its authority through claims to objectivity and distance from political activism. In a moment in which science, law and the ‘liberal elite’ are all targets of right-wing populist movements, appeals to objectivity are not only unlikely to command the authority they once did, they also risk reinforcing the very order that has fuelled populist frustration. What is needed, alongside a more democratic and responsive legal order, is a more responsive and accountable mode of knowledge production.

2 A brief introduction to participatory action research

In many ways, PAR can be seen as a direct response to the limitations of both Sarat and Silbey’s critique of knowledge production and Scheppele’s call to broaden the audience for socio-legal scholarship. Rather than merely acknowledging the instability of the subject/object distinction, PAR actively works to dismantle it by transforming those traditionally cast as the ‘objects’ of research into active, engaged ‘subjects’. As Orlando Fals-Borda, the Colombian sociologist and one of the most influential figures in the development of PAR, emphasises, this binary can be broken down through participatory practice, which he argues closes the gap between ‘bourgeois intellectuals and grassroots communities, between elite vanguards and base groups, between experts (technocrats) and direct producers’ (Fals-Borda and Rahman 1991, p. 5).

While participation is at the heart of PAR, it remains a flexible and open-ended practice, with no standardised application or prescribed set of methodological tools. PAR is an approach that has been developed since at least the 1960s and has been widely used, adapted and debated – particularly in the fields of rural development and education (Hall 1975; Chambers 1994; Macaulay 2017; Galletta and Torre 2019). Chevalier and Buckles (2019) describe PAR as a ‘big tent’ that incorporates a wide range of different practices. Brydon-Miller and her colleagues describe PAR as ‘an attitude or a shared values stance’ (Brydon-Miller et al. 2020, p. 107). In large part, this is because PAR has emerged from unique histories and social struggles. In the USA, for example, the social psychologist Kurt Lewin is often identified as one of the originators of PAR. In Colombia, Fals-Borda developed PAR based on a critique of modernisation theory. In Tanzania, Marja-Liisa Swantz describes her own influence at the University of Dar es Salaam not only from critical theory but also from the practical demands of the Tanzanian state ‘to connect research to national development and to avoid separating the university from practical reality and the nation’s stated political goals, which demanded mutual communication between researchers and people’ (Reason et al. 2008). In Brazil, the work of Paulo Freire was influential in developing participatory approaches. In their survey of these approaches, Kindon et al. (2007) identify more than twenty different schools of PAR.²

Despite this heterogeneity, a recent overview of PAR in *Nature* defined it broadly as ‘a collaborative, iterative, often open-ended and unpredictable endeavor, which prioritizes the expertise of those experiencing a social issue and uses systematic research methodologies to generate new insights’ (Cornish et al. 2023, p. 2). Though somewhat unwieldy, this definition

²I have limited my discussion to PAR, but there is also a wide range of other participatory methodologies that have developed, especially in the field of rural studies, including participatory rural appraisal, participatory technology development, participatory learning and action, among others (Seelmann and van Veldhuizen 2000).

captures the essence of PAR as an approach that brings together: (1) a political commitment to supporting struggles for social change; (2) a strong emphasis on participation; and (3) an eclectic mix of traditional and innovative social science methodologies.

The political commitment to social transformation is at the core of PAR. Fals-Borda explains that PAR's objective is ultimately to build 'the capacity of the grass-roots groups, which are exploited socially and economically, to articulate and systematize knowledge (both their own and that which comes from outside) in such a way that they can become protagonists in the advancement of their society and in defense of their own class and group interests' (Fals-Borda 1987, p. 330). Fals-Borda described PAR as a new form of knowledge production – one with the potential to transform the very operation of power.

Not all PAR practitioners share Fals-Borda's radical horizons, but they are united in their challenge to traditional positivist social science and its authority. As Chevalier and Buckles (2019, p. 23) put it, PAR aims to 'break loose from mainstream science'. Practitioners do not seek to produce abstract, generalisable knowledge, nor do they aspire to the replicability of findings that positivist paradigms often valorise. They reject the so-called 'view from nowhere' and the ideal of objectivity – an ideal that feminist scholars have shown to be shaped by racialised, gendered and class-based assumptions (Haraway 1988). Instead, PAR emphasises the production of grounded, situated knowledge that is meaningful and useful to those working to transform their social and economic conditions. In this way, it challenges the subject/object divide at the heart of conventional research methods, placing those who have historically been treated as the 'objects' of scientific inquiry at the centre of research design and knowledge production. PAR practitioners thus often reject what they describe as an 'extractivist' model of research – 'research that extracts information and exploits relationships, places and peoples, producing benefit for scholars or institutions elsewhere, and depleting resources at the sites of the research' (Cornish et al. 2023, p. 12) – instead seeking to put community voices at the centre of research and to ensure that they are the primary beneficiaries.

Yet while all scholars who practise PAR are committed to participation, how it is practised has led to significant debates and distinctions. For example, scholars usually distinguish PAR from *action research* based on the depth and scope of community involvement. PAR is typically framed as more committed to engaging communities throughout the research process to foster grass-roots social change, whereas action research is often understood as less focused on communal transformation and more oriented toward generating insights to inform broader policy or systemic interventions (Kindon et al. 2007, p. 11; Chevalier and Buckles 2019, p. 24). In reality, the distinction is often blurry, and participation takes many forms. Kindon et al. (2007) therefore propose a continuum of participation that ranges from passive forms – which they describe as 'co-optation' by researchers – to interactive participation and self-mobilisation. The form of participation at the most participatory end of the continuum is likely the most aspirational and difficult to achieve in practice. It requires profound community investment, in which community members are actively engaged in all stages of the research project as co-researchers. Perhaps even more aspirational is what Fals-Borda calls 'authentic participation' – a process rooted 'in cultural traditions of the common people and in their real history (not the elitist version), which are resplendent with feelings and attitudes of an altruistic, cooperative and communal nature and which are genuinely democratic' (Fals-Borda and Rahman 1991, p. 5). Whether a researcher can achieve such resplendent feelings is something only she can know. Kindon et al.'s continuum underscores that such deep forms of participation are rarely realised in full. Indeed, PAR encompasses a range of participatory practices, each with different possibilities and implications for both the research process and its outcomes.

Finally, just as participation may vary from one PAR project to another, so too do the methodologies employed. There is no single methodology that is consistently practiced across PAR. Rather, practitioners have developed a wide range of different tools and frameworks that can be drawn upon (Pretty et al. 1995). Cornish, et al. identify six 'building blocks' of PAR: 'building relationships; establishing working practices; establishing a common understanding of the issue;

observing, gathering and generating materials; collaborative analysis; and planning and taking action' (2023, p. 1). In these steps, they elaborate on the importance of making the norms of working practices explicit, which can serve to build trust. Scholars have also developed a range of different practices, many of which are centred on group work and discussion. Houh and Kalsem (2013), for example, describe tools such as concept mapping, appreciative inquiry, asset mapping, fishbone diagrams and photovoice. PAR also sometimes draws on more traditional social science methods, such as interviewing and surveys. The methodologies adopted and developed by PAR practitioners vary widely. This methodological eclecticism – combined with PAR's emphasis on participation and social transformation – is precisely why PAR is understood as an approach rather than a single method. As Fals-Borda writes, 'The final evaluation or applied criterion of the methodology', he writes, 'revolves on this political dimension and the opportunity that it offers for making theory concomitant with action' (Fals-Borda and Rahman 1991, p. 5).

3 Incorporating PAR into socio-legal scholarship

As discussed earlier, it is precisely the promise of integrating theory with action that is driving socio-legal scholars to adopt PAR as a means to better understand the root causes of injustice, empower local communities and grapple with the possibilities and limitations of law. Yet as socio-legal scholars turn to PAR, a central tension emerges: does engaging with law – and, by extension, with policy audiences – risk undermining the very goals of participatory research?

Like Sarat and Silbey, Fals-Borda urged PAR practitioners to move away from an approach to science that responds to 'dominant interests,' emphasising that researchers should 'be receptive to counternarratives and try to recapture them for purposes of education and enlightenment to advance people's struggles for power and justice' (Borda 1996, p. 179). He saw PAR as strengthening the agency and resistance of communities, rather than engaging with state law and policy. While other traditions of PAR are more practical, and seek to identify solutions that governments can fulfill, scholars of PAR nonetheless emphasise that any attempt to translate findings from PAR into policy is a contentious process. Lenette explains that there are numerous challenges, including the slow pace of social change, the need to engage with multiple stakeholders, the specialised knowledge, skills and patience that policy-making requires – and, perhaps most importantly – the fact that a concern with policy can ultimately 'limit discussions on the range of possibilities in terms of effective strategies and recommendations to disrupt policy' (2022, p. 125). She suggests that PAR is most effective in *disrupting* policy by enabling 'new understandings emerge to destabilize the beliefs and assumptions that underpin local, national, and international actions' (2022, p. 122).

Even focusing on legal or policy reform is seen by some PAR practitioners as a form of co-optation. Jennifer Keahey suggests that PAR 'is vulnerable to elite cooptation through superficial and power-insensitive applications' (2021, p. 294). This may happen, she explains, when 'disciplines historically unassociated with critical social theory and action research' adopt PAR praxis (2021, p. 292). Similarly, Jordan and Kapoor describe how PAR is 'being co-opted by academic researchers, the professions and managerial consultants (e.g. programme evaluators) as a means to enhance forms of social regulation that support and sustain the social relations of neoliberal accumulation and the colonality of power' (Jordan and Kapoor 2016, p. 135). These concerns are further compounded by the neoliberalisation of the academy itself. Millar et al. (2024) describe a wide range of challenges that academic researchers face in adopting PAR: time pressures; productivity requirements in terms of academic publications; a value system that dons prestige on academic publication in specialised language; reliance on external grants; grant applications that require predetermined research questions, methods and outcomes; grants that are time limited and prevent resource sharing; growing precarity of academic staff; and many more, which they note have an even greater toll on 'traditionally marginalized groups in the academy (and society more broadly) such as women and racialized populations' (Millar et al. (2024), p. 7).

Despite these risks, socio-legal scholars have found meaningful ways to deploy PAR, particularly within human rights research (Andrés et al. 2015). PAR is now being explicitly deployed to study issues of land rights and equitable forms of land governance among agrarian peoples and forest dwellers (Kapoor 2020; Lemke and Claeys 2020), gender-based violence (Chakraborty et al. 2020; Thomas et al. 2022) and the rights of sex workers (Oliveira 2018; Yingwana 2022). Socio-legal scholars have also explored the tensions of collaborative research and efforts to engage in non-extractive research across global asymmetries of power. In their edited volume on research on gender-based violence in African societies, Bunting et al. (2023) explore pathways to mitigate extractive research, emphasising that individual intent and practices are always entangled with structural and institutional dynamics and hierarchies.

A rapidly expanding area of PAR application is in response to the rise of data-driven technologies and artificial intelligence, which raise urgent concerns about surveillance, corporate control, algorithmic bias and digital colonialism (Benjamin 2019; Couldry and Mejias 2019; Zuboff 2019). Scholars are just beginning to identify these as human rights concerns (Wong 2023) and are increasingly emphasising that identifying these harms and empowering communities to resist them requires critical and decolonial methods (Souza et al. 2024). For example, Catherine D'Ignazio (2024) developed a participatory action research project using digital technologies to count the incidents of femicide in Mexico, demonstrating the potential of counter-data to mobilise for women's rights. Similarly, Medrado and Verdegem (2024) explore how PAR can be applied to develop consciousness of data injustices emerging from artificial intelligence through a set of participatory workshops. Perhaps most ambitiously, Sara Davis has developed a transnational PAR project that engages civil society organisations in Bangladesh, Colombia, Ghana, Kenya and Vietnam to understand the development of digital health rights. The project aims to identify the risks of digitalisation and to empower young people and civil society to have a greater understanding of their rights. What is particularly innovative about Davis's project is not only its use of PAR within local communities, but also its scaling to a transnational level through an elaborate governance mechanism that facilitates co-ownership, co-creation and co-learning through South-South exchanges (Davis et al. 2022; Guerrero-C et al. 2024).

For socio-legal scholars, PAR may provide an opportunity to engage in more activist, inclusive and decolonial forms of knowledge production (Omodan and Dastile 2023). Yet, it also introduces new tensions as scholars seek to move beyond the subject/object divide through participatory engagement. If, as Sarat and Silbey (1988, p. 141) argue, the core aim of socio-legal inquiry is to 'provide a richer, more complete picture of law in society', PAR can paradoxically risk displacing the legal dimensions of social life altogether. At the same time, when socio-legal scholars bring their legal expertise into PAR, they risk inadvertently centring law in ways that reframe participatory processes around dominant policy agendas and institutional frameworks – precisely the structures that both Sarat and Silbey, and Fals-Borda, urge us to avoid. These dilemmas demand careful navigation, not only of power relations, but also of divergent agendas, visions of social change and competing understandings of what socio-legal inquiry can and should be.

4 Practising PAR: negotiating structural power inequalities and competing agendas

My experimentation with PAR grew out of my involvement with the social movements at the heart of my research. For the past decade, I have worked alongside transnational agrarian movements mobilising for more sustainable and equitable food systems. The movements that I have worked with have embraced agroecology – a transdisciplinary field that aims to holistically study and transform food systems to promote sustainability and equity, food sovereignty and peasants' rights (Francis et al. 2003; Wezel et al. 2009) – as a pathway for food systems transformation. Social movements and researchers have worked together to develop agroecology as a field at the forefront of PAR. Participatory research and co-inquiry have emerged as key

methods for agroecological research and action (Méndez et al. 2013; Utter et al. 2021; Frank et al. 2022). As I set out to study the justice issues and emerging articulations of digital rights in agrarian contexts, it only made sense to partner with farmers' organisations and develop this line of research using PAR.

Worldwide, civil society has voiced important concerns about the potential impacts of the digitalisation of agriculture, a sector that has been an important target for digital innovation. The promise of introducing digital technologies in agricultural settings – which range from satellites and drones capturing geo-spatial data, to mobile phone applications capturing farmer information and practices, to sensors embedded in soil and on machines – is their ability to capture real-time 'granular' data and thus aid farmers, governments and the private sector in decision-making. The World Bank celebrates the incorporation of digital technologies into agriculture as the 'Fourth Agricultural Revolution' (Schroeder et al. 2021).

Yet as with the introduction of any new disruptive technology, the introduction of digital technologies into agrarian contexts is likely to transform power relations and redistribute the gains from these new technologies. Given the impact of past 'revolutions' in agriculture on peasants, smallholder food producers and indigenous peoples, civil society and researchers have voiced major concerns that the digital agricultural revolution will threaten their autonomy through both the surveillance capacity embedded in these technologies as well as the epistemic effects of datafication, which seek to claim a monopoly on truth (Prause *et al.*, 2020; Hackfort 2021; Montenegro de Wit and Canfield 2024; Ruder and Wittman 2025). Advocates therefore suggest that the digitalisation of small-scale agriculture raises significant questions of power and human rights (Seufert 2023).

To analyse emerging human rights claims, I partnered with a Kenyan network of civil society and farmers' organisations dedicated to promoting agroecological transformation. Kenya is a major testing ground for these technologies. Often referred to as the 'Silicon Savannah', the country is a major hub for digital innovation on the African continent. Many of these technologies are based on mobile phone use. Ninety-eight per cent of the country is covered by 4G networks. As of 2023, there were approximately 66 million cellular mobile connections (of a population of approximately 56 million people).³ The widespread use of the mobile money platform M-PESA is evidence of this. Developed by the telecommunications company, Safaricom, in 2007, M-PESA is used by more than half of Kenya's population to send and receive payments. Moreover, Kenya is also the headquarters of many corporate and philanthropic organisations that have promoted a new Green Revolution on the African continent. This includes the Bill and Melinda Gates Foundation-funded Alliance for a Green Revolution in Africa and the African Agricultural Technology Foundation.

In 2022, partnering with Kenyan colleagues with whom I had previously collaborated on activist campaigns, I applied for and received a grant from the Dutch Research Council (NWO). The funding supported both my travel and the network's ability to cover their researchers' time, travel and expenses. Together, we developed the research questions and methodology, which combined interviews with policy elites and a case study of a Kenyan county that had actively embraced digital technologies in both agriculture and government. Our aim was to understand how small-scale farmers were using digital technologies, the benefits they perceived, the concerns they raised and their perspectives on issues related to agricultural data.

However, even before we could embark on our research, the structural asymmetries of power embedded in our collaboration became apparent. The funding agency required us to complete a data management plan (DMP), a document mandated by funders to ensure compliance with the EU's General Data Protection Regulation (GDPR) and its many national counterparts, such as Kenya's Data Protection Act. When I mentioned this to my collaborators, they asked me to deliver

³Communications Authority of Kenya (2023) *Mobile Subscriptions Hit 66M in March 2023*. Available at: <https://www.ca.go.ke/mobile-subscriptions-hit-66m-march-2023> (accessed 15 September 2024).

a training on DMPs, since they too were now increasingly required to develop them along with their grant applications. Before starting the project, we therefore held a Zoom call to discuss the GDPR, data collection rules and the development of a shared DMP.

As we discussed the GDPR, including its definitions of data and regulations on data sharing, it became evident how European legal frameworks – with their transnational reach and positivist epistemologies of data – had already embedded our collaboration within what Aníbal Quijano (2007) calls the ‘colonial matrix of power’. The GDPR introduces obstacles to co-researching by restricting information sharing in ways shaped by legally enforced global hierarchies. My European-based university required strict compliance with GDPR regulations, mandating detailed protocols for data collection, storage and sharing. To meet these requirements, university data stewards insisted on using platforms with European-based servers and designated me as the primary ‘data controller’ once the project concluded. Although certain exceptions to these requirements exist, particularly when limited and non-personal data are involved, the DMP framed all qualitative information we might collect – stories, narratives, opinions of community members – as ‘data’ subject to GDPR oversight.

A key barrier to sharing information with researchers outside Europe, and especially in the Majority World, stems from the GDPR’s restrictions on cross-border data transfers, which can include research data when tied to any personal information. The regulation allows data to flow freely within the EU but imposes strict conditions on transfers to countries without an ‘adequacy decision’ – a designation granted by the European Commission to a limited number of non-EU states deemed to have sufficient data protection measures. In fact, during our research, the Kenyan government and businesses were courting the possibility of an ‘adequacy decision’ by the EU. Without it, the GDPR and its compliance requirements created significant bureaucratic and institutional barriers, complicating our efforts to foster the horizontal sharing and participation central to PAR. As De Souza, Smith and Taylor emphasise, data regulation from the Minority World, like the GDPR, ‘not only facilitate[s] externalization of regulatory frameworks, but also the export of Euro-American ideologies, standards, and values that (often) produce exploitation’ (Souza, Smith and Taylor 2024, p. 6).

Moreover, the GDPR and university guidelines promote an ideal of open science that encourages researchers to publish datasets and to specify where metadata is held. This may not only be incongruent with community desires but it also reflects a positivist model of ‘data’ as something that can be extracted from its social context. Media scholar José van Dijck describes how this hegemonic discourse of data ‘performs a profound ideological role at the intersection of sociality, research, and commerce’ (Dijck 2014, p. 201). In an age of information capitalism, she argues that ‘dataism’ reflects specific epistemological and ontological assumptions about the ‘objective quantification and potential tracking of all kinds of behavior and sociality’ (Dijck 2014, p. 198). Just as we set out to understand how people understood what data are and the entitlements or relationships attached to it, the DMP embedded us in a social and legal framework that specified the contingent meanings and requirements of data. Despite my attempts to frame the data management plan process critically, it became clear that my own institutional positionality had already shaped the project.

Over the following nine months, we interviewed policy experts in the national government, met with farmers and farmers’ organisations across the county and attended conferences dedicated to agricultural digitalisation. In the county we selected as a case study, we attempted to speak with a relatively representative sample of both male and female farmers, as well as those ranging from very small-scale (1 hectare or less) to medium-sized farmers (around 20 hectares) over the course of two agricultural seasons, about their use of and concerns with digital technologies. My co-researcher did most of the work during this time. I made visits to the country when I had a break from teaching, but I was unable to stay for the entire time, which further emphasised the distinctions and hierarchies between us.

Despite these challenges, our conversations with farmers proved revealing. Although many farmers engage with digital technologies to support their livelihoods, their experiences diverged sharply both from the narratives promoted by private companies and philanthropies advocating for digital agriculture, as well as the critiques academics and civil society organisations voiced of these actors. The latter have highlighted the many ways in which technology developers can generate dependency (Hackfort 2021) and enrol farmers into projects of surveillance (Stone 2022) to undermine the autonomy of small-scale farmers. However, many of the farmers we spoke to were far less concerned about these technologies. They were interested in their possibilities, but also sceptical of any technology or development intervention that claimed to be a silver bullet. In part, this was because most farmers lacked the resources – from the data on their phones to the ability to take on credit – to become completely dependent on digital technologies. But it was also because they placed their concerns elsewhere, not on digital technologies, but rather the larger challenges they faced in securing adequate livelihoods, including a changing climate and water access, declining government support for agricultural infrastructure including extension services, lack of protection and support for farmer-managed seed systems and challenges with accessing markets. Thus, although we had set out to understand farmers' experiences with digitalisation and their concerns about data, we ended up talking about pests, markets, climate and credit.

We assembled all the information we learned and convened a two-day workshop in Nairobi to collectively analyse it, inviting farmers' organisations from both the county and other civil society members of the network. During the workshop, we hosted panel discussions with local activists and experts, facilitated conversations on digital agricultural technologies and presented our initial findings. After reviewing these findings, we collectively analysed some of the applications we saw in the field through a participatory analysis. Most of the key findings that the civil society participants of our workshops identified were not strictly 'legal'; however, juridical and policy frameworks play a crucial role in enabling data extraction and accumulation. Instead, the primary concerns centred on broader political and economic dynamics – particularly the support from governments, development organisations and corporations for an agricultural model that erodes smallholder autonomy, fosters dependency and exacerbates the ecological impacts of industrial farming.

The meetings were successful in creating space for dialogue about the benefits and risks of these technologies. Many of the attendees were appreciative of the opportunity to discuss agricultural technologies in a more critical setting. However, when it came time to write up a report, another tension emerged over the ultimate product of the study. In our initial planning, the network and I had emphasised a report as an outcome to the funder. The network was keen to develop a report to publicly demonstrate their expertise and knowledge on the issue, but also to help shape advocacy efforts. During our workshop in Nairobi, others too emphasised that it would be helpful to develop recommendations for next steps, including recommendations that could address current policies.

Developing policy recommendations, however, proved challenging for several reasons. First, Kenya's legal and policy frameworks governing agricultural data lack clarity. Although Kenya is a leader in efforts to regulate agricultural data – most notably through the Data Governance Framework developed by the Ministry of Agriculture and Livestock Development – the framework does not clearly distinguish between 'personal' data, which falls under the 2019 Data Protection Act, and 'non-personal' data, which is regulated only through private contracts. This ambiguity, confirmed to me by one of the policy's authors, is not unique to Kenya. It reflects broader patterns in global data governance, where dominant frameworks have been designed primarily to enable data sharing and market formation, incorporating a narrow conception of privacy rights that remains the dominant legal grammar of digital protection (Souza et al. 2024).

A second challenge is that few existing frameworks address the collective harms of digital agricultural technologies, which critical scholars and civil society organisations have identified as central to contemporary forms of inequality (Hackfort 2021; Seufert 2023). While some states have sought to limit exploitation by other states and multinational corporations – often through

data localisation laws – many have simultaneously promoted digital technologies through both explicit measures such as developing memorandums of understanding with technology providers, and by requiring digital registration to access government services. Many governments have also promoted digitalisation implicitly through the reduction of public extension. Developing recommendations speaking to existing legal and policy frameworks thus had major hazards because they risked entrenching legal frameworks such as ‘data protection’ rather than addressing the broader programmes and ideologies of agricultural and economic development that datafication reflects.

In the initial draft of the report, we included recommendations developed by the workshop participants. However, colleagues who reviewed the draft found these recommendations vague and ambiguous. Some also felt that many of the identified concerns were only loosely connected to the topic at hand. For example, while farmers’ organisations emphasised the protection of farmers’ seeds as a critical issue, its direct relevance to digital and data governance was less apparent. In the end, I was tasked with translating farmers’ concerns into legal and policy recommendations, which inevitably made my own expertise central to the final report.

As I worked on the report, I struggled to develop recommendations that spoke to existing forms of regulation. Doing so risked narrowing the concerns raised by farmers and ultimately orienting the report toward reforming legal structures designed to enable data sharing, rather than addressing the deeper structural drivers of rural inequality. Throughout the writing process, I felt the persistent ‘pull of the policy audience’. This pull not only distanced the report from the ambitions of PAR to produce knowledge in the vernacular of local communities but also drew me toward what Sarat and Silbey have described as a constricted vision of political change. As I finalised the report, I found myself navigating between the ambitions of PAR and the broader aspirations of critical socio-legal scholarship that had originally guided my approach, though neither fully captured the path I ultimately took.

5 Conclusions

Empirical socio-legal researchers have long aspired to advance social change. However, over the past several decades, the rise of neoliberalism and now illiberalism has led scholars to debate the most effective strategies to do so. PAR presents a significant opportunity that – in its most radical aspirations – aims to empower grass-roots actors with the knowledge needed to engage in structural transformation. PAR reconfigures the object of academic labour, shifting it toward collaborative inquiry and collective action. In doing so, PAR aims to overcome the subject/object distinction embedded in conventional social science methods and thereby integrate theory with action.

Embracing PAR, however, can prove challenging for socio-legal scholars if law continues to anchor their analytical focus. Participatory research often reveals that the law is not necessarily the priority for the communities involved. In my own experience, communities were far more concerned with broader structural forces shaping their livelihoods than with legal frameworks of data governance that initially framed my research. This prompted me to grapple with how to justify my work as ‘socio-legal’ and how to meaningfully present it to academic colleagues. In their conceptualisation of ‘legal participatory action research’, Houh and Kalsem grappled with the same issue. As they explain,

‘One of the biggest challenges we continue to face-given our identities as law teachers, scholars, and lawyers-is how to respond to the following types of questions posed by our faculty colleagues: I understand that you are trying to do something about predatory lending, but what legal problem are you trying to solve or address? What, exactly, are the desired outcomes of this project, and how will you assess and measure them? And – last but not least – what, exactly, does this have to do with law?’ (Houh and Kalsem 2013, p. 339).

It is this very question that holds the possibility of both undermining the ideals of PAR, and transforming the field of socio-legal studies in ways that may render it more responsive to contemporary social problems and inequalities

Anxiety over the role of law can lead socio-legal researchers to risk re-shaping participatory processes in ways that speak to dominant interests and policy agendas – precisely those that critical PAR and socio-legal scholars often seek to challenge. In my own research, aligning with existing frameworks of ‘data governance’ risked legitimising modes of data extraction that communities themselves contested. As community members encouraged me to draw on my legal knowledge, I faced difficult questions about how to translate their concerns, aspirations and claims into legible recommendations. This introduced new tensions around my positionality and the unequal power relations embedded in the research process. While socio-legal scholars have long confronted such dilemmas in interpretive work, the ethical stakes of these tensions are intensified in the context of PAR, as scholars must navigate between dominant normative frameworks and the desires and needs of communities. There is the persistent risk if we let our own expertise or interests dominate, we will co-opt the communities engaged in this research.

Houh and Kalsem suggest that integrating PAR into socio-legal research demands letting go of predetermined outcomes or solutions. Its results are often less about producing a discrete product or legal reform than about fostering processes of collective reflection and shared understanding of injustice. The outcomes of PAR may not focus on law per se, but rather on the cultivation of solidarities and transformative insights that emerge through the process itself. In other words, they may be less product-oriented than process-oriented. What makes participatory action research *socio-legal*, they argue, is not the legal character of the findings, but the expertise and critical perspective that legal scholars bring to the co-creation of knowledge.

In this sense, socio-legal PAR not only broadens both legal scholarship and participatory research by treating law as one resource for justice struggles, but also re-shapes the field’s interdisciplinary boundaries. Indeed, PAR can help align the field of law and society with efforts to move beyond the subject/object binary embedded in (Western) disciplinary frameworks. As critical scholars point out, academic disciplines have historically emerged from Eurocentric frameworks that legitimise knowledge produced in the West (Mignolo and Walsh 2018). Even newer interdisciplinary spaces often reproduce these hierarchies, as they are structured by invisible colleges and networks of authority centred in the Global North (Connell 2019). Scholarly fields that have embraced PAR, such as agroecology, have therefore explicitly linked the practice of PAR to a broader move towards *transdisciplinary* scholarship. Transdisciplinarity seeks to *transcend* disciplinary boundaries, the hierarchies of participation and scholarship and the distinction between subject and object (Nicolescu 2014). In doing so, it seeks to integrate multiple forms of knowledge, including everyday, tacit and local knowledge. Like PAR, transdisciplinary scholarship seeks to address social problems more holistically, and challenges Euro-American and colonial forms of knowing. As Eve Darian-Smith and Philip McCarty explain, ‘Transdisciplinary scholarship is potentially emancipatory in that it explicitly seeks to free up our ways of thinking and our organisation of knowledge in the academy by incorporating western and non-western knowledge into a more holistic approach to pressing contemporary issues’ (Darian-Smith and McCarty 2016, p. 5). Rather than being concerned with speaking to disciplinary debates or abstract theories divorced from everyday realities, transdisciplinary approaches fundamentally question the purpose and use of knowledge production.

Of course, embracing transdisciplinarity can pose challenges for socio-legal researchers. It may unsettle their disciplinary identities and commitments, rendering them less legible within the institutional structures that organise academic fields. This can come at the cost of recognition in conventional academic metrics – such as journal publications – which remain crucial for professional advancement, especially for early-career researchers. Yet it is precisely this disruption of disciplinary boundaries that decolonial scholars have long called for.

Ultimately, while PAR can raise complex methodological and ethical tensions, it also offers a pathway toward activist and engaged empirical work – one that not only honours the aspirations of those who founded the field of law and society but also responds to long-standing critiques of Western knowledge production that have depoliticised research and reinforced social hierarchies. As socio-legal scholars increasingly turn to PAR, they will each have to navigate these tensions in their own way. But in doing so, they will also find an expanding community of praxis, offering mutual support and shared learning along the way.

Acknowledgements. The author would like to thank partners in Kenya for their collaboration in developing this project. In addition, the author wishes to thank Carolien Jacobs, Santy Kouwagam, Mariana Prandini Assis, and Jacqueline Vel for valuable feedback, as well as two anonymous reviewers. Any errors remain the author's own.

Funding Statement. This project was funded by NWO grant 406.XS.01.138. Open access funding provided by Leiden University.

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