INTRODUCTION:
COMPARATIVE LAW AND INTERDISCIPLINARY BRIDGES

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This Special Issue digs into contemporary debates about the roles of comparative and interdisciplinary research. The field of economics is the main reference point, but the Special Issue reflects more broadly on the relationships with non-legal disciplines. A host of theoretical and practical hurdles need to be tackled before the benefits of a sustained cross-disciplinary dialogue become visible. This introduction connects debates on Comparative Law and Economics to broader methodological debates taking place in the legal and social sciences. It advances the argument that Comparative Law and Economics needs to address the demands of methodological pluralism. A distinction between a weak and a strong version of pluralism lays the ground for the identification of research strategies to be pursued.

I. THE MANY AGENDAS OF COMPARATIVE LAW

'[I]n comparative law discourse, controversies of comparative law—and there are many—are synchronic, never ending, never totally re-solved, ever multiplying. This was the case in earlier years and is still the case today.'[2]

This quote from a well—known comparative legal scholar sets the context for this Special Issue, devoted to Comparative Law and Economics (CLE). As suggested by the title of the Special Issue, CLE might be in need of rescue. About thirty years ago, early proponents of CLE made bold statements: a research program that puts together the sophisticated theoretical apparatus of economic theory and the deep understanding of institutional contexts supplied by comparative law would place itself at the centre of the most relevant academic and policy debates. CLE would unite the strengths of the two disciplines and produce original insights each discipline working alone would be unable to gain[3]. Things

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[2] E. Örücü, *Comparative Motley: Offerings from a Comparative Lawyer*, in 8(2) Critical Analysis of Law 9-26, 12 (2021).

[3] See, e.g., U. Mattei, *Comparative Law and Economics* (Ann Arbor, MI: University of Michigan Press, 1997) (using efficiency to compare real-world alternatives); G. de Geest, R. Van den Bergh, *Introduction*, in G. de Geest, R. Van den Bergh (eds.), *Comparative Law and Economics* (Cheltenham: Elgar Publishing, 2004), ix-xxi

unfolded differently. The dialogue between comparative approaches and economic theory did take place, but in many cases took directions CLE founders did not foresee. Moreover, CLE position in the methodological debates within both comparative law and economic theory is far from uncontroversial. It seems CLE became entangled in the never-ending controversies Örücü refers to.

The group of senior and junior scholars who contribute to this Special Issue deals with a variety of topics and applies different methods. The question of whether the CLE research program, broadly understood, has a bright future is unanimously answered in the affirmative. At the same time, the contributions confirm two general trends which have increasingly become visible in the last thirty years. First, the CLE label has not taken on a single meaning. It is loosely associated with a host of different literatures and involves much more than the dialogue between the two original disciplines. Searching in the main databases for CLE contributions shows that many articles do mention or use it. But it is likely that a much higher number of contributions focuses on a comparative and interdisciplinary approach without using the CLE label[4]. Second, the distinctiveness of the CLE approach is difficult to grasp. It has mainly followed the developments taking place inside the two disciplines. Only rarely it was the driving force behind such debates.

It would be wrong to conclude that the CLE approach has been unsuccessful. It was born in a period when interdisciplinary approaches had a limited audience. Thirty years later, the trend is almost reversed: interdisciplinarity cannot be ignored anymore in any scientific field[5]. Programs for global and transnational legal studies in several continents stress the comparative and interdisciplinary dimensions[6]. Whatever its merits in fostering such developments, today it is difficult to present CLE as the main interdisciplinary approach.

(CLE enriches both comparative law and comparative economics). Also see the personal recollections of F. Parisi, *The Multifaceted Method of Comparative Law and Economics*, in this Issue.

4 Or the comparative law label: see M. Siems, *New Directions in Comparative Law*, in M. Reimann, R. Zimmermann (eds.), *The Oxford Handbook of Comparative Law* 2nd ed. (Oxford: Oxford University Press, 2019), 852-874, 873 ('(o)ther labels for legal research beyond domestic law have become increasingly common, such as global and transnational law').

5 Which is not to say that interdisciplinarity plays the same role everywhere: see M.D. Dubber, *Legal History as Legal Scholarship: Doctrinalism, Interdisciplinarity, and Critical Analysis of Law*, in M.D. Dubber, C. Tomlins (eds.), *The Oxford Handbook of Legal History* (Oxford: Oxford University Press, 2018), at 101-112, for the observation of two opposite trends: in the US, doctrinal scholarship opposes several decades of interdisciplinarity generated by the Legal Realist critique; in Europe, interdisciplinarity is proposed as an antidote to the dominant doctrinal approach.

6 B. Garth, G. Shaffer (eds.), *The Globalization of Legal Education: A Critical Perspective* (Oxford: Oxford University Press, 2022). This volume highlights the riddle of social and institutional factors pushing toward comparative and interdisciplinary approaches, as well as affecting the meanings such approaches are given in each country.

Interactions among disciplines take place in multiple ways. The main question, then, is whether the CLE label can be considered a broad and comfortable umbrella hosting a disparate set of research programs. Such an encompassing view faces two problems: on one hand, it hides the harsh debates about the goals of comparative research, the role of empirical studies, the links between theory, policy and practice, as well as the more general goals of interdisciplinarity; on the other hand, it does not provide any signposts on the soundness of methodological choices and research designs when both a comparative and an interdisciplinary approach are employed.

Amidst the current explosion of alternative approaches to interdisciplinary dialogues, one could conclude that each methodological choice is equally acceptable, provided it is internally coherent and useful for the chosen purposes. The problem with this approach is that it does not make any effort to connect different perspectives. The argument made here is that CLE could still play a useful role in catalysing and organising the ongoing debates about the relationships between legal and non-legal comparative research programs. While the original CLE aimed at blending two established methodologies, the future CLE should be concerned with the discussion of strategies which help deal with methodological pluralism. The goal should not be to search for a (probably impossible) general consensus about methods. Some cleavages are too deep. Any attempt at building a common ground would leave behind much of what different perspectives have to offer. Rather, methodological pluralism could foster awareness of the theoretical premises underpinning each comparative approach, how it relates to empirical studies, which idea of normativity it supports. Such an awareness is not meant to produce a convergence toward shared methods. Its main benefit would be to provide sound reference points for scholars wishing to undertake comparative and interdisciplinary research. By granting each perspective equal status, methodological pluralism should be able to supply a common understanding of the different phases of the research design, as well as of the requirements for the production of knowledge. Biased conceptions of more or less 'scientific' approaches should be discarded. Different perspectives on comparison should not be a matter of concern, but a fertile ground for the exploration of new approaches. CLE could foster a methodological pluralism which goes beyond empirical methods and extends to

new ways of blending concepts, classification systems, causation theories and levels of inquiry[7].

Admittedly, the rosy scenario in which CLE prompts an interesting interdisciplinary debate could be displaced by a much gloomier one. It has been pointed out that all attempts to connect comparative law with the humanities and the social sciences face many hurdles. For several reasons, dialogues only take place in limited domains[8]. And Law and Economics scholars complain that comparative legal scholars are not that receptive to new methods[9]. Still, methodological pluralism could at least partly assuage such anxieties. It accepts diversity and acknowledges that interdisciplinary dialogue takes place on multiple planes. The question is not whether a specific method has to be embraced, but what the added value of each perspective is for comparative studies. A pluralist point of view rejects the idea that each research question can only be answered with a single method. Rather, it starts from the premise that the soundness of methodological choices can be judged from the comparative assessment of several perspectives. As discussed below, the outcome of such an assessment could still be the selection of a specific comparative method. But methodological pluralism should increase the probability of blending different methods.

To be sure, methodological pluralism could turn CLE into a misnomer. Interdisciplinary Comparative Law (ICL) or Comparative and Interdisciplinary Legal Studies (CILS) better reflect the idea of opening up multiple lines of dialogue with several disciplines. For the purposes of this Special Issue, I stick to the CLE label and maintain the focus on the dialogue with economic theory. The latter should not be granted a privileged status, but provides a suitable starting point for the development of a research program centred on methodological pluralism.

Section II reviews the main types of CLE literature through a taxonomy of interdisciplinary exchanges proposed by the philosophy of science. The review also helps locate the contributions in this Special Issue in the wider context of debates about

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[7] A pluralist approach aligns with the observation that today the variety of cross-disciplinary interactions makes it difficult to define interdisciplinarity. Though, such variety does not mean that relationships cannot be sorted out and discussed. See J.T. Klein, *Beyond Interdisciplinarity: Boundary Work, Communication, and Collaboration* (Oxford: Oxford University Press, 2021), 1.

[8] J. Husa, *Interdisciplinary Comparative Law* (Cheltenham: Elgar Publishing, 2022), at 227f. (comparative legal scholars are 'not-enough-lawyer' for other legal scholars and 'too-much-lawyer' for non-legal scholars). Also see G. Samuel, *Comparing Comparisons*, in S. Glanert *et al.*, *Rethinking Comparative Law* (Cheltenham: Elgar Publishing, 2021), 137-60, for a discussion of the epistemological frameworks employed by comparative approaches in politics, history and literature, suggesting that their adoption in comparative legal studies would entail significant transformations.

[9] N. Garoupa, T. Ulen, *Comparative Law and Economics: Aspirations and Hard Realities*, ~~forthcoming~~ in 70 Am. J. Comp. L. (2022).

interdisciplinarity. Section III proposes a distinction between weak and strong methodological pluralism. Each of these versions raises new issues for a CLE research agenda. Section IV summarizes the arguments.

II. MAPPING CLE INTERACTIONS

The variety of sports metaphors employed to describe the interplay between law and economics shows that multiple avenues of interdisciplinary exchange are possible[10]. Francesco Parisi adds another sports metaphor to suggest missing or limited exchanges[11]. This is not an unusual situation. Interdisciplinary encounters take on a multiplicity of meanings. To begin exploring them, a good starting point is the taxonomy of interdisciplinary exchanges proposed by philosophers of science[12]. It was already applied to Law and Economics[13]. Other descriptions of interdisciplinary exchanges were proposed[14], but the present one more neatly captures the direction and contents of possible combinations. Three factors structure the taxonomy: first, who engages in the interdisciplinary exchange; second, which tools (concepts, models, methods, theories) are exchanged; third, the problems of which discipline are addressed. Table 1 adapts the taxonomy to the CLE literature and locates the contributions in this Special Issue.

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10 See e.g. B.A. Ackerman, *Law, Economics, and the Problem of Legal Culture*, in Duke L. J. 929, 943f. (1986) (using hockey sticks to play basketball); S.G. Medema, *Scientific Imperialism or Merely Boundary Crossing? Economists, Lawyers, and the Coase Theorem at the Dawn of Economic Analysis of Law*, in U. Mäki *et al.* (eds.), *Scientific Imperialism: Exploring the Boundaries of Interdisciplinarity* (London and New York, NY: Routledge, 2018), 111 (lawyers choosing the playground, economists bringing the ball); R. Cooter, *Maturing into Normal Science: The Effect of Empirical Legal Studies on Law and Economics*, in Ill. L. Rev. 1575, 1480 (2011) ('L&E has many polo players and few teamsters, but empirical legal studies may change this fact').

11 Parisi, *supra* note 2 ('(i)nvesting in cross-disciplinary research is thus like preparing for a race in a sport that is not recognized as an Olympic discipline').

12 T. Grüne-Yanoff, U. Mäki, *Introduction: Interdisciplinary Model Exchanges*, in 48 Stud. Hist. Phil. Sci. 52-59, 55-57 (2014).

13 P. Cserne, *Knowledge Claims in Law and Economics: Gaps and Bridges Between Theoretical and Practical Rationality*, in P. Cserne, M. Malecka (eds.), *Law and Economics as Interdisciplinary Exchange: Philosophical, Methodological and Historical Perspectives* (London and New York, NY: Routledge, 2020), 22-27 (eight modes of Law and Economics); G. Bellantuono, *Riflessioni sul metodo di Pietro Trimarchi*, in G. Bellantuono, U. Izzo (eds.), *Il contributo di Pietro Trimarchi all'analisi economica del diritto* (Napoli: Editoriale Scientifica, 2022), 25-32 (adapted taxonomy for Italian Law and Economics literature).

14 See e.g. M. Siems, *The Taxonomy of Interdisciplinary Legal Research: Finding the Way Out of the Desert*, in 7(1) J. Commonwealth L. and Legal Ed. 5 (2009) (four-fold taxonomy based on types of questions and methods); B. van Klink, S. Taekema, *On the Border: Limits and Possibilities of Interdisciplinary Research*, in B. van Klink, S. Taekema (eds.), *Law and Method: Interdisciplinary Research into Law* (Tübingen: Mohr Siebeck, 2011), 7-32 (five types of interdisciplinarity, with and without integration).

Interdisciplinary exchange	Meaning	Examples	This issue
1. From economics to comparative law	Exportation from economics to address a problem relevant to comparative law	Law affects growth	
2. From economics to economics	Importing concepts or methods from comparative law to address problems within economics	Using comparative legal information as instrumental variable	Garoupa
3. From comparative law to economics	Exportation from comparative law to address a problem relevant to economics	Indicators of institutional quality	Della Giustina/de Gioia Carabellese Arai
4. From comparative law to comparative law	Importing concepts or methods from economics to address problems within comparative law	Using the concepts of transaction costs and efficiency to measure differences and similarities	Parisi Villanueva Callewaert/Kovac Versaci Davola/Querci Leucci Mauro Riganti
5. Transfer collaboration	Economists and comparative lawyers working together, but only employing the tools of one discipline to address problems in one discipline	Using empirical methods to classify legal families Using empirical methods to analyse judicial behaviour	
6. Genuine collaboration	Economists and comparative lawyers using the tools of both disciplines to address problems in one discipline	Integrating legal concepts in empirical analysis	
7. New field generation	Economists and comparative lawyers using the tools of both disciplines to address new problems		
8. Parallel development	Economists and comparative lawyers independently using the same concepts or methods from a third discipline to pursue different goals	Using the concept of culture from sociology Using experimental evidence from cognitive sciences	

Table 1. Interdisciplinary exchanges in CLE.

The first four interdisciplinary exchanges follow the logic of unilateral transfers. Each discipline picks up from other disciplines what it needs. Who starts the exchange tends to determine how the tools from the other discipline are employed[15]. For example, economists may argue that different parts of legal systems, from constitutions to civil codes to intellectual property law to independent regulators, contribute to economic

15 Grüne-Yanoff, Mäki, *supra* note 11, at 55.

development (exchange no. 1). This theoretical framework is employed to compare and assess legal developments in different jurisdictions[16]. It modifies how comparative legal research is carried out. Alternatively, economists may pick up concepts or information from comparative law to undertake empirical analysis and test economic theories (exchange no. 2). The literature on Legal Origins is the most famous example: it picked up the concepts of legal families and legal transplants to find exogenous factors which could support long-term causal claims about economic performance[17]. Many comparative lawyers pointed out the distorted use of legal concepts and challenged the causal claims. Criticisms also came from within the CLE field[18]. In this Issue, Nuno Garoupa shows that legal origins are not a factor political science relies upon to explain the links between political regimes and institutional structures[19]. The Legal Origins literature represents an aspect of a broader revolution in economic history. Starting from the 2000s, Persistence Studies looked for the historical origins of current economic outcomes and employed a variety of instrumental variables to establish causation[20]. Even though legal origins are not one of the main variables, empirical studies adopting a long-term perspective explicitly rely on the same idea of historical events directly affecting contemporary economic outcomes. It can be doubted whether a single stream of causal mechanisms can really be isolated and its interactions with many other biogeographical, social and technological changes be sidelined[21]. A more general issue is that the role played by historical analysis in Persistence Studies has little to do with the debates about the relationship between comparative law and history[22].

16 See e.g. R. Cooter, *The Strategic Constitution* (Princeton: Princeton University Press, 2000); M. Faure, J. Smits (eds.), *Does Law Matter? On Law and Economic Growth* (Cambridge: Intersentia, 2011); D. Acemoglu *et al.*, *The Consequences of Radical Reform: The French Revolution*, in 101 Am. Econ. Rev. 3286-3307 (2011).

17 See, most recently, R. La Porta *et al.*, *Legal Origins*, in S. Michalopoulos, E. Papaioannou (eds.), *The Long Economic and Political Shadow of History. A Global View*, vol. I (London: CEPR Press, 2017), 89-97, 92 (arguing that the 'quantitative evidence is broadly consistent with the broad perspective of comparative law').

18 N. Garoupa *et al.*, *Legal Origins and the Efficiency Dilemma* (London: Routledge, 2017).

19 N. Garoupa, *The Influence of Legal Origins' Theory in Comparative Politics: Are Common Law Countries More Democratic?*, in this Issue.

20 M. Cioni *et al.*, *The Two Revolutions in Economic History*, in A. Bisin, G. Federico (eds.), *The Handbook of Historical Economics* (Amsterdam: Elsevier, 2021), 17-40.

21 E. Frankema, *Why Africa is not* That *Poor*, in A. Bisin, G. Federico (eds.), *The Handbook of Historical Economics* (Amsterdam: Elsevier, 2021), 557-584. For other critical contributions see e.g. T. Dennison, *Context is Everything: The Problem of History in Quantitative Social Science*, in 1(1) J. Hist. Pol. Econ'y 105 (2021); L Arroyo Abad, N. Maurer, *History Never Really Says Goodbye: A Critical Review of the Persistence Literature*, in 1(1) J. Hist. Pol. Econ'y 31 (2021); C. Dippel, B. Leonard, *Not-So-Natural Experiments in History*, in 1(1) J. Hist. Pol. Econ'y 1 (2021).

22 See e.g. T. Duve, *Preface: Symposium Legal History and Comparative Law: A Dialogue in Times of the Transnationalization of Law and Legal Scholarship*, in 66 Am. J. Comp. L. 727 (2018); M. Brutti, A. Somma (eds.), *Diritto: storia e comparazione. Nuovi propositi per un binomio antico* (Frankfurt am Main: Max Planck Institute for

Transfers started by comparative lawyers are the type of interdisciplinary exchange CLE thrived on. The initial proposals assumed that economic theory could provide the analytic tools for comparative legal research. The importation mode (exchange no. 4) is widespread and is adopted by the majority of the contributions in this Special Issue. Though, there are several variants. Sometimes empirical methods are invoked to test claims about similarities and differences. The whole comparative research framework is shaped by inferential reasoning[23]. In other cases, economic theory provides models to compare solutions adopted in different legal systems[24] or to identify the relevant institutions and their impact[25]. Comparative legal studies can also explain which economic theory best fits the contents and goals of a legal regime[26]. The literature on Roman Law and Economics belongs to the importation type: economic theory provides the general framework in which historical contexts are compared to contemporary legal systems[27].

Exporting from comparative law to economics (exchange no. 3) was supposed to take place on a regular basis, but it mainly focuses on the legal domains traditionally influenced by economic reasoning. This type of exchange can be used to point out misalignments between the structure of markets and regulatory choices[28] or to identify institutional reasons leading to select different economic theories in specific jurisdictions[29]. Comparative lawyers can also contribute to data collection for indicators of institutional quality. But this is another area in which a CLE approach faces deep disagreements. The discontinuation of the World Bank Doing Business indicators in 2021, whose design was inspired by the Legal Origins literature, shows how significant the risk of manipulation

European Legal History); O. Moréteau *et al.* (eds.), *Comparative Legal History* (Cheltenham: Elgar Publishing, 2019).

23 V. Villanueva Collao, *Empirical Methods in Comparative Law: Data Talks*, in this Issue.

24 G. Versaci, *The Law of Penalty Clauses: 'New' Comparative and Economic* Remarks, in this Issue; F. Leucci, *Comparing the Efficiency of Remedies for Environmental Harm: US v. EU*, in this Issue.

25 N. Mauro, *Clean Innovation to Climate Rescue: A Comparative Law & Economics Analysis of Green Patents Regulation*, in this Issue.

26 A. Davola, I. Querci, *Relational Disclosure as a Means for Data Subjects' Informed Consent*, in this Issue; F. Riganti, *The Key Role of Comparative Law and Economics in the Study of ESG*, in this Issue.

27 M. Callewaert, M. Kovač, *Does Cicero's Decision Stand the Test of Time? Famine at Rhodes and Comparative Law and Economics Approach*, in this Issue. Roman Law and Economics remedies the a-historical bias of Law and Economics (R. Harris, *The History and Historical Stance of Law and Economics*, in Dubber, Tomlins, *supra* note 4, at 35-37).

28 C. Della Giustina, P. de Gioia Carabellese, *Brexit and a Banking Regulation for Small Banks and Building Societies: A New Means of Re-Kindling the Comparative (and Economic) Analysis of Law?!*, in this Issue.

29 K. Arai, *Comparative Law and Economics in the Field of Competition Law*, in this Issue.

is[30]. Plans for new indicators on the Business Enabling Environment suggest that such risk does not stop international institutions from adopting quantitative approaches[31].

Exchanges no. 5 and 6 move from unilateral transfers to collaborations. Teaming researchers from different disciplines is usually recommended to fully exploit the specializations in each sector. Though, successful interdisciplinary groups require demanding conditions[32]. Moreover, the two types of exchanges suggest that in some cases only the methods of one discipline are employed. Consider the following two examples. First, an unsupervised machine-learning method is applied to code 108 property doctrines in 129 jurisdictions, classify the latter according to the homogeneity of their private law and measure their relative distance[33]. Second, comparative studies of judicial behaviour empirically assess the relative weight of external factors and institutional factors on judicial decisions[34]. Are these instances of transfer collaboration or genuine collaboration? The former type would be the most appropriate classification if the empirical design of the research led to only include legal information amenable to quantification. Should this be the case, the requirements of the empirical method take priority over a more comprehensive legal analysis and cast doubt on the relevance of the results for comparative lawyers. Genuine collaboration requires the analytic tools to be shared. For example, the identification of the institutional components to be empirically assessed could be carried out with data collection procedures comparative lawyers find acceptable[35].

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30 R.C. Machen *et al.*, *Investigation of Data Irregularities in Doing Business 2018 and Doing Business 2020*, WilmerHale, September 15, 2021 (pressures from World Bank senior management to revise the rankings of China, Saudi Arabia and Azerbaijan).

31 World Bank, *Business Enabling Environment*, Pre-Concept Note, February 4, 2022.

32 See e.g. M. O'Rourke *et al.* (eds.), *Enhancing Communication & Collaboration in Interdisciplinary Research* (Thousand Oaks, CA: Sage Publications, 2014); K.L. Hall *et al.* (eds.), *Strategies for Team Science Success* (Cham: Springer, 2019); J.T. Klein, *supra* note 5, 83-91.

33 Y. Chang *et al.*, *Drawing the Legal Family Tree: An Empirical Comparative Study of 170 Dimensions of Property Law in 129 Jurisdictions*, in 12 J. Legal Analysis 231 (2021). Also see A. Badawi, G. Dari-Mattiacci, *Reference Networks and Civil Codes*, in M.A. Livermore, D.N. Rockmore (eds.), *Law As Data: Computation, Text, & the Future of Legal Analysis* (Santa Fe, CA: Santa Fe Institute Press, 2019), 339-365 (using machine reading to identify the network structure of civil codes and classify legal systems according to the similarity of such structures).

34 See e.g. N. Garoupa *et al.* (eds.), *High Courts in Global Perspective: Evidence, Methodologies, and Findings* (Charlottesville, VA and London: U. Virginia Press, 2021); L. Epstein *et al.*, *The Role of Comparative Law in the Analysis of Judicial Behavior*, forthcoming in 70 Am. J. Comp. L. (2022); L. Epstein *et al.* (eds.), *The Oxford Handbook of Comparative Judicial Behavior* (Oxford: Oxford University Press, forthcoming 2022).

35 The type and quality of legal information for empirical analysis is a recurrent issue: see e.g. H. Dagan *et al.*, *Legal Theory for Legal Empiricists*, in 43(2) L. & Soc. Inqu. 292 (2018) (arguing empirical analysis should be guided by legal theory); J. Barnes, *The Pitfalls and Promises of a New Legal Realism Rooted in Political Science*, in S. Talesh *et al.* (eds.), *Research Handbook on Modern Legal Realism* (Elgar, 2021), 432f. (the empirical approach forces scholars to adopt a positivist perspective of legal rules and eschew other types of factors).

That genuine collaborations are rare confirms the general observations made in section I about the barriers to the interdisciplinary dialogue between comparative law and non-legal disciplines. Attempts at fostering such dialogue may even prompt adverse reactions from within the legal field, toward economic theory or empirical studies at large. Should the barriers persist, the last two types of interdisciplinary exchanges could become dominant. A new field could emerge in which only empirical arguments are accepted and research questions significantly diverge from traditional comparative law (exchange no. 7). Alternatively, interdisciplinary dialogues could follow parallel tracks and produce literatures which do not engage with each other (exchange no. 8). Two examples of the latter development can be suggested. First, several research programs in law, social sciences and the humanities acknowledge the relevance of cultural factors, but CLE, and Law and Economics more generally, are often criticized because of their streamlined understanding of such factors[36]. Second, experimental evidence from behavioural sciences can be relied upon to propose a radical transformation of legal education and legal processes[37]. But different streams of behavioural studies could be deemed more or less relevant[38], or different roles of experimental evidence in legislative, regulatory and judicial decision-making processes could be deemed legitimate[39].

This mapping exercise reveals several unresolved tensions. In most types of interdisciplinary exchanges, comparative law is asked to provide detailed legal information, but its contributions in terms of concept definition, legal translation, and theory development are usually discarded. Empirical methods are claimed to improve the quality of comparative research, but the discussion about the need to adapt such methods to the specificities of legal contexts is wide open[40]. Normative issues are another Pandora box for interdisciplinarity: on one hand, comparative lawyers are sharply divided about the

36 See e.g. A. Mercescu, *Quantifying law? The Case of 'Legal Origins'*, in Glanert *et al.*, *supra* note 7, 262-266 (reductionist view of culture and legal rules in quantitative studies).

37 See e.g. B. Van Rooij, A. Fine, *The Behavioral Code: The Hidden Ways the Law Makes Us Better … or Worse* (Boston, MA: Beacon Press, 2021) (calling for a behavioral jurisprudence which turns empirical questions about the effectiveness of law into critical legal questions).

38 See e.g. S. Frerichs, *What is the 'Social' in Behavioural Economics? The Methodological Underpinnings of Governance by Nudges*, in H.-W. Micklitz *et al.* (eds.), *Research Methods in Consumer Law: A Handbook* (Cheltenham: Elgar Publishing, 2018), 399-440 (arguing for a social understanding of decision-making).

39 See e.g. A. van Aaken, *Constitutional Limits to Regulation-by-Nudging*, in H. Strassheim, S. Beck (eds.), *Handbook of Behavioral Change and Public Policy* (Cheltenham: Elgar Publishing, 2019), 304-318; R. Lepenies, M. Malecka, *Behaviour Change: Extralegal, Apolitic, Scientistic?*, *ibid.*, 344-360.

40 See e.g. S. Levmore, *The Eventual Decline of Empirical Law and Economics*, in 38 Yale J. Reg. 612 (2021); N. Pietersen, K. Chatziathanasiou, *Empirical Research in Comparative Constitutional Law: The Cool Kid on the Block or All Smoke and Mirrors?*, in 19(5) I-CON 1810 (2021); C. Engel, *Challenges in the Interdisciplinary Use of Comparative Law*, ~~forthcoming~~ in 70 Am. J. Comp. L. (2022).

possibility to use comparative research to identify the 'best' legal solution; on the other hand, moving from empirical results to normative statements is no less challenging. Should the different types of exchange remain separated, each of them could provide its own answers to these tensions, or simply put them aside. There is a better course of action: to make a more sustained effort in clarifying the meanings that methodological pluralism could take in interdisciplinary research. Many tensions discussed above could be dealt with if the goal of interdisciplinary research is not 'integration' of disciplines and methods or 'convergence' toward a unified theoretical framework, but the exploration of interactions among perspectives. The next section proposes some preliminary thoughts on the strategies of methodological pluralism.

III. INTERDISCIPLINARY METHODOLOGICAL PLURALISM

Both the fields of economics and comparative law can be said to be plural in many ways. Differences track familiar distinctions between nomothetic and idiographic approaches, quantitative and qualitative analysis, social scientific and humanistic perspectives. These binary contrasts should not be overemphasized. Although different research cultures do matter, examples of mixed approaches are by no means rare. The interesting question is how such plurality can be put at work. In the case of CLE, methodological pluralism could reduce exchange types based on unilateral transfers and foster genuine collaborations. For this goal to become feasible, two aspects deserve attention: first, how methodological pluralism should be defined; second, which version(s) of methodological pluralism could fit the CLE agenda.

As far as the meanings of methodological pluralism are concerned, several misunderstandings have already been clarified. To begin with, pluralism should not only be tolerated, it should be explicitly supported. Simply stating that there is a plurality of points of view does not help. What matters is the reconstruction of the influences among those points of view[41]. Second, pluralism cannot be confined to the variety of research topics. It should extend to central components of analysis like criteria for scientific explanation, research methods, assumed properties of reality, questions and problems considered worthy of inquiry, theories. Of course, there is no need to simultaneously

41 S.C. Dow, *Geoff Hodgson on Pluralism and Historical Specificity*, in F. Gagliardi, D. Gindis (eds.), *Institutions and Evolution of Capitalism: Essays in Honour of Geoffrey M. Hodgson* (Cheltenham: Elgar Publishing, 2019), 14-28.

embrace every dimension of pluralism[42]. Third, fears that pluralism prevents the identification of commonly agreed criteria on the quality of research are unfounded. Even without a widely shared consensus on methods or theories, the confrontation among communities of scholars should lead to discard those approaches which cannot be defended on epistemological, pragmatical or ethical grounds[43]. Fourth, pluralism is compatible with the choice of a single approach, but only if such choice is justified by a full-fledged review of competing approaches. Moreover, the choice of a specific approach is always provisional and cannot be taken to mean that other approaches are wrong[44]. For instance, in the field of comparative law, a functionalist has to justify why she uses a functional approach and discards other approaches.

The second aspect to consider is how to implement a pluralist approach. A distinction between weak and strong methodological pluralism is proposed here (Table 2). The former assumes a more limited reciprocal influence among the disciplines involved. It also assumes that a plurality of perspectives is only considered in the early stages of the research process. The latter entails deeper influences along the whole research process. Admittedly, the dichotomy between weak and strong methodological pluralism is rather crude. More elaborated taxonomies are possible[45]. For the purposes of this preliminary analysis, the dichotomy helps point out some examples of the two versions.

Table 2. Weak and Strong Methodological Pluralism.

Type of methodological pluralism	Explanations	Examples
Weak pluralism	Plurality of perspectives assessed in the early stages of the research process Pluralism with filters	Scarciglia (2021), Samuel (2014), Grundmann *et al.* (2021), Mercescu (2021)
Strong pluralism	Each discipline influenced by other disciplines Plurality of perspectives considered throughout the research process	Oderkerk (2015), Adams/Van Hoecke (2021), New Legal Realism

The category of weak methodological pluralism includes all the approaches which put on the same level all methods and suggest selecting the most appropriate one (or a

42 C. Gräbner, B. Strunk, *Pluralism in Economics: Its Critiques and their Lessons*, in 27(4) J. Econ. Methodol. 311 (2020).

43 Gräbner, Strunk, *supra* note 42, at 317f..

44 Dow, *supra* note 41.

45 See e.g. W. Veit, *Model Pluralism*, in 50 (2) Phil. Soc. Sci. 91 (2020) (distinguishing between weak, weakly moderate, moderate and strong pluralism).

combination of methods) according to research goals[46]. For CLE, this approach could mean that an explicit justification is provided at the outset on why a specific economic theory, a specific comparative method and a specific empirical method are selected. A justification would also be required for combinations of methods or the selection of disciplines different from economics. A version of weak pluralism proposes to use interdisciplinarity not to reconcile disciplines, but to expose their conflicts[47]. Clearly, this perspective is radically different from proposals for 'empirical jurisprudence' [48], 'behavioural jurisprudence'[49] or 'law is politics'[50]. The latter risk verging toward disciplinary monism (there is just one 'right approach') and fostering only unilateral transfers[51].

I would also include in the category of weak methodological pluralism the approaches which apply some 'filters' to the selection of relevant disciplines. Stefan Grundmann, Hans Micklitz and Moritz Renner proposed a 'pluralistic New Private Law Theory' which takes 'into account the findings of different disciplines in order to develop an adequate description of society' [52]. When addressing the issue of selecting interdisciplinary contributions, the authors propose to use a) a theoretical relevance filter, which tells the researcher whether the theory drawn upon addresses problems relevant to legal

46 See, for comparative methods, G. Samuel, *An Introduction to Comparative Law Theory and Method* (Oxford and Portland, OR: Hart Publishing, 2014), 178f.; R. Scarciglia, *Metodi e comparazione giuridica* 3rd ed. (Milano: Wolters Kluwer, 2021), 129-131, 176-80. B. Fekete, *Paradigms in Modern European Comparative Law: A History* (Oxford *et al.*: Hart Publishing, 2021), 139-160, points out that since the 1990s tolerance for methodological pluralism has been increasing in European comparative law. The examples he discusses would qualify as weak pluralism in my classification. With specific reference to CLE, it has been observed that its true innovation is the ability to investigate a single research object through the simultaneous use of complementary methods (G.B. Ramello, *The Past, Present and Future of Comparative Law and Economics*, in T. Eisenberg, G.B. Ramello (eds.), *Comparative Law and Economics* (Cheltenham: Elgar Publishing, 2016), 14). This definition, too, qualifies as weak pluralism.

47 A. Mercescu, *Comparisons Otherwise: The Merits of Interdisciplinarity*, in Glanert *et al.*, at 125.

48 A. Dyevre *et al.*, *The Future of European Legal Scholarship: Empirical Jurisprudence*, in 26(3) Maastricht J. Eur. Comp. L. 348 (2019).

49 Van Rooij, Fine, *supra* note 37.

50 L. Brashear Tiede, *The Role of Comparative Law in Political Science*, ~~forthcoming~~ in 70 Am J. Comp. L. (2022) (comparative law should recognize differences based in political processes and the composition of political bodies).

51 Critical on Empirical Legal Studies because of their exclusive focus on quantitative methods and disregard of social theory research questions T. Pavone, J. Mayoral, *Statistics as if Legality Mattered: The Two-Front Politics of Empirical Legal* Studies, in M. Bartl, J.C. Lawrence (eds.), *The Politics of European Legal Research: Behind the Method* (Cheltenham: Elgar Publishing, 2022), 78-93. The risk of disciplinary monism can also be detected on the legal side, for example in the arguments that emphasize the differences between the hermeneutic approach to contextual analysis and the social science methods (U. Kischel, *Comparative Law* (Oxford: Oxford University Press, 2019), 153-162, 174 ('contextual comparative law should be expressly understood as a hermeneutical method')). The interpretative approaches in the social sciences show that a pluralist stance does not preclude a reference to hermeneutics. See e.g. J. Boswell *et al.*, *The Art and Craft of Comparison* (Cambridge: Cambridge University Press, 2019).

52 S. Grundmann *et al.*, *New Private Law Theory: A Pluralist Approach* (Cambridge: Cambridge University Press, 2021), 1.

scholarship and legal practice or which can be governed by law, and b) a contextual relevance filter, which tells the researcher whether the assumptions of a theory are close enough to the reality to be regulated[53]. I classify their proposal in this category because the two filters leave much discretion to researchers on how to assess theoretical and contextual relevance. Indeed, broad discretion might be intended: in this version of pluralism, unitary theoretical frameworks are assumed to prevent a full consideration of the variety of contexts to be regulated[54].

Strong methodological pluralism includes those approaches which require a tighter relationship among disciplines for new knowledge to be produced. The relationship itself brings to light new ideas, solutions or research avenues. Several reasons for this version of pluralism have been proposed. With regard to economic theory, strong pluralism is said to reflect the role played by sets of models in actual modelling practice. Acknowledging the history and scientific contexts of these models is required to understand their contribution[55]. Alternatively, strong pluralism could be grounded in the epistemology of perspectivism. According to this view, scientific perspectives are the actual scientific practices of each scientific community. While each community could subscribe to different justificatory principles to decide which knowledge is reliable, the interplay of different scientific perspectives is what ultimately moves science forward. Note that perspectivism does not assume convergence toward some scientific truth. Each perspective is necessarily partial, but ~~it~~ provides additional information about the possibilities for further exploration[56]. Furthermore, perspectivism eases the absorption of non-traditional and non-Western knowledge, thus contributing to the decolonization and de-Westernization

53 Grundmann *et al.*, *supra* note 52, 19. Also see S. Grundmann, P. Hacker, *Theories of Choice and the Law – An Introduction*, in S. Grundmann, P. Hacker (eds.), *Theories of Choice* (Oxford: Oxford University Press, 2021), 5-8 (three pragmatic guidelines for theory selection: proximity of conditions of applicability, degree of theory development, novelty of perspectives).

54 M.W. Hesselink, *Anything Goes in Private Law Theory? On the Epistemic and Ontological Commitments of Private Law Multi-Pluralism*, in 23 German L.J. 891 (2022) argues that Grundmann *et al.* propose a radical methodological pluralism without any hierarchy among methods. Such a radical approach would preclude the theory from taking on a normative meaning and excluding disciplinary contributions which should not be accepted in private law. I argue instead that the lack of hierarchy is not a flaw, but a feature of the theory. G. Resta, *Is Law Like Social Sciences? On 'New Private Law Theory' and the Call for Disciplinary Pluralism*, in German L J. 826 (2022), too, criticises Grundmann *et al.*'s 'weak normative pluralism'. Though, which normative grounds to accept should depend on how pluralism is managed, not on picking up one's own preferred normative perspective. As argued above, such a stance risks ending up with disciplinary monism.

55 Veit, *supra* note 45, at 105-109.

56 See M. Massimi, *Perspectival Realism* (Oxford: Oxford University Press, 2022), as well as the contributions in M. Massimi, C.D. McCoy (eds.), *Understanding Perspectivism: Scientific Challenges and Methodological Prospects* (London and New York, NY: Routledge, 2020).

of comparative law[57]. Strong methodological pluralism is compatible with the comparative law reflections which rely on hermeneutics and philosophy of science to challenge the dominant discourse on comparative methods. The argument that comparatists should assume responsibility for their methodological decisions goes in the direction of accepting to engage with a plurality of partial viewpoints[58]. It is also possible to connect strong pluralism to legal epistemology. It has been observed that legal knowledge emerges from the complex stratification of meanings different legal doctrines develop over time. From this perspective, legal knowledge depends on the appraisal of the plurality of meanings and their interactions[59]. Transposed to the field of interdisciplinary exchanges, such perspective provides an additional justification for the positions which reject convergence to unitary frameworks and try to foster the widest possible types of interactions.

A good example of strong methodological pluralism is New Legal Realism. It proposes to adopt a variety of social sciences concepts and methods, translate them for the legal domain and rely on these scientific outcomes for legal reform. Its two signature aspects are the attention paid to legal theory and practice and the recourse to empirical approaches not limited to quantification[60]. Although a comparative approach is not explicitly endorsed, much attention has been paid to the application of new legal realist methods in non-Western legal systems[61].

Closer to the field of comparative law, strong methodological pluralism can be identified in those proposals which explore the possibility of introducing different approaches in

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57 Massimi, *supra* note 56, at 332ff. (perspectivism subscribes to a scientific cosmopolitanism which avoids epistemic injustices). On decolonization see L. Salaymeh, R. Michaels, *Decolonial Comparative Law: A Conceptual Beginning*, in 86 RabelsZ 166 (2022).

58 See S. Glanert, *Method as Deception*, in S. Glanert *et al.*, *supra* note 7, 92-114. Paul Feyerabend, whose ideas on method Glanert approvingly refers to, could plausibly be qualified as a strong pluralist: see e.g. E.A. Lloyd, *Feyerabend, Mill, and Pluralism*, in J. Preston *et al.* (eds.), *The Worst Enemy of Science? Essays in Memory of Paul Feyerabend* (Oxford: Oxford University Press, 2000), 115-124; E. Oberheim, *Feyrabend's Philosophy* (Berlin and New York, NY: De Gruyter, 2006), 206ff.. Of course, Feyerabend's can be understood to be one among many possible versions of strong pluralism.

59 C. Atias, *Théorie contre arbitraire* (Paris: Presses Universitaires de France, 1987), tr. it. *Teoria contro arbitrio*, a cura di S. Ferreri (Milano: Giuffré, 1990), 171-190. Atias explicitly draws on theories of scientific discovery, thus acknowledging at least a partial similarity with the production of legal knowledge.

60 S. Talesh *et al.*, *Introduction to the* Research Handbook on New Legal Realism, in S. Talesh *et al.* (eds.), *Research Handbook on New Legal Realism* (Cheltenham: Elgar Publishing, 2021), 1-19. The US literature on New Private Law also proposes to align the internal and external points of view on legal matters (A.S. Gold *et al.* (eds.), *The Oxford Handbook of New Private Law* (Oxford: Oxford University Press, 2020)). Though, it starts from theoretical premises, most importantly the coherent structure of private law, which exclude alternative visions, including legal realism and Law and Economics. Therefore, I do not regard it as an example of methodological pluralism.

61 H. Klug, S.E. Merry (eds.), *The New Legal Realism: Studying Law Globally* (Cambridge: Cambridge University Press, 2016); A. Huneeus, H. Klug, *Lessons for New Legal Realism from Africa and Latin America*, in Talesh *et al.*, *supra* note 60, 82-97.

each phase of the research process. One example are Marieke Oderkerk's guidelines on the use of different comparative methods to choose the goals and the contents of the analysis, to describe the legal dimensions, to assess and evaluate similarities and differences[62]. Even more explicitly, a 'comparative research design' is proposed by Maurice Adams and Mark Van Hoecke[63]. In this framework, interdisciplinary approaches are selected so as to match the overall research design. Another version of strong methodological pluralism is the proposal to link the comparative analysis to each stage of the policy process. From setting the policy agenda to formulating the policy to implementation and evaluation, each stage calls for policy tasks which can be supported with comparative legal knowledge. With a pluralist approach, different methods can be used at each stage. Furthermore, the interaction between comparative law and non-legal disciplines can be designed differently at each stage[64].

Both weak and strong methodological pluralism face two challenges: first, how incompatible methods and approaches can be managed; second, which normative prescriptions they support. Both challenges have not received final answers. This is not a good reason to discard pluralism. Addressing these challenges could be one of the most relevant goals for future CLE studies. Moreover, the lack of final answers does not mean a complete lack of useful suggestions. With regard to incompatible methods, it is possible to combine elements of different theories with analytic eclecticism[65], search for a shared structure among mutually inconsistent models[66], identify complementarities among schools of thought[67], jointly refine a plurality of perspectives without unifying them[68], or

62 M. Oderkerk, *The Need for a Methodological Framework for Comparative Legal Research: Sense and Nonsense of 'Methodological Pluralism'* in Comparative Law, in 79 RabelsZ 589 (2015).

63 M. Adams, M. Van Hoecke, *Conclusion: Challenges of Comparison*, in M. Adams, M. Van Hoecke (eds.), *Comparative Methods in Law, Humanities and Social Sciences* (Cheltenham: Elgar Publishing, 2021), 246-263.

64 For some preliminary thoughts in this direction see G. Bellantuono, *Comparative Legal Diagnostics*, Working Paper 7 February 2012, available at www.ssrn.com . A more extended approach is proposed in G. Bellantuono, *Comparative Energy Law and Policy* (Cambridge: Cambridge University Press, forthcoming 2023).

65 R. Sil, P.J. Katzenstein, *Analytic Eclecticism in the Study of World Politics: Reconfiguring Problems and Mechanisms Across Research Traditions*, in 8(2) Persp. Pol. 411 (2010); R. Sil, P.J. Katzenstein, *Beyond Paradigms: Analytic Eclecticism in the Study of World Politics* (London and New York, NY: Palgrave Macmillan, 2010). Also see the contributions collected in the forum edited by F. Chernoff et al., *Analytic Eclecticism and International Relations: Promises and Pitfalls*, in 75(3) Int. J. 383 (2020).

66 C. Lisciandra, J. Korbmacher, *Multiple Models, One Explanation*, in 28(2) J. Econ. Methodol. 186 (2021).

67 T. Lari, *When Does Complementarity Support Pluralism About Schools of Economic Thought?*, in 28(3) J. Econ. Methodol. 322 (2021).

68 S.D. Mitchell, *Perspectives, Representation, and Integration*, in Massimi, McCoy, *supra* note 56, 178-193.

follow perspectivism in understanding each method as an 'inferential blueprint' which provides instructions on the object under study to different scientific communities[69].

The normative dimension of CLE was discussed since its inception[70]. Recipes to derive prescriptions from empirical studies abound[71]. The debate on evidence-based policy has highlighted the many institutional dimensions the interplay between data and normative choices calls into question[72]. In this case, too, advocating methodological pluralism means to reduce the risk of a biased selection of evaluation tools. From the perspective of CLE, a rich research agenda opens up on how to identify the role of empirical evidence in different institutional contexts.

The question raised in this section is whether the future of CLE might lie in promoting (some version of) pluralism. This would mean shifting from a debate internal to economics or comparative law to a discussion focused on the identification of selection criteria that support interdisciplinary exchanges. To put it differently, while Table 1 maps all possible types of interdisciplinary exchanges, Table 2 puts aside purely unilateral and parallel types (no. 1-5 and 8) and only considers the exchanges which foster genuine collaboration. Weak methodological pluralism only promotes research strategies which consider a plurality of approaches in the early stages of the research process. Strong methodological pluralism promotes research strategies which try to offer a larger number of perspectives on the same topic. Both strategies are legitimate ways to promote interdisciplinarity.

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69 Massimi, *supra* note 56, at 141-147, 146 ('Perspectival models act as inferential blueprints in making it possible for different epistemic communities to come together, revise, and refine the reliability of each other's claims and advance scientific knowledge over time'). With specific reference to interdisciplinarity, also see M.B. Fagan, *Explanation, Interdisciplinarity, and Perspectives*, in Massimi, McCoy, *supra* note 56, 28-48, 43 ('users of a model in one specialized perspective can see how their model connects with the models of other specializations in interdisciplinary research').

70 See e.g. Mattei, *supra* note 2, at 3-11.

71 See e.g. J.B. Fischman, *Reuniting 'Is' and 'Ought' in Empirical Legal Scholarship*, in 162 U. Penn. L. Rev. 117 (2013); I. Giesen, *The Use and Incorporation of Extralegal Insights in Legal Reasoning*, in 11(1) Utrecht L. Rev. 1 (2015); F.L. Leeuw, H. Schmeet, *Empirical Legal Research: A Guidance Book for Lawyers, Legislators and Regulators* (Cheltenham: Elgar Publishing, 2016), 220-235; E. Zamir, D. Teichman, *Behavioral Law and Economics* (Oxford: Oxford University Press, 2018), 157-186; P. van Lochem, R. van Gestel, *Evidence-Based Regulation and the Translation from Empirical Data to Normative Choices: A Proportionality Test*, in Erasmus L. Rev. 120 (2018).

72 See e.g. N. Cartwright, J. Hardie, *Evidence-Based Policy: A Practical Guide to Doing It Better* (Oxford: Oxford University Press, 2012); P. Cairney, *The Politics of Evidence-Based Policy Making* (London: Palgrave Macmillan, 2016); H. Strassheim, *Trends Toward Evidence-Based Policy Formulation*, in M. Howlett, I. Mukherjee (eds.), *Handbook of Policy Formulation* (Cheltenham: Elgar Publishing, 2017), 504-521; H.-W. Micklitz, *The Measuring of the Law Through EU Politics*, in Bartl, Lawrence, *supra* note 51, 223-238.

IV. CONCLUSIONS

Interdisciplinary failures are by no means rare and can be due to a host of causes. However, defining failures is tricky[73]. In the case of the CLE approach, the factor most directly influencing its development is the dependency from academic and non-academic dynamics related to the local relevance of comparative law, economic theory and interdisciplinary studies. CLE has to manage relationships with many scientific communities, as well as with policymakers. For this reason alone, it is not surprising that in the last thirty years the CLE approach has taken on a multiplicity of meanings. Both the goals to be pursued and the types of interdisciplinary exchanges are too multifarious for a single approach to become dominant. Mapping such types suggests that CLE has prevalently fostered unilateral transfers. There is nothing wrong with them. Though, for exchanges to become bilateral, genuine collaborations are required. Methodological pluralism could support such collaborations. It starts from the premise that each discipline can only offer a partial view of the object under study. It then tries to establish relationships among these partial views. In its weak version, methodological pluralism only requires a justification for methodological choices. In its strong version, methodological pluralism eschews unification or convergence, but requires moving beyond partial views.
The field of interdisciplinary studies is today so large that CLE will struggle to find its niche. What this Special Issue aims to show is that an interesting niche does indeed exist. Exploring it means to deal with all the phases of the comparative research process, from problem framing to description to explanation to prescription. However partial a CLE perspective could be on each of these issues, the contributions in this Special Issue offer readers plenty of examples for the design of future interdisciplinary interactions.

73 See D. Fam, M. O'Rourke (eds.), *Interdisciplinary and Transdisciplinary Failures: Lessons Learned from Cautionary Tales* (London/New York, NY: Routledge, 2021); Klein, *supra* note 6, at 119-125.