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Luhmann and critical approaches to legal studies - the empirical analysis of systems communication

Swedish trade unions and in-work poverty - a critical approach to industrial relations with Luhmann's system theory as framework of analysis

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Abstract for LSA in Lisbon 2022

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Title: Luhmann and critical approaches to legal studies: the empirical analysis of systems communication

Alternative title: Swedish trade unions and in-work poverty: a critical approach to industrial relations on the basis of Luhmann's system theory

Abstract:

This paper is part of the pre-organised session 'Systems Theory and Law'.

This paper focuses on the issue of conducting research with aspirations similar to those of critical legal studies while using Luhmann's theory of autopoietic systems as an analytical framework. The paper aims to exemplify how the empirical study of systems' communication can be used to achieve the task of aligning the use of Luhmann's theory with normative research. The examples provided builds on previous methodological contributions from the author, arguing that the link between Luhmann and normative research aspirations is found in the concept of values for which Luhmann holds a two-sided view. In Luhmann's theory the concept of values can be understood as a positivistic concept in the sense of the binary code of systems. However, Luhmann also opens for a more normative understanding of the concept of values by admitting that the programming of system may be framed towards the strive for societal values in the form of democracy, liberty, equality etc. Such values are possible to identify by carefully studying communications and as such system communications can be highly interesting for empirical studies. The paper continues from the previous methodological model developed by the author, and the idea of trade unions as organisations that contribute to the production of communication within a regulatory system of industrial relations. From these premises a pilot study of communications from Swedish trade unions are used to clarify how the method for studying systems communications can shed light on the role of these organisations in relation to the societal (normative) value of equality. More precisely, the pilot study deals with the issue of Swedish trade unions' role in fostering equality in Sweden on the basis of their role in addressing in-work poverty.