

# Review of: "Social context of the brain and law: Is consciousness social?"

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**Potential competing interests:** No potential competing interests to declare.

## General comments

The article presents interesting and relevant points to the discussion on 1) how consciousness is constructed in the three disciplines of philosophy, neuroscience, and law and 2) the real-life implications of how we construct our understanding of consciousness. The article presents many insights, but the form of the article distracts from its qualities and makes it potentially unappealing to readers. My main suggestion is to restructure and revise the article to focus on the two main insights of the article, which are:

1. Consciousness can be construed in different ways, and there are benefits to constructing it less individualistically and more socially.
2. The main benefit of constructing consciousness as social is that it reforms and decolonises the discipline of law by voicing and empowering marginalised groups.

The above claims are supported by sections "Understanding and demystification of pure consciousness", "Brain, knowledge, and action", and "Decolonizing brain science: Critically conscious brain and law". The three sections should be expanded to make up the full article and fully support the claims made. By focusing on the main claims, the article will become clearer and more engaging to the reader. The below comments are action-focused advice on how to achieve a clear and engaging article.

## Major comments

Rewrite the introduction to be short and relevant to the main claims.

The current introduction and first section, "Brain, consciousness, and law", are long and lack cohesion and relevance. The research questions and main claims are not clearly stated in the introduction which is disorienting to readers. The average reader will give up on reading the article before discovering what the main claims are. By focusing the introduction to the topics at hand, the author will have more success in engaging and convincing their readers.

Expand on the strongest sections.

The three sections of the main body, “Understanding and demystification of pure consciousness”, “Brain, knowledge, and action”, and “Decolonizing brain science: Critically conscious brain and law”, stand out as well thought through and presented. The sections contain many convincing arguments, but these can be expanded by following through with the points made and discussing the implications that follow.

Reformat and rephrase the article to improve ease of reading and clarity.

The introduction and first section are very difficult to follow due to poor use of English and poor phrasing. Many sentences are unfinished, and the claims and evidence are presented without structure. The three main sections are of much higher quality, which makes for a better reading experience. Make sure all parts of the article are strong in this regard to ensure that the readers can follow the author’s arguments.

## Minor comments

The following comments follow the order of the article.

### Abstract

The abstract presents the main themes of the article, but it is fragmented and does not inform the reader of the arguments they are about to read. Try to turn your abstract into the main argument of the article instead, for example by following the structure:

1. One reason why the construct of consciousness is important
2. The current disconnect between different disciplines and constructs of consciousness
3. The main claim of the article
4. The main support for the claim
5. The implications and impacts of the claim

### Introduction

The introduction is lacking cohesion, both in content and in form. For example, the sources from Geertz, Vygotsky, and Gergen et al. are presented mechanically without making the important connections between their observations and what the evidence entails for the theories of consciousness.

Most importantly, the introduction does not set out the research questions clearly. It is necessary to clearly state that the aim of the article is to argue that consciousness is social and that this has several consequences for how we understand consciousness in neuroscience and law.

### Section 1

## Brain, consciousness, and law

The section presents neuroscientific evidence on the links between brain and consciousness, but the evidence is not well presented nor understood. My suggestion is to rewrite the section to only focus on the background information and definitions that are crucial to the main claims of the article. The section must provide clear definitions of consciousness in neuroscience, philosophy, and law.

## Section 2

### Understanding and demystification of pure consciousness

The section begins with an overwhelming number of questions. Focus on the argument that judges rely on intersubjective consciousness to understand the minds of the defendants. This will make the reader less disoriented.

Try to strengthen the arguments of why and how consciousness is socially shared. The arguments on why/how consciousness is social are the main evidence and the namesake of the title and should take up a larger portion of the article.

The claim that constructing consciousness as a flow allows for people to change and rehabilitate is both convincing and well-presented. Use this as an example of how to develop the other arguments in the article.

It is contradictory that consciousness is both historically contingent AND spontaneous. Try to expand on the argument.

Try to give the reader a relevant everyday example of how language forms the definitions of consciousness before moving on to the example from law language.

A lot of the points from the first section on the barriers to an interdisciplinary understanding of consciousness fit well with the point that the language of neuroscientists is different from that of literature or the general public. Use the evidence from earlier to support the claim.

## Section 3

### Brain, knowledge, and action

The points about what is necessary for something to be “true” in science vs in popular belief are interesting and relevant to the argument.

The discussion about the bias to rely on expert testimonies and neuroimages because they are assumed to be reliable can be expanded more. There is a lot of research in this area to show the nuances of when judges rely more on neuroscience and why. The argument could also be rephrased to begin with the claim and then expand on how and why judges do so.

Try to expand on the claim that people from oppressed groups are not represented in modern neuroscience to convince

your reader.

The end of the section connects nicely to the next one – try to do this with every bridge between sections in the article.

## Section 4

### Decolonizing brain science: Critically conscious brain and law

The claims about the minds of animals require references as these claims currently rely on assumptions.

The evidence on unintentional racial discrimination are valuable sources. It is necessary to highlight how these studies were conducted and what they found to give the reader an idea of what the evidence shows.

The discussion on the theoretical limits of neuroscience should be one paragraph, and the discussion on the methodological limits another. As to the methodological limits, an explanation on why “lie detectors” are not reliable at detecting lies is necessary, and this explanation needs to be separate from the discussion on brain imaging techniques to avoid confusing the non-expert reader. As it is right now, the reader is led to believe that fMRI and EEG are forms of lie detection and entirely unreliable tools which is highly misleading.

Define “the hard problem of consciousness” to the non-expert reader.

The example of different legal tools in the US and Japan is interesting. Try to explain why the technique is only suited to help in the Japanese context. What about the technique makes it useful to a less emotionally expressive culture?

Allow a full paragraph to expand on the language barriers for the general public to understand brain scanning techniques and why this barrier is a problem.

Only now are we getting to the point where we can make interesting arguments and crucial claims – so why are we already at the conclusion? Implications and impacts are missing.

## Conclusion

Avoid introducing new claims or theories (e.g., the socio-psycho-bio model) in the conclusion. Instead, make sure that all these claims have already been clearly and explicitly stated in the main text.