

Towards a geography of law: an urban project

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In an article in 1992, Laurent Thévenot recalled how much “the history of relations between law and the social sciences was marked by reciprocal criticisms, in the name of ignorance about the specificities of law on the one hand, and due to the formalism of legal categories that are far removed from social practices on the other hand” (1992, p. 1279).

In fact, sociology has drawn on law for decades (Weber, 2007; Durkheim, 1975). In the 1980s, Pierre Bourdieu (1986) demonstrated that it was not so much the rule of law which warranted study, but how it was applied (without denying the importance of the rule of law as such, especially when linked to sanctions). Institutional actors acquire “personal power” (1990: 89) when rules are applied, and are open to negotiate anything from single exemptions to complete transgressions. If the rule of law is an arbitrary limit, then agents responsible for applying it have room for manoeuvre in its application, creating a link with their *habitus* and interests. Shifting the rules yields benefits to agents. Consequently, the main object an analysis becomes the interpretation of law at the margins, by actors who have the capacity and power to do so. However, from an approach *à la* Bourdieu, the implementation of the law is negotiated primarily within a power relationship, based on domination and symbolic violence, at the expense of the “ordinary citizen”. According to him, the power of the judiciary is at the service of the imposition of the legitimacy of the social order, which is intended by the dominant classes (1986:16).

From a different point of view, Michel Foucault called for the deconstruction of the foundations of law (1975), that all-too-often were taken as given but which are at the heart of the workings of power (Mazabraud, 2010). Among other things, he put forward the concept of illegalism. According to Foucault, each class has its own transgressions: each class plays with the law depending on its interests and resources. Michel Foucault thus distinguishes the “illegalisms of goods”, which are found among popular classes, and the “illegalisms of law” that are the prerogative of the bourgeoisie. Foucault put forward this distinction in *Discipline and Punish*, which arose as the bourgeoisie emerged as a dominant class. In the approach here, such a distinction on the basis of

social classes is too limited because it is too schematic and simplistic. Nevertheless, the notion of illegalism still has the advantage specifically of making it possible to move beyond the simple dichotomy of legal and illegal. It allows for an analysis of the uses of law, the relationships of law and the methods of implementing it.

What about the other social sciences? French human geography has remained on the margins of the movement led by American sociology since the 1960s to address legal issues and see them as an object of study. Since it was created in the second half of the 19th century, the French school of geography has looked at law in terms of border issues and territorial divisions. This began at a time marked by rising independence movements and popular claims for self-determination. The implementation of international law involved the advice of experts in human geography like Emmanuel de Martonne, who worked on the boundaries of central Europe and the Balkans at the Paris Peace Conference in 1919. Yet the law itself was never directly questioned in these works: geographers contributed to the “territorialisation”/regionalisation of (international) law, without ever really integrating law into geography as a discipline. If the boundaries and administrative grids were the main subjects of study by researchers working on the relationships between law and space, such activities were largely pursued by lawyers. The latter have also contributed to a rapprochement, if not of the disciplines, then at least of judicial and geographic issues, as borne out by the *Geography and law*, and *Geography of law* seminars Carcassonne, hosted by Geneviève Koubi, Nadia Belaïdi and Frédéric Ogé since 2010.

In 1989 and 1994, the American geographer Nicholas Blomely called for the departitioning of the two disciplines and promoted the idea of a Geography of Law. The idea is to view law and its interpretations within a spatial dimension. Along with other authors (Delaney 1993; Pue 1990), he argued more specifically in favour of the so-called Critical Legal Geography current, and strove to demonstrate to what extent the application of law is part of a particular spatial context. In turn, it affects the production of the space itself. From this point of view, the work on urban segregation serves as a case study (Kobayashi, 1990). Similarly, post-colonial studies on the theft of Native-American land in North America, for example, is an area examined by this approach (Blomley, 1994). The authors stress to what extent law qualifies, creates and refers to space or territory (be it international or national, public or private) via a series of treaties, laws and decrees.

At the same time, initiatives by geographers in France remained largely individual. Based on her work on expropriation (1999), Fabienne Cavallé looked at legal realism, in other words the knowledge of law by ordinary individuals: “the aim was to see how law is the subject of experience and is understood by citizens” (2009). Patrice Melé (2009), by drawing on research into the place of law in conflict situations, debates and controversies, developed an analysis of the “legal qualifications of space” (2008) and the procedures for “updating local law”: i.e. the way in which groups of individuals use the law in a given situation and produce localised legal orders. Romain Garcier (2009) for

his part looks at the relationship between law and geography on the basis of the distinction between an “intransitive registration” and a “transitive registration” of the law. For the former, texts explicitly refer to space, while for the latter, texts prescribe behaviour and usage, hence influencing the production of space *de facto*. Lastly, it may be noted that since May 2012, Fabrizio Maccaglia and Patrice Melé have launched a series of meetings entitled “The Territories of Law” (*Les territoires du droit*), on questions concerning territory, territoriality and territorialisation process of law.

The relationship between law and space has also so far been asked in a special way: explicitly or implicitly, it has concerned areas such as the environment, natural parks and heritage (Belaïdi, 2008), waterways and customs (Le Lay, 2006), or migrations (Clochard, 2004; Weber, 2009). There has been little focus on towns, from this point of view, even though recent decades have witnessed the growing development of urban studies. It is for this reason that the present call-for-papers wants to open up research on how geography can address law and ultimately put forward an analysis of the forms which a geography of law may take, by favouring the study of towns and urban practices. Three perspectives are covered in this call-for-papers:

(1) *The law as a resource of urban-life*. For a long time, the law was exclusively seen as an instrument of domination and social control in the hands of people in power. This was so especially from a Marxist perspective. Yet social sciences have also shown that it could be an instrument of social protest, a resource and an “element to guide collective action” (Comaille, 2010, p. 76) or individual action. It may thus be asked how the law become a resource in towns and cities and how it is mobilised in times of conflict and controversy, as for example in urban movements for the right to housing and land. How is the rule of law perceived, viewed, instrumentalised or ignored? More generally, it would be interesting to understand the uses and representations of law in the constitution of a certain type of relationship to urban areas. For example, the case of illegal connections to utility networks (water and electricity) has revealed the way in which the rule of law (law and customs) may be mobilised, or not, by individuals to accede to urban services and in a symbolic manner to the status of city resident.

(2) *Political regulation of urban areas*. This second line of thought leads to viewing the law in institutional action, a way in which the holders of power make the law live and create margins for manoeuvre in its application, and finally how this influences the production of urban territory and its political regulation. The attribution of public sector contracts could be one way in which to observe the game of law in urban governance and its impact on the urban appearance and functionality.

(3) *The city and the production of the rule of law*. As territory only exists in relationship to society and the power it produces, so too the law is a product of actors who are situated in specific social and geographical areas. A third analytical approach, beginning with space, would be to understand how geography allows the dynamics of the production of law at an urban level to be understood.

Thus, within this collective publication, it will be possible to examine how law regulates, produces and reifies spaces, their functions and their appropriation processes, and how on the other hand territorial practices influence the production of law. The aim of this issue will be to propose a geography of law, going beyond case studies to “understand the concrete and spatial usage which is created by law and the practices to which it gives rise” (Garcier, 2009) by focusing on urban areas.

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