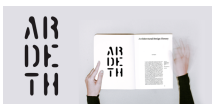

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Tracing Rights on the Ground: Spatial Controversies around Urban Development Projects

Marco Cremaschi

Abstract
This article conceives an urban project as a mechanism that traces rights on the ground. First, and most relevantly, a project separates public and private land and defines what can be built. At another level, design decisions involve a broad range of permissions and obligations. Thus, urban projects act as a form of regulation, like planning, albeit a specific form with its own rules and limits. The paper explores a two-step process. First, in the policy phase, some regulatory decision-making is delegated to design. Then, design challenges the value assumptions underlying decision-makers' actions. 'Regulation by design' arranges material objects in space and activates those spatial mechanisms.

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Over the past 50 years, part of the scientific community has criticized planning for failing to deliver on promised outcomes. Urban projects and urban design once appeared to be a valid alternative, if not a complete U-turn from traditional approaches. However, urban design is a form of regulating space, even though it is of a different nature.

Urban planning can be considered as a form of regulation, among many others. Planning and design affect both individual and collective rights. This paper focuses on a few basic, individual rights. Both urban planning and design regulate cities in several ways. It is obvious that these basic statutory rules feed into a wilder realm of collective rights.

The paper analyses a few theoretical aspects of urban regulation and design. It identifies a few key tenets from the exploration of a case study. The eco-neighbourhood of Clichy-Batignolles is located in the 17th arrondissement on the northwest side of Paris, near Clichy Levallois. At the boundary of the city, the area is enclosed between railways and the beltway. This neighbourhood is adequately served by public transportation, which will soon be upgraded thanks to the Grand Paris Express.

A research agenda based on this case study is outlined in the following paragraphs. These preliminary notes discuss four points (projects, urban space, spatial controversies and the regulation of rights):

– first, an urban project is innovative with regard to planning. Urban projects result from an equal combination of planning, design and policy concerns. Several governance mechanisms allow decision-makers and designers to connect and communicate (Cremaschi, 2016). Increasingly innovative procedures have recently been developed (Cremaschi, 2018);

– second, urban projects are 'things on earth". Like all other things (Lie-

Fig. 1 – Chronology.

2000 Early studies initiated during the last months of the government of the right-wing mayor Tiberi
2001 beginning of socialist mayor Delanoë's two terms
the Groupement d'intérêt public Paris 2008 selects the area as the proposed location for the Olympic village
the city design agency Apur is commissioned
2002 city's decision with key stakeholders
city's statement of goals for the area
first of a series of candidacies that the city will consecutively advance (2008, 2012 and 2024)
2003 selection of four design firms in a six-month guided workshop
2004 the Grether/Osty/OGI team is selected after a competition
2005 the CIO rejects the proposal
Apur special issues of magazine summarising the work done for the preparation of the 2012 bid
the Cardinet Chalabre railway estate is included in a first ZAC
2006 transfer of the land to the city
2007 the first half of the park is open to the public.
A second ZAC is established, while the first lots of the ZAC Cardinet Chalabre are cleared for construction to begin
2008 the city adopts a comprehensive strategy for the North peripheral sector (Grand Projet de renouvellement urbain: GPRU)
2009 the state decides to relocate the Courts in the area and, thanks to a change in planning regulations
2012 The Courts tower is completed
2014 beginning of socialist mayor Hidalgo's term
2018 The City of Paris adopts a Biodiversity Plan, in which Clichy-Batignolles serves as a template.
2019 Planned extensions of the metro and tramway

to, 2017), they are geographically positioned. They furthermore lie at the heart of human and political networks (Beauregard 2015). Objects and space relate (Laws, 1992). The neighbourhood and the park of Batignolles result from a profound structural adaptation of a former railway depot. They nicely illustrate how different processes and relations come together;
third, a dynamic spatial controversy unfolds around the specifics of urban development. The materiality of the site and the building process affect such controversies. At the same time, the uncertainties of narratives weight upon the process. The project thus results from a "readjustment" process operating in a political forum (Callon *et al.*, 2011);
– and finally, an urban project draws a few substantial rights on the ground. It also traces several qualitative rights thanks to the arrangement of urban space.

Projects vs Plan?

Looking back to the post-war era, the planning approach opposed and marginalized the architectural tradition. Since the end of the 1960s in particular, the French notion of town planning was remodelled around a strong interventionist attitude that heavily drew on the notion of programming and the collective management of urban redevelopment.
As is known, around the mid 1980s, a strong movement pushed for a return to a design approach. More precisely, the urban project was promoted as both an alternative and a solution to all "planning" shortcomings. Piccinato (1986) criticized Anglo-Saxon planning for its roots in a sort of elementary social reformism inspired by Manichean scenarios (a virtuous state *vs.* vicious speculators)[1]. Hebbert (2006) repeated these assertions as he attempted to establish a link between them and the return to the project in its various versions. The priority thus flipped from planning to design, with the opposition between the two remaining unquestioned.
Of late, the sociology of collective actions has addressed the role of the urban projects from a public policy perspective, unsurprisingly without questioning the relationship with planning. Beginning in the 1990s, the convergence between urban governance issues and those related to the project came into clear view (Pinson, 2005). This approach studied urban projects as a socially negotiated process, and particularly as a form of mobilization that often leads to partially unpredictable results. It considered the urban project as a black box reshuffling the relative positions of the actors while mobilizing a strong symbolic dimension. It posited that such a powerful and sometimes unpredictable mobilization might sometimes overcome economic and utilitarian factors.
However, the so-called "actionist" approach has old roots in critiques of modern and technocratic form of governments in the globalizing capitalist context of postwar development. Already in the '50s, Henri Lefebvre radically criticized planning for this position. Others – de Carlo, Jane Jacobs, and de Certeau for instance – shared the same criticism of technocrats and modernizers from different perspectives.

1 – For Piccinato (1986) urban planning owes more to pluralism as a source of understanding of urban policy. Urban planning focuses on the concrete dimensions of the project, enabling tangible and achievable responsibilities with regard to urban spaces. Hebbert (2006) draws a worrying parallel between Bohigas, the progressive socialist deputy mayor in Barcelona, and Heseltine, the Thatcher government minister. Both shared the wish to 'deconstruct' planning and free design from planning constraints. According to Hebbert, this objective was shared by various schools of thought in vogue at the time, from Prince Charles to Krier and Koolhas.

The inception of a development project is always difficult to precisely locate in time. Clichy Batignolles is no exception to this practical rule. A number of proposals could be pegged as the initial moment that spurred the area's development. The location's strategic potential started becoming apparent to actors at the end of the '90s, mostly due to the availability of large tracts of land and the decline of railways' need for space.
The timeline of Batignolles challenges the fundamental controversy over the planning vs project approach [Fig. 1]. Like all urban projects, Batignolles can be understood as a social mobilization process organized around the mutual appreciation and the (un)anticipated consequences of a number of actions.
It would thus be pointless to discuss whether decisions affecting the development were planning issues or rather ones that emerged from designers' technical decisions; or whether they resulted from a negotiation process that is understandable from a policy perspective.
More precisely, in this case all the crucial steps were obviously roughly simultaneous and synchronized, even though they are usually presented in a sequence: first, the policy development process; second, the strategy development; next, the planning decisions on fundamental goals; and finally, designing the site.
A crucial moment, however, was the proposal for Clichy Batignolles to serve as the location for the Olympic village in 2001. Paris consecutively advanced several candidacies for the 2008, 2012 and 2024 Olympic games. After a series of tentative studies, in 2001 the Groupement d'intérêt public Paris 2008 selected the area among 15 sites of at least 30 ha – the minimum space required to host the expected 19,000 athletes. Inclusion in the Olympic project initially enhanced the prospects of the project, which survived the failure of the first two first bids for the games (Paris will host the 2024 summer Olympics). The CIO rejected the proposal in 2005; the local council, however, maintained the project and original goals set in 2002.
Design decisions, overall strategies and interest coalitions shifted and clashed during these years, while some of the fundamental aspects matured. Design concerns systematically reshaped the project's core over the period, but the general strategy did not change. This is not entirely congruent with the role that abstract models give to both. On the contrary, the example shows a variable process of mutual redefinition between the strategy and the project. In fact, the material arrangement of space provides a subtle array of permissions and obligations.
The choice to keep a large and uninterrupted open public space at the centre of the neighbourhood [Fig. 2]. is one of the design features that became part of the strategic dimension. The park is, in fact, one of the elements of metropolitan attractiveness. The location of the courts and increased density were subsequent changes, partly attributable to the skyrocketing costs of reclaiming the soil.

Earth and Ground

Space is an often-neglected component of collective action. This paper defines space primarily as the relative location of things, and secondarily as the meaning that may be associated with their positions (Gyerin, 2014). The Batignolles park and neighbourhood are obviously an area in the urban nexus of Paris. The included objects and region mutually define each other.

As Doreen Massey argues, space is formed at the intersection of economic, social and material relations operating scales that range 'from the immensity of the global to the intimately tiny' (Massey, 2005: 9). Thus, exploring particular spaces means tracing 'the coming together of the previously unrelated, a constellation of processes rather than a thing' (Massey, 2005: 141).

Space matters, since space is a material arrangement of things that 'generate information', as even Law (1992) acknowledges: "objects may be defined as intersections between homeomorphic enactments produced within different topologies". If space is relational, it is not a thing; it is also not a process, strictly speaking, but rather a "constellation of processes", a dynamic assembling of different and unrelated relations. This is what Law call topologies.

We are acknowledging that all kinds of processes and interrelations contribute to the making of particular spaces. We cannot generalize about these in advance, but need to explore exactly how given processes and interrelations contribute to the creation of of places and spaces.

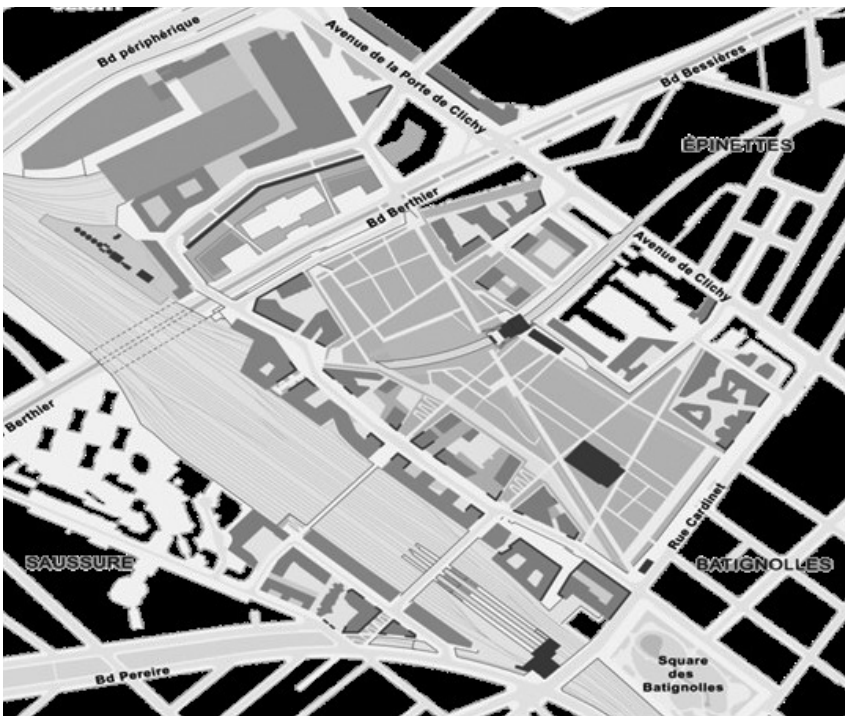

Fig. 2 – The project site: office blocks along the railways, residential buildings with some private courts around the park, the black line corresponding to concentrations of commercial space in the basement (source: http://www.clichy-batignolles.fr).

Thus, it is no surprise that space is where networks and objects relate – creating the conditions for the existence of objects. Space is the arrangement of those topologies. We are not that far from the conceptual dualism between flux and place: the first needs the latter "to enact". Thus, Batignolles is a "constellation of processes" and a repository of objects reflexively bound together and assembled in a processual way. The design and the site came together neither by chance nor by design. On the contrary, the relation between processes and space must be explored locally.

The initial emphasis was on the reconstruction of urban linkages with adjoining neighbourhoods. In 2001, the city council asked the planning agency Apur to study the development of Batignolles, and in 2002 it adopted a decision incorporating the study's key tenets. Eventually, the project included 54 ha, including a 10 ha park.

Additionally, the Planning agency selected four design firms in 2003 to be associated in a six-month guided workshop with residents and policymakers. The urban project was designed by the architect François Grether and the landscape designer Jacqueline Osty, and developed by the public firms Paris Batignolles Aménagement and Espace Ferroviaire Aménagement.

Mayor Delanoe provided a strong vision for the North of Paris plan. The comprehensive strategy for the North peripheral sector complemented this project with additional action items over 11 areas (Grand Projet de renouvellement urbain: GPRU, launched in March 2002). The general strategy aimed to develop 1.6 million square meters for 160 million euros through 2008.

This final plan was woven by a set of threads and opportunities that occurred independently and eventually came together (the failed bid for the Olympic games in 2008 was key to defining the area as the Village, which is still often quoted as the area's name).

Structural transformations involve the entanglement of new practices: this aspect specifically characterizes recent metropolitan projects.

Over all these years, the success of the project and of the park has been apparent and often celebrated. In 2009 the state decided to relocate the Courts in the area and, thanks to a change in planning regulations, the height of the buildings was raised to 15 floors (50 m.) and an exemption was granted (160 m.) for the new Court. Renzo Piano delivered on these Courts in 2012.

Furthermore, the City of Paris recently adopted a Biodiversity Plan, in which Clichy-Batignolles serves as a template (Mairie, 2018). A particularly rich fauna and flora developed around a wet ditch and a biotope basin in the Martin Luther King Park. The park is supposed to become part of a green network encompassing the neighbouring parks, squares, and cemeteries – a major asset for the preservation of biodiversity in Paris.

Extensions of the metro and tramway are planned for 2019.

Even before the sale of land to developers, the land reclamation process had been a major technical accomplishment. It was all the greater of an achievement that a significant part of the reclaimed land was not to be developed, and the park's design had to overcome the constraint of an

existing railway cutting through the middle of the area.
As already mentioned, the site ground is literally an outcome of the project, having previously been a polluted railway yard that required substantial decontamination. An expensive and laborious process had to be implemented to produce the urban land[2].

Spatial Controversies
Projects can be also understood as a specific form of spatial controversies, defined as both a localized argument and an argument about space. Socio-technical controversies address situations of conflict, but broadly so, with technical knowledge and expert models confronting other forms of knowledge (beyond scientific and technical knowledge, that is, mundane and everyday knowledge).
Spatial controversies surround spatial situations. Different forms of knowledge coexist and collide around specific issues. They are also often framed by public policies, collective mobilization, and social conflicts. Controversies around spatial issues are less frequent than is typically assumed. The NIMBY syndrome is often mentioned in connection with the sensitive issue of localization, often laden with seemingly negative externalities. Equally important localization decisions with less obvious consequences or dramatic negative impacts may receive less attention. That does not mean that they are not controversial decisions, but rather that these decisions rest upon undeclared controversies that are not publicly debated. Most of the spatial models tend to assume appeased forms, often lending a consensus position to development policies. A spatial model is a technical mechanism to provide solutions to a set of public problems.
A special regulatory tool is often deployed in France to manage the redevelopment of an urban zone. This regulatory tool selects a defined area and provides a unified approach to the programming and management of developments and public facilities. Land can be thus acquired or expropriated and later urbanized and sold to developers according to the desired plan.
The ZAC is a public initiative even if its realization may be entrusted to a private developer. In such a zone, a preliminary study analyses the options and potential of the urban project and suggests the management structure and preferred financial regime. The council also approves a draft program of development and public facilities in accordance with planning regulations.
This public procedure anticipates the possible clash of landowner and developer interests: the ZAC is, in fact, a form of 'political zoning' of urban land. Such a tool establishes directions and norms; however, it has the capacity to informally respond to changes in the behaviour of economic actors and to adapt to the urban project's forms of governance.
In 2005, the railway estate of Cardinet Chalabre was included in a first ZAC[3].
In 2006, all public actors agreed on the fundamental step of transferring the land to the city (government, city, and two public bodies owning industrial

2 – The city and its technical partners invested about 1.6 billion into a gross surface of 400,000 sq.m, (40% for the land purchase, 16% for reconstituting the Railway domain, 20% for the reconstitution of soil, and less than 20% for public amenities and facilities).

3 – La Zone d'aménagement concerté, a land management and planning tool, helps regulate urban development and guides the design and sale of the parcels (Booth et al. 2007).

wastelands: SNCF, RFF). The overall density increased, with a new target of 3,500 residential units, half of which were designated for social housing. The transformation was shaped by highly discursive investment. Discourses combine cognitive exploration and political visioning. The technical agency Apur started the process by studying the area and producing a dense technical dossier. The local government expended enormous political resources, particularly when reframing the project to fit within the general strategy for the North of Paris (the less affluent part of the city).
In this case, a negotiation process occurred with public agencies over land acquisition; an open selection procedure was engaged for the area's design; a long negotiation took place between the technical body in charge of the Zac and the developers in order to allocate the reclaimed and rezoned plots. Thus, one of the main topics discussed in the design workshops was the development program [Fig. 3]. Two major spatial decisions concerned the balance between urbanized land and open space; and between office space and residential buildings. Each of these elements circled back to affecting the operating budget and prospectively shaped the neighbourhood's profile. And each element had to bend to the general strategy of overcoming metropolitan fragmentation. Seen from this angle, the urban project appears to have resulted from a "conversation", that is, a two-way exchange between materials, objects, and actors, embedded in time and space. This dense process 'consumed' enormous quantities of social knowledge and was framed by power relations. The relationship to rights must thus be studied throughout this process.

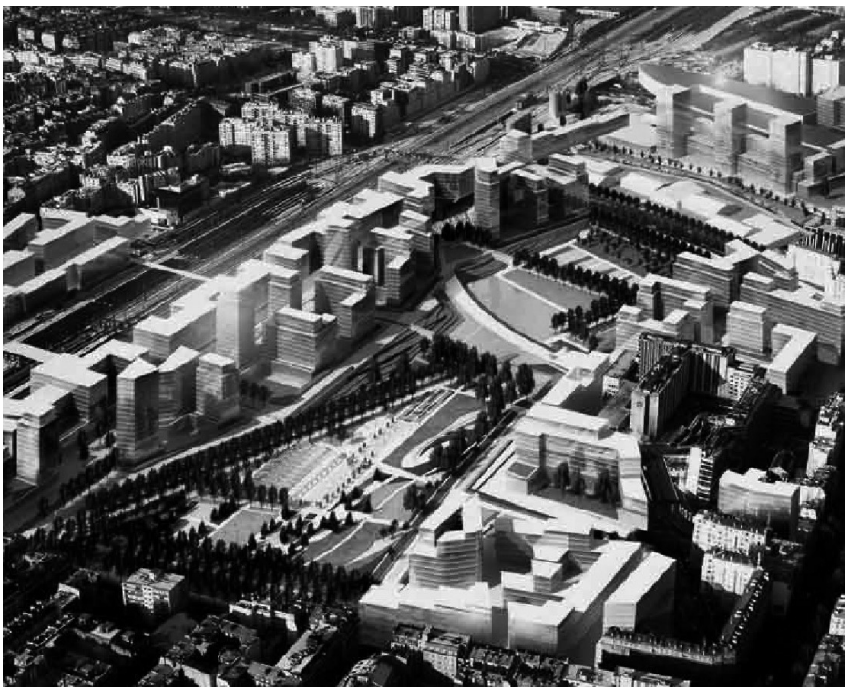

Fig. 3 – Birdseye view of the urban project before the Court tower was added to the North of the area (source: Maire de Paris, Dossier de response, mars 2009).

Excavating Rights

Public controversies arise because projects delineate the boundaries and the shape of rights on the ground. This is a very limited approach to the issue of rights, yet it is central to all forms of urban planning (Mazza, 2009). Urban projects are also a narrative of a city's change based on the crucial role of urban land, with a complex and circular impact on people and their actions. Extracted from "earth" by a politically regulated market, land actually affects citizenship rights and raises the issue of how collective choices affect the earth, environment, and natural systems.

The case of Batignolles' park is revealing. The goal is for Martin Luther King Park to develop beyond its current status as an "amenity" to become "performative". More specifically, the 10 ha park carves an ecological corridor through the urban fabric and reconnects the river and the city centre. The park is also intended to attract visitors largely beyond the neighbourhood's borders, and it has been designed to become an urban pole for skaters, thereby combining sports and nature.

The project is thus an anticipative tool with its own form of expertise and rules. A project anticipates future rights, tracing norms on the ground. This process happens on multiple levels. The first and most relevant level establishes the basic rules of property separating public land from private plots. Next, planning rules and projects establish and determine the right to build. Finally, design criteria shape both the quantitative and qualitative details that regulate construction and public spaces.

Such a process of ploughing rights onto spatial coordinates requires extensive scientific and technical input, as well as a forum for political debate. Such a debate was all but neutral for Batignolles, considering the cost of reclaiming the former railway's land. Locating a large and continuous park in the middle of the neighbourhood is a precise yet challenging ideological decision. Confining buildings to both sides severely constrained the developers' tactics.

The design part of a project is often confined to the technical process of conceiving forms and manipulating data and constraints. However, rights are also affected by design decisions, albeit less directly. Design provides an arrangement of buildings and public spaces, as well as a progressively more refined and detailed array of spatial permissions and obligations. In fact, the design does not use contracts or regulations, but rather uses spatial mechanisms such as fencing, zoning, and arranging (distant and proximate objects). All these are but material objects located in space.

In Martin Luther King Park, a particularly rich fauna and flora developed around a wet ditch and a biotope basin. The park is slated to become part of a green network including neighbouring parks, squares, and cemeteries – a major asset for the maintenance of biodiversity in Paris. The nearby parc Monceau is often mentioned, as well as the recently unveiled Citroën park. Though culturally appealing, the rich flora and the basin obstruct the movement of people. Pathways are designed to allow skaters to take

advantage of slopes and steps. A bridge crossing the railway trench enables visitors to enjoy the view from a terrace, soon to be completed by a restaurant. Design elements can force or prevent, allow or even enable selective behaviours. In a similar way as the law, but without contracts, the design of places creates obligations to either do or not do.

The first conclusion of this approach is that urban projects are far from being the opposite of a plan. The awareness of rights forces designers and planners as well as policymakers to constantly communicate. In light of these progressive adjustments, planning can be understood as the interface, or "translation agency" (Latour, Porter, 1996) built between certain actors.

Moreover, urban developments inscribe property and building rights onto land, while design reshapes these rights through the detailed arrangements of things. Not all rights are space-bound; in fact, the most important ones are not. But space does affect some of the most fundamental ones, like property (Gaeta, 2006) and free movement (Hillier, 1997). In line with the dominant approach, which posits that advanced rights derive from the basic ones (Marshall, 1963), it is reasonable to expect that these rights help restrain or empower the upper echelons of civil rights. Finally, urban projects and urban design constantly rewrite the rights of specific groups of people: landowners, users and passerby. Urban developments trace their rights on the ground. This paper has considered only a limited set of rights: ones specifically linked to the production of urban land, private property and public space (but not exclusively).

Like planning, urban projects act as a form of regulation, albeit a specific form with its own rules and limits. Regulation by design mostly derives from these spatial mechanisms that arrange material objects located in space. A double movement shifts the roles between policymakers and designers: the former delegate some regulatory decisions to designers, while the latter encroach on both the solutions and value criteria. This adjustment process is neither abstract nor general: although it is normative and visionary, it remained embedded in a material situation. Urban projects thus serve as mediators between political legitimacy, normative expectations of change and material conditions.

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