THE LAW OF THE OUTLAW

Law and Order With, Within, and Beyond Criminal Groups

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Abstract

This article introduces the special issue through a review of Francophone and Anglo-Saxon legal anthropology traditions, before situating the law of the outlaw within these and outlining its potential contribution towards the development of a pragmatic approach to law.

Keywords: *law, outlaws, legal anthropology*

L'ORDRE ET LA LOI AU SEIN, AVEC, ET AU-DELÀ DES GROUPES CRIMINELS

Résumé

Cet article présente le numéro spécial en passant en revue les traditions francophones et anglo-saxonnes d'anthropologie juridique, avant de situer le droit des hors-la-loi au sein de ces traditions et de souligner sa contribution potentielle au développement d'une approche pragmatique du droit.

Mots-clés: *droit, hors-la-loi, anthropologie juridique*

The articles in this special issue explore the way the phenomenon that we commonly call "the law" can take multiple and complex forms, whether from the perspective of its emergence, its imposition, or its preservation. Counter-intuitively, our contributors do so by taking as their primary reference point groups that are generally described as "outlaw": Georgian *kurdebis*, the so-called "thieves in the law", as seen through the eyes of their wives and daughters' discussions about the benefits and shortcomings of the "legal services" that they provide (Ferry); the *Maravillas* gang, and its opposition to the law laid down by the *Eme*, the Mexican mafia that controls the prison system in California, and whose authority extends beyond the prison to the streets of Los Angeles (Contreras); the *Ñetas* gang, whose members have compiled laws derived from the mythical life story of their founder, codified in a quasi-sacred book (Lamotte); a transport union in Nigeria, the National Union of Road Transport Workers (NURTW), that illegally collects traffic taxes, both in its name, but also for the Nigerian State (Fourchard); working class youth groups in 1900s Paris, othered and criminalised as neo-savage "Apaches" (Beauchez); and Haitian *baz* (crew), seeking to establish and maintain community order in the face of natural disasters, migration, and increasingly widespread violence (Kivland).

Despite the fact that all these groups are usually considered outlaw – or at the very least their practices are considered as such – we contend that they can provide a privileged lens through which to consider what the law is. They do so in two ways. Firstly, by encouraging us to look beyond the State as an institutional vector for the law, and secondly, as epistemological mirrors through which to rethink how the law operates. In so doing, the articles in this special issue extend long-standing debates in legal anthropology, and propose new avenues for reflection on the ways in which the law might be apprehended and understood.

In addition, this special issue is explicitly bilingual, bringing together an equal number of contributions written in English and French, by researchers from both the French-speaking and Anglo-Saxon academic worlds. These two world generally do not dialogue very much, something that is perhaps especially true in the field of legal anthropology. This is partly because both traditions have tended to take their own very different legal systems – common law vs. civil law – as implicit comparative reference points when thinking about the nature of the law or the differences – whether semantic or practical – between "laws," "rules," or "norms," for example. Despite the existence of such epistemological differences between the Francophone and Anglo-Saxon traditions of legal anthropology, there is nevertheless significant overlap and complementarity, and certainly scope for greater dialogue than currently exists.

This special issue therefore modestly hopes to contribute to building bridges between these two academic traditions. It does so by privileging the juxtaposition of different cases not to seek any definitional consistency or even less establish a common framework, but rather, to simply suggest some of the contours of a general *problematique* through transversality, connection, and analogy. In other words, this special issue aims to raise questions and new avenues for further investigation rather than trying to determine which of the cases presented are "more or less" forms of law than others (all the more so as the latter intellectual endeavour is inevitably always limited in scope and ultimately rather sterile – see Mayer and Boudreau 2012).

The Francophone and Anglo-Saxon Legal Anthropology Traditions

There exists a long-standing body of work within anthropology on rules, laws, norms, and customs. Indeed, in many ways, it can even be argued that the discipline was originally founded on an exploration of how non-Western societies maintained "order" in the absence of formal legal systems. While the first Anglo-Saxon works on the topic by Henry Sumner Maine (1861) and Lewis Henry Morgan (1877) were based primarily on secondary texts or reports by colonial administrators, as were the first French-language legal anthropology writings by Marcel Mauss (1896; 1897), scholarship very quickly began to draw on primary research in order to catalogue diverse systems of order in different societies around the world. Bronislaw Malinowski (1922), in the English-speaking world, and René Maunier (1931), in the French-speaking world, for example took a contemporaneous interest in explicitly studying what they both referred to as "the law." They drew respectively on ethnography in Papua New Guinea and North Africa to try to make sense of the relationship between different types of laws, norms, and rules, as well as the complexity of the social practices that these

variably determined. In both cases, they suggested that the fundamental question regarding understanding the law was not how individuals submitted to specific laws, but rather how these laws adapted to the particularities of human sociability.

Following on from this early work, Isaac Schapera (1938) also drew on primary research to explore the diversity of legal systems beyond so-called "modern" or "state" societies. This was partly linked to anthropology's close association with the colonial project, and the need to understand how colonised societies managed themselves in order to better dominate them (see also Fortes and Evans-Pritchard 1940; Radcliffe-Brown 1952 [1933]). The study of legal processes rapidly focused on the study of "trouble cases" – i. e., contentious conflicts and disputes – that revealed how order was constituted and maintained. Karl Llewellyn and E. Adamson Hoebel's (1941) study of North American Cheyenne law is a good illustration of this approach. Anthropologists such as Max Gluckman (1955) in the English-speaking world, and Raymond Verdier (1980) in the French-speaking world, subsequently paid particular attention to conflicts and legal systems as processes rather than systems *per se.* Their aim was to study how disputes unfolded and how they were settled, using a situational approach that sought to consider the processual and procedural aspects of law and legality simultaneously. While insightful, such an approach focusing solely on conflict arguably reduces the law solely to its application. The law – and laws, we might add – also come to the fore in other contexts and circumstances. Moreover, studying them solely through process and procedure obscures a whole series of other practices and understandings that can say much about the nature of the law, its founding principles, and the place it occupies in society.

This is something that Anglo-Saxon anthropology in the 1970s and 1980s began to explore firstly through questions of social change and social order, and then secondly, the concept of legal pluralism. Laura Nader and Harry Todd (1978), and the Berkeley Village Law Project for example conducted collective research on dispute processes that focused more on their symbolic dimensions than the actual nature of laws or their legality. As Mark Goodale (2017) points out, this led to legal anthropology rapidly becoming embroiled in an internal debate around how to definition the law. In 1978, Simon Roberts published an article entitled "Do we need an anthropology of law?," in which he urged anthropologists to set aside the law as an analytical category and adopt a broader ethnographic focus on ordering. Echoing wider disciplinary debates around the issue of power, in the late 1980s June Starr and Jane Collier published *History and Power in the Study of Law* (1989), renewing the scholarly agenda by focusing on the way legal systems could be seen as encoded power relations. These concerns were subsequently explored in greater depth by Laura Nader (2002), who described the way that the law could give rise to forms of social change and lead to the emergence of particular kinds of social structures.

The latter question was also central to the legal writings of the French anthropologist Maurice Godelier (1982), who sought to develop a Marxist legal anthropological perspective. He was very much reacting to French legal anthropological debates in the 1970s around the notion of "legal pluralism." The work of Jacques Vanderlinden (1972), Michel Alliot (1988), or Norbert Rouland (1988), in particular, sought to highlight the plurality of legal experiences, partly in order to promote local legal systems in a broader context of decoloni-

sation. The proponents of this first wave of thinking about legal pluralism, however, tended to relate the idea to an implicitly State-centric frame of reference, insofar as the alternative legal systems put forward were generally those of newly independent states versus those of their former colonisers. A second wave of researchers, such as Jacques Poumarède and Jean-Pierre Royer (1987), moved from an approach focused on legal institutions to one very much centred on the cultural dimensions of law, including the way it is embedded in social relations and cultural practices (thus very much echoing the debates of the 1940s within Anglo-Saxon legal anthropology). This approach opened up fertile ground for intersectional analysis, and in particular with regard to the way the law interacts with gender relations and categories – something that Françoise Héritier and Élisabeth Copet-Rougier (1990) explored in a pioneering study – as well as meticulous ethnographic studies of how the law is "made" – for example within the French State Council by Bruno Latour (2002).

Legal pluralism did not became a central research issue in Anglo-Saxon anthropology until a decade after the above debates in France (see Merry 1988; Fuller 1994), and somewhat typically, repeated many of the discussions and disputes that had taken place in the Francophone sphere. The 21st century, however, has seen a convergence of Anglo-Saxon and Francophone legal anthropologies around questions of human rights, and in particular how these rights are understood and implemented in different cultural contexts. By unravelling specific cultural understandings of rights, anthropologists such as Jane Cowen, Marie-Bénédicte Dembour, and Richard Wilson (2001) – a multi-lingual team – or Mark Goodale (2017) – an anglophone working in a francophone context –, among others, have sought to explore the processes that make human rights "real" around the world, and to understand the impact that such rights can have in practice. Some of the most influential studies within this area of scholarship include those by Harri Englund (2006) or Sally Engle Merry (2006) in the English- speaking world, and Francine Saillant and Karoline Truchon (2012) or Christoph Eberhard (2009) in the French-speaking world.

There exists a large body of studies of the law within both the Francophone and Anglo-Saxon anthropological traditions. We make no claim to have exhaustively reviewed them here. Rather what we wanted to highlight was the way that a number of similar themes have run through both traditions, including in relation to conflicts and conflict resolution, the constitution of social order, power relations, and legal pluralism. Similar approaches and currents have emerged at different times – legal pluralism gained prominence in France in the 1970s, while the concept became central in the Anglo-Saxon world towards the end of the 1980s, for example – or sometimes emerged simultaneously – such as the move towards an ethnographic cataloguing of different legal experiences in the 1930s – yet despite such overlaps, the two traditions rarely dialogue with each other. Having said this, as Fernanda Pirie (2013, 217) has noted, one thing that legal anthropologists within both traditions share is that they have generally avoided categorising their object of study too narrowly, rarely defining the term "law" and preferring instead to focus holistically on a range of processes and social norms that might or might not be strictly legal in nature. Yet how one defines the law is obviously critical to being able to adopt a perspective that privileges legal diversity both as an analytical approach and an epistemological practice.

What Is Law?

There exists a long-standing epistemological debate about the use of analytical categories to describe what the law is. This has been particularly salient in the Anglo-Saxon world, and first came to the fore in the 1950s in the form of an exchange between Max Gluckman and Paul Bohannan. In his work on *The Judicial Process among the Barotse of Northen Rhodesia*, Gluckman (1955) used the term "law" to refer to all the rules that Barotse judges drew on to make decisions, including regulations, norms, orders, customs, traditional usages, and habits. Bohannan (1957), on the other hand, argued in his research on *Justice and Judgment among the Tiv* that Gluckman had imposed an Anglo-American conception of the law on the Barotse. He drew an epistemological distinction between the Tiv's conception of the law, which he termed a "folk system", and his own, which he labelled an "analytical system". In his view, the Tiv had general rules of conduct, but they do not consider these rules to constitute a *corpus juris*, or a specific, identifiable, and discrete body of rules. Seen from this perspective, Bohannan argued, the Tiv had "laws" but no notion of "the law." Similarly, in the French-speaking world, Etienne Le Roy (1972, 98–99) distinguished between, on the one hand, "first-generation norms (political, parental, religious or technical) that have not, in their entirety, become a coherent juridical corpus" and "the law," arguing that "it is possible to deduce from a comparative analysis of their respective statuses, as well as the procedures for combining socio-political and technical acts, a set of significant recurrences that we can define as the specific ways in which norms are actualised and come to be considered as "legal". But these rules do not necessarily exist in themselves."

Another way of considering the question of what the law is, is to consider whether rules and norms are mandatory or not. Are they directives imposing obligations on members, or declarative principles reminding members of their commitment? In his study of the rules of the Franciscan order, the philosopher Giorgio Agamben (2011) pointed out that one way of posing the problem of the obligatory nature of a rule would be to study the nature of the obligation implied by this rule rather than the relationship between the rule and the principles underlying it. Is it *ad culpam,* with transgression implying mortal sin, or *ad poenam,* with transgression implying punishment but not mortal sin? According to Agamben, the existence of a rule depends on the ability of members to transgress precepts without committing a sin, provided that a penalty is established for their transgression. Only if there is a possibility of transgressing the rule, i. e., if there is a definition of penalties or sanctions, is the rule "penal." In other words, a rule has to be divested from a moral framework and associated with a sanction to become a law. A similar logic imbues the definition of the law proposed by Leopold Pospisil (1958, 272), who argued that laws are "rules or modes of conduct made compulsory on pain of penalty, enforced by a controlling authority."

Such a definition of the law emphasises the element of force and the institutional context within which compulsion is enforced and tends to promote a very monolithic notion of the law. Certainly, this is something that can be seen in anthropology's long association of the law with forms of social regulation, order, and control. For example, Malinowski (1926, 15), in *Crime and Custom in Savage Society*, established a strong link between law and social order. According to him, the law "consists of all the rules conceived and put in place as binding

obligations" – with a stress on the binding element of this definition. More than half a century later, Maurice Godelier (1982) made the same point in *La Production des Grands Hommes,* which explored relations of power and male domination among the Baruya of New Guinea, to highlight how the law constitutes a system through which to govern social interactions, that reflects broader power relations in society. As Fernanda Pirie (2013) has pointed out, this interest in order and regulation is by no means new, and can be linked to the work of Émile Durkheim, and in particular his *De la Division du Travail Social* published in 1893, in which he describes the law as a mirror of social life, with the role of ensuring respect for hegemonic beliefs, traditions, and collective activities (Durkheim 2007). Marilyn Strathern (1985), however, has criticised the idea that the law is essentially a matter of social control. In her view, the law cannot be linked only to conflict resolution and the imposition of order and control but has other, more symbolic functions.

As Mark Goodale (2017) has pointed out, this epistemological debate is ultimately rather sterile, as the law clearly does not have to be conceived as a monolithic phenomenon. More interesting from a definitional perspective are approaches that have adopted a non-essentialist perspective on the law, such as that proposed by Brian Tamanaha (2001, 155), for whom law is "what people identify and treat through their social practice as legal or judicial." Despite the risks of promoting a general relativism, such an approach opens up the possibility that there can be different forms of law, and a key issue in relation to this situation is how they relate to each other. In particular, the co-existence of different legal systems within a given context raises a number of questions. One answer within both Francophone and Anglo-Saxon legal anthropology has been to develop the notion of legal pluralism. Although it is often associated in the Anglo-Saxon world with the work of the anthropologist Sally Falk Moore (1973), and with Jacques Vanderlinden (1972) in the French-speaking world, the term was in fact coined by the German scholar Franz von Benda-Beckmann (1970) – as «Rechtspluralismus» – who used it to refer to the coexistence of two or more legal systems in a society. The notion corresponds to the different situations described in the articles in this special issue, where one or more legal systems – those associated with a gang, a group of thieves, or some other group – coexist with state law in the everyday lives of individuals. This suggests that in the final analysis the law is perhaps best seen as a bounded system of rules that does not necessarily have to be hegemonic.

At the same time, the notion of "legal pluralism" has also been challenged. John Griffiths (1986, 14), for example, famously criticised Jacques Vanderlinden for remaining at the level of "typification, explanation and justification of non-uniformity within state legal systems." For Griffiths, the law is simply the mode of self-regulation of any social field, and legal pluralism therefore just describes the way any multi-field society is organised. Sally Engle Merry (1988, 878–79), on the other hand, argues that it is important to draw a line between the law and social life, and to identify where rights intersect and overlap, as otherwise the notion of the law would simply dissolve into a generic notion of social order. At the same time, Simon Roberts (1998; 2005) points out that if we make the spaces of negotiation between different legal orders our central focus, there is a risk that the idea of the law will lose its analytical force, since embracing all normative universes as equivalents, tells us little about what we might want to know about them.

Towards a Pragmatic Approach to Law

Generally speaking, then, it can be said that anthropologists have tended to emphasise the diversity of the law, comparing the ways in which different societies deal with the question of order – including at a symbolic level – and describing the various ways distinct regimes can coexist. This has led to both the Francophone and Anglo-Saxon traditions of legal anthropology effectively adopting a heuristically porous definition of what constitutes the law (Pirie 2013). This can include informal norms, unwritten codes, customs, and habits in addition to formal laws and codified rules, that articulate together variably to encompass multiple areas of life and fulfil different functions. The law is thus understood as a technique of knowledge, that creates a group narrative, an intellectual system, and produces a way of thinking and inhabiting the world, as well as a form of social control, encoding power and social distinction, and "sorting society" (Melhuus 2012). The contributions to this special issue very much embrace such a holistic and general approach to the law, but do so explicitly through the experience of those who construct or suffer from the law, and more specifically through the lens of groups that are not usually considered through a legal anthropological perspective, namely groups considered "outlaw."

While anthropology has produced a large body of work on the law in its various forms, little research has been carried out on the relationship between the law as a heuristic category and outlaw groups such as gangs, mafias, or triads, among others. Most representations of such groups see them as outside the law, or in active opposition to the (State's) law, and therefore not actively contributing positively to anything approximating a legal system. However, even if this perception were true – and as we shall see, it is not – such groups would inevitably constitute potentially interesting vantage points from which to explore the question of the law, insofar as the reaction to a phenomenon is always revealing. But beyond this, there in fact exists a tradition of anthropological research on gangs and mafias that has actively associated them with the imposition of rules and norms – systematised or not – both within and without these groups (see for example, Contreras 2013; Feltran 2018; Gambetta 2009; Lamotte 2022; Rodgers 2006; Varese 2018).

Indeed, much contemporary research on gangs in Latin America in fact explicitly explores how gangs and other criminal groups manage conflict, impose specific rules and norms, and generally promote a form of "criminal governance" (Mantilla and Feldmann 2021). Rivke Jaffe (2013), for example, has described gangs as facilitating localised forms of "hybrid citizenship" in deprived neighbourhoods of Kingston, Jamaica, through their assumption of governance functions that the Jamaican state does no provide, including the provision of infrastructural services, jobs, financial loans, and even healthcare. Enrique Desmond Arias (2006) describes a similar situation in Rio de Janeiro, Brazil, where drug gangs settle local disputes, provide protection services, and maintain "rough" justice in the city's *favelas* neglected by the state. At the same time, however, Arias also points out that there can be close links between the Brazilian state and the gangs, and that often it is not so much that the state is absent from the *favelas,* but rather that it has chosen to withdraw and "outsource" the provision of public services to the gangs. Having said that, gangs can obviously also emerge in direct opposition to the state, as described by Jon Horne Carter (2022) in the Hon-

duran context, where he suggests that they impose an alternative "gothic" form of sovereignty compared to state sovereignty.

The determinants of this kind of "gang governance" (Rodgers 2021) are not well understood, partly because gangs are highly volatile social institutions, and "today's gang may become a drug cartel tomorrow, or even an ethnic militia or vigilante group the next day", as John Hagedorn (2008, xxv) has pointed out. This volatility means that any exploration of the nature of gang governance must inevitably approach the phenomenon in a dynamic and longitudinal way. In this regard, a major shortcoming of the literature on Latin American gangs is that the overwhelming majority of studies only offers synchronic, "snapshot" visions of gangs, as they exist at a specific point in time. This can be partly attributed to the intrinsic methodological difficulties associated with conducting primary research on gangs (see Rodgers 2018), but the few examples of longitudinal research that do exist have highlighted how certain key factors can critically affect gang governance. One of these is drug trafficking, for example, and specifically the "penetration" of drugs into the poor neighbourhoods within which gangs operate. This can have a transformative and even institutionalising effect on gangs, through the generation of greater and more sustained economic flows from drug dealing, as well as a result of turf wars over sales points and markets, and also by strengthening links between gangs and organised crime. In Nicaragua, for example, drug penetration shifted the activities of local gangs away from any sense of community service, social welfare, or self-defence towards more predatory and self-interested forms of interaction with their local communities (see Rocha 2019; Rodgers 2021). From a legal perspective, this can be seen as equivalent to a change in the legal regime associated with the gang, one might say.

What this brief discussion about gang governance highlights is the need to adopt a pragmatic anthropology of the law – in a manner analogous to Michel Naepels' (2011) notion of "a pragmatics of the political," which aims to consider the political as a practice rather than as a phenomenon. Very much in line with the latter, the aim of this special issue is not to propose a general theory of "the law" in the world of gangs and mafias, but rather to shift the normative focus on the law from its definition or a typology of its forms to the domain of action and practice – that is, to the description of what the law does and the ways individuals seize upon it, use it, are impacted by it as discourse and practice. This involves asking how the law is exercised, thought out, and constructed, by describing, for example, the systems of differentiation put in place by individuals, their objectives in using the law, or how they exercise power through it. Thus, as Fernanda Pirie (2013, 23) has pointed out, if the anthropological concept of the law is broad and indeterminate, the various examples put forward by anthropologists nevertheless clearly have more than a passing family resemblance to one another, and an anthropology that is interested in the law must be interested in it as a social form, and not just in the ideas, imaginaries, and cosmologies that it conveys and that give it meaning. To this end, this special issue brings together six cases that describe, in contexts usually deemed "criminal," the social life of laws that are usually seen as "outlaw."

What We Learn From Outlaws

The "laws of the outlaw" presented in the six articles in this special issue encompass a wide variety of situations and processes, which we will now discuss along four conceptual axes, formulated and illustrated on the basis of the articles themselves. These are law as regulation, law as a source of meaning, law as a historical process, and finally, the relationship between law and the State.

1) Law as regulation

One of the essential functions of State law is to regulate and manage social conflict, as many studies have shown. This is also the case of the law of outlaws, as Randol Contreras for example describes in relation to the law of the *Eme,* the Mexican mafia that controls the Californian prison system. It is this group that governs, controls, and regulates the lives of prisoners in Californian prisons, through the promulgation of a formal code. This code is associated with the use of force and violence, but its implementation has arguably also led to a reduction in murderous violence between inmates, to the point that Californian prisons can be said to be safer for the majority of inmates now than before the *Eme* came to dominate. In other words, the gang was able to impose a hierarchical organisation and make its rules apply to all prisoners, and thus bring order to everyday carceral life. Similarly, as Laurent Fourchard describes, the National Union of Road Transport Workers (NURTW), a Nigerian transport union, promotes a set of rules to control and organise urban public transport and road traffic. In particular, Fourchard shows how the NURTW's rules are used to discipline drivers and *agbero* – bus stations touts – whether they are union members or not. In this sense, the NURTW's law becomes a primary vector for regulating conflicts and organising everyday life, whether individuals belong to the organisation or not.

At the same time, the law also has a social sorting function, insofar as it makes it possible to define who is subject to regulation. This is what Marit Melhuus (2012) referred to with her concept of "sorting society," the use of the law to classify people into categories of belonging. This point is particularly salient in Maroussia Ferry's work on the Georgian *kurdebis* and their "law of thieves." The group is defined by the existence of an internal corpus of around twenty unwritten but relatively stable rules outlining a series of obligations and prohibitions originating in the Stalinist gulags and dating from the 1930s. Upholding these laws is what fundamentally distinguishes the *kurdebis* from other social groups in Georgian society. This kind of sorting function can also work internally, as Martin Lamotte describes in relation to the *Ñetas* gang in New York, where one faction of the gang used the codified internal laws of the gang to exclude an opposing faction and declare them *persona non grata,* following a "trial." A similar process can be seen in a more general way in early twentieth century Paris, where the "Apaches" – unspecified urban groups of working-class youth – were described by the authorities and the mainstream media as being "without faith or law", and thus "othered" in relation to State law and rejected or pushed to the margins of a Parisian society then in the throes of large-scale socio-economic change, as Jérôme Beauchez explains.

Finally, the law is also used to regulate subjectivities. The law can function as an intimate regulatory logic, controlling and shaping identities and moralities. This is what Martin Lamotte shows in relation to the *Ñetas* who, through a process of initiation and constant reflexive hermeneutic work on their laws, are led to make the rules their way of life, or in other words to model their lives on the rule. Randol Contreras describes the mirror image of this process when he highlights how opposition to the law of the *Eme* leads the members of the *Maravillas* gang to establish new moral values and subjectivities "in resistance." Thus, as Thomas Biolsi (1995) noted, the law becomes a central means through which power structures can reach the most intimate level of the individual and define the way people see themselves and their life possibilities.

The law of the outlaw could thus be said to be highly restrictive, but as both Fourchard and Contreras highlight, there also exist multiple forms of agency in relation to the way that the law is applied, both generally and in relation to specific individuals, which nuances such top-down perspectives. This is even more apparent in Chelsey Kivland's research on the relationship between *baz* and gangs in Haiti, and the way in which the former – informal organisations that are more community-based vigilante groups than criminal associations – take over certain practices of the latter in order to demystify and neutralise them.

2) The law as a source of meaning

The law is also a discourse and a practice that produces meaning. It is a system of meanings and interpretations that shapes the world, moralities, and communities. This feature is particularly clear in relation to the Georgian *kurdebis,* who organised themselves according to a definite code and morality in order to cope with the dramatic transformations during the period between the advent and fall of the USSR. They thus established a "legal culture," to use Ferry's term, which gives meaning to their existence, even when the law of the Georgian state directly attacks them and their codes. While the law of the *kurdebis* does not apply directly to their wives or daughters who were Ferry's interlocutors, they are intrinsically linked to it, and their lives shaped by it. This highlights how the law of the outlaw can reproduce and reinforce social distinctions not just within the group from which it originates but also the wider society. This role of signifier of the law can also be seen among the Ñetas, whose act of compiling their rules into a quasi-sacred book has directly promoted a sense of community within the group; indeed, the Ñetas explicitly and frequently refer to their laws and their codification, to the extent that it is without question one of the central pillars of their collective identity. At the same time, a form of community-building can also result from being excluded or opposing the law, as the *Maravillas* who opposed the *Eme* and refused to follow its rules tragically experienced.

Linked to this, Mark Goodale (2017) notes the crucial link between law and myth. In many ways, the Ñetas are constantly rewriting their origin myth, that of their founding father imprisoned in Puerto Rico from whom's life they derive their 25 laws, when they inscribe, mobilise, and make use of their law. Similarly, the Georgian *kurdebis* refer to their past in the Stalinist gulags and to the pre-existence of their rules to those of the contemporary Georgian

state that they are in conflict with to establish their legitimacy, as well as construct some of their social practices. Such myths of origins, traditions, histories, and ancestors are effectively reified and mobilised through the law to construct a moral community. In another sense, however, the law is also a discourse about truth – whether moral, social, or political. This is how the law is mobilised among the Ñetas, but also within French bourgeois society at the beginning of the turn of the 19ᵗʰ century, in relation to labelling who were the "Apaches." At the same time, the law can also produce a "distortion of reality" (De Sousa Santos 1987), for example when the NURTW in Nigeria during the 1970s referred to the fact that it had a system of internal laws to project the impression of the organisation's legality in a context of where state law was suspended following a coup and the organisation banned. Seen in this way, as Merry (2006) points out, the law produces technologies of knowledge that seek to produce "truth." Or, as Barkun (1968) put it, the law provides a kind of symbolic grammar on the basis of which reality can be constructed or promoted. The law, thus, offers a distinct way of imagining reality and a particular vision of community. It enables a community to create meaning and is not simply the reflection of shared social norms. As a result, the law provides much more than just a means of regulating conflict; it can be said to generate meaning (Geertz 1983).

3) Historicising law

If the law is a discourse, it is also a form of history, and its use by the outlaw groups studied here needs to be historicised. This is particularly crucial in contexts where the actions of the latter are seen through the prism of an absent or failing state, and outlaw groups provide a form of informal, alternative governance. As Fourchard highlights in relation the NURTW in Nigeria, the risk of such analyses is to transform a historical process or specific situations into an ontological essence, and to flatten the reality of power. An approach to the law in terms of the production of meaning should not blind us to the centrality of power in this process. All the articles in this special issue show the centrality of power in thinking about the law, and the importance of describing its many facets and cumulative accretion. In particular, they highlight how the law has as much to do with repression as it does with imagination. So the story told by the Georgian *kurdebis* needs to be criticised, or at least contextualised, in order to understand the mythologising upon which the morally-charged notion of "thieves in law" is based, and how this historical construction provides them with authority and legitimacy. In this sense, the law can be a powerful system of self-validation. The law is thus linked to many different types of power relations, whether because it is the product of classes (Beauchez) or social hierarchies (Fourchard), whether because its application or invocation reflects a particular social context (Lamotte, Ferry, Kivland), or simply because the law itself and the way it is applied represent a form of power (Contreras).

4) The law against the State

The articles in this special issue all highlight that there often exist particular arrangements between outlaws and the State, which have an impact on the way the laws of the former are taken into account, negotiated, or compete with State law. For the most part, the law of the outlaw is constructed in opposition to the State. It can be constructed or exist in a conflict of legitimacy with the State, as is the case of the Georgian *kurdebis'* "law of thieves," which they present as competing with Georgian State law, and more specifically by highlighting the failings of the latter in order to discredit it. At the same time, to exist in opposition to the State is also to exist in relation to it, and there are other situations when the law of the outlaw is based on or co-constructed in negotiation with that of the State. This is the case of the NURTW in Nigeria, which frequently seeks to suspend State law in order to apply its own laws instead, while at the same time justifying some of their practices in terms of State laws – around taxation, for example – and at other times seeking to integrate transgressions of State laws – e. g. police corruption – into a general framework of legality. Thus, the law of the outlaw is, in this case, co-produced on a daily basis and in multiple ways by both the NURTW and State institutions and officials.

This is also the case with the law laid down by the *Eme,* which can be seen as part of a system of "co-governance" (see Weegels 2018) with the State of the Californian prison system. Certainly, Contreras describes how the State effectively accepts the *Eme's* control of its prisons, partly because of the reduced levels of carceral violence it has led to. At the same time, Contreras also shows how the negotiations for such forms of co-governance almost inevitably become multi-party. The *Maravillas* gang's opposition to the *Eme's* law highlights how a co-constructed system of prison governance needs to be followed by all prisoners, not just members of the *Eme.* To this extent, a plural legal system is co-produced by a multitude of different actors, both directly and indirectly.

In this respect, one of the key elements that emerges from the articles in this special issue is the permeability and transversality of the law, since in several of the cases presented, the law extends beyond the criminal group and comes to be applied in other contexts. This is the case of the law of the *Eme*, which is not only applied and enforced within prisons in relation to all prisoners, but also has an impact outside prison, on the streets of Californian cities, as a means of containing and controlling the drug trade, among other things. Similarly, Georgian *kurdebi* law also applies to certain non-*kurdebis,* including in particular their wives and daughters, as Ferry highlights. In Nigeria, NURTW law comes to be applied in collusion with the State, in a form of co-production, and is often exercised through the police, while in Haiti, the *baz,* the gangs, the Haitian state, but also the American state, and more specifically its deportation regime, impact on each other, forcing constant changes – of order, of relationships, of understanding, of social practices. Seen from this perspective, what the articles in this special issue all show is how the law of the outlaw is always constructed against, influences, or imposes itself on State law – and other laws, but never exists in isolation. Indeed, in the Nigerian context, Fourchard even goes so far as to suggest that there is no clear separation between one legal system and the other, suggesting that the idea of legal systems existing plurally and independently needs to be nuanced.

Concluding Thoughts

Thinking about the relationship between law, order, coexistence, and the superimposition of the law of the outlaw and State law makes it possible to decentre our approach to the law and brings to light a whole series of nuances. These are often very different depending on the legal anthropology traditions within which researchers operate, however. The Anglo-Saxon and Francophone traditions draw on different references, and offer distinct epistemo-ontological perspectives, for example, as the articles in this special issue illustrate well. At the same time, the latter also share a number of commonalities and insights. In different ways, they all show how the law as a form of production of meaning is accompanied by a variety of techniques for regulating conflicts and constantly renewing positions of power within specific contexts. They also describe various forms of negotiation, competition, and rivalry between different bodies of law and the groups they are associated with in situations that are simultaneously marked by dynamics of co-production and competition of meaning, order, and legality. As such they highlight how laws developed in the specific and restricted context of outlaw groups can be both permeable and adapted to the context within which these groups operate, opposed and connected, and sometimes even invoked and mobilised by other groups – including the State. Seen from this perspective, the law can be said to be a practice that promotes a certain form of social stability, but is also simultaneously traversed by a certain ambiguity, an instability, as well as multiple forms of violence, power, and domination that are often independent of the legal systems and laws that they help to put in place. The contributions also make it clear that this is the case in relation to both outlaw groups and state structures, suggesting that the "law of the outlaw" perspective that we have put forward here – and which is shared by both the Francophone and Anglo-Saxon legal anthropological traditions – could potentially be a uniquely fruitful shared focus through which to collaboratively rethink what the law is more broadly.

Acknowledgements

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