

Foreword

FROM THE CONFERENCE EDITOR

Following the Birkbeck Law Review's Annual Conference in September 2017, this edition of the Law Review explores the connections between the urban and the legal: how law shapes the city in multiple dimensions—materially, socially, politically (if these things can be considered in any way separate)—and how law limits what the city and what social life could be. While I will not review at length the contents of the papers—they speak for themselves—I will, for posterity, briefly situate the questions and themes underpinning this conference to aid exploration of the scholarship that emerged in response to it.

Although law's 'spatial turn' is flourishing¹ and an urban focus plays an significant constituent of this, we suggest that lawyers, for the most part, fail to think about the urban with any particular rigour. In most legal thinking, the urban is merely another 'context' in which law operates, and while of course the specificities of urban life may present particularities for the operative dynamics of legal thought and application in some instances that require the lawyer to really think through the urban conventional legal thought is not particularly bothered by the city; certainly no more than any other 'context' in which law operates. Indeed, modern law is premised upon the idea that law is abstract, divorced from 'context', operable over any space, thing or subject regardless of its characteristics or specificities.²

This is a problem if critical legal thought is to be 'critical'. While it has become a cliché in urban studies talk, it is worth repeating: more

¹ See, inter alia, Andreas Philippopoulos-Mihalopoulos, *Spatial Justice: Body, Lawscape, Atmosphere* (Routledge 2014); Chris Butler, 'Critical Legal Studies and the Politics of Space' (2009) 18 Soc Leg Stud 313; Irus Braverman et al (eds), *The Expanding Spaces of Law: A Timely Legal Geography* (SUP 2014).

² In the context of property law, Nicole Graham provides a critical exposition of 'dephysicalised' law: Nicole Graham, *Lawscape: Property, Environment, Law* (Routledge 2011). See also Fritjof Capra and Ugo Mattei, *The Ecology of Law: Toward a Legal System in Tune with Nature and Community* (Berrett-Koehler 2015).

than half of the world's population now live in an urban environment, and this is only going to increase.³ The totalising planetary urbanisation suggested by Lefebvre, which we reproduced in our Call for Papers, is a reality. The nature, dynamics and potentials of planetary urbanisation converges with the concerns of critical legal thought. This is true in multiple senses, but I want to highlight two. The first is the inadequacy of the global urban condition. While an urban world might conjure up images of the gleaming metropolis, the reality of urban existence for hundreds of millions of people is unsafe and unaffordable housing cut off from locations of employment, often coupled with lack of or inadequate access to essential resources such as water or sanitation. Within ten years' time, it is predicted that 1.6 billion people in urban environments will live in overcrowded, unaffordable, inadequate (and potentially unsafe) housing.⁴ The second is how law and power are exercised not merely 'on' space but through urban space, and the novel techniques of dispossession and capital accumulation visible in so many ways depend on legal articulation.⁵ Critical legal thinking, then, which is rightly concerned with questions of power and emancipation, cannot posit the urban or space as merely 'context'.

Moreover, urban dynamics weave through so many of law's questions, and cut through many of the respective areas of legal analysis: environmental law, public law, property law and, of course, planning law, to name but a few. To that end, UN Habitat now talks in terms of 'urban law' as a distinct 'legal category'; but given the critiques of this agenda,⁶ we should not cede away defining questions

³ Mike Davis, *Planet of Slums* (Verso 2006); Danny Dorling, *Population 10 Billion* (Constable & Robinson 2013).

⁴ McKinsey Global Institute, 'A Blueprint for Addressing the Global Affordable Housing Challenge'; Steffen Wetzstein, 'The Global Urban Housing Affordability Crisis' (2017) 54 *Urban Stud* 3159; on the issue of housing in particular, see also Stuart Hodgkinson, 'The Return of the Housing Question' (2012) 12 *Ephemera* 423.

⁵ Work on different examples of this include Rafi Segal, David Tartakover and Eyal Weizman (eds), *A Civilian Occupation: The Politics of Israeli Architecture* (Verso 2003); Neil Gray and Libby Porter, 'By Any Means Necessary: Urban Regeneration and the "State of Exception" in Glasgow's Commonwealth Games 2014' (2015) 47 *Antipode* 380 and Nathan Moore, 'Pre-emptive Value', this issue.

⁶ E.g. Susanne Soederberg and Alan Walks, 'Producing and Governing Inequalities under Planetary Urbanization: From Urban Age to Urban Revolution?' (2017) *Geoforum*.

of what ‘urban law’ might mean, nor abandon critique of this move. Any ‘category’ of urban law must be critical.

On the other hand, urban studies and geography has produced profound engagements with the nature of urban life and its generative capacities, but, like the lawyer’s failure to properly think the city, urbanists, for the most part, do not engage with law beyond its significance as a mere ‘factor’ in urban production, governance and everyday life. Again, this is not to underplay important exceptions to this from urbanists that have examined the urban and the legal together.⁷ Law plays a significant role in the production of urban space which is often not considered in urban analysis—from the grand proclamations of constitutional law to the relatively banal machinations of municipal law.⁸ Indeed, the domains of law that are most present in our urban existence are likely to be that of local government in its powers of planning, zoning, licensing and policing. In this jurisdiction, law is more likely to manifest itself to us in the city in a Public Space Protection Order, with profound power to govern the minutia of everyday urban life, rather than in an imagined grander form.

The papers here, in their respective ways, mark a further contribution to thinking through law and the city’s entwinement. They apprehend the legal and the urban together, as mutually constitutive, treating neither ‘law’ nor ‘the city’ as mere context to the other. Returning to the disciplinary entrenchment of this journal, critical legal thinking, if it is concerned with power and emancipation, must be able to ‘think’ the city fully; be able to apprehend how law is exercised not only on space but through space, and to consider questions of power and emancipation through their linkages with the urban. These papers, we think, make an important contribution in this respect.

Naturally, this event was the product of significant help from multiple sources. The Editorial Board wishes to thank the generosity

⁷ Such as Nicholas K Blomley, *Law, Space, and the Geographies of Power* (Guilford Press 1994); Braverman et al (n 1).

⁸ Mariana Valverde, *Everyday Law on the Street: City Governance in an Age of Diversity* (University of Chicago Press 2012).

of Birkbeck School of Law for funding this conference. We are particularly grateful to Stewart Motha for his support.

We express our thanks to all those who presented their work, especially the significant number who travelled from abroad. This resulted in a valuable comparative perspective. Particular thanks to our keynotes: Mariana Valverde, who opened the event, and Anne Bottomley, who, struck down by flu on the day, opens this Conference Edition for us now.⁹ Thanks to Abigail Jackson, Swastee Ranjan & Julius Colwyn for their participation in a roundtable discussion of Andreas Philippopoulos-Mihalopoulos's work—the importance of which we wished to consider in the proceedings.

Finally, as Conference Editor, my thanks to the entire Editorial Board of the Birkbeck Law Review for their support and hard work in planning and executing this event. In particular, thanks to Hysha Smith, Emily Gibson and Charles Shaw, who all went above and beyond to make this conference event a success.

Harley Ronan
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⁹ An audio recording of Valverde's keynote is available on the Birkbeck Law Review website <<http://www.bbklr.org/2017-law-and-the-city.html>>.