INTERNATIONAL LEXICON OF AESTHETICS

Autumn 2020 Edition, ISSN 2611-5166, ISBN 9788857570020, DOI 10.7413/18258630100

LAWSCAPE

By Andreas Philippopoulos-Mihalopoulos

(First published November 30, 2020)

It. Normorama; Fr. *Lawscape*; Germ. *Lawscape*; Span. *Lawscape*. The exact origins of the term lawscape are not easy to establish, though it appears to have been independently applied in academic work across continents. The first example I am aware of took place in 1987 at a mock trial in Atlanta, Georgia, where the term implicitly referred to the always already proliferation of legal norms in which a new lawyer inevitably lands. The term was used as a criticism with a strong ironic and even comic element (Goodwin Dunleavy 1994: 259). In Australia, Nicole Graham published in 2011 a monograph with the term on the title, dealing with the spatiolegal in the Australian countryside (Graham 2011). I first used the term in 2007 (Philippopoulos-Mihalopoulos 2007), having encountered it whilst cycling in Copenhagen and feeling surrounded (while at the same time embodying) a net of traffic regulations.

Since then, the term evolved both through my writing and in the way my initial ideas have been taken up and developed by other scholars. When I first suggested the term *lawscape*, my focus was the connection between law and the city, and especially the variety of urban lawscapes across jurisdictions. I now define the lawscape as *the way the tautology between law and space/matter unfolds as difference* (Philippopoulos-Mihalopoulos 2014). This means that we already start with a presupposition: that law and space/matter are identical. For what is space without law or law without space? Space without law can only be this fetish of absolute smoothness, the absurdity of a holy city of justice (which, theologically refers to society as a whole), perpetually floating in a post-conflict space where everything is light and forgiveness. Likewise, a law without space is a law without materiality, this other fetish (this time of legal thinking) that considers law to be a universal, what? Thing? Breath? Divine will? Act of violence? Both law without space and space without law are fantastic beasts that operate at best as horizon and at worst as cheap rhetoric. Law as an abstract universal, free from the constraints of matter and bodies and space is one of the illusions that law itself (and some strands of legal theory) insist on maintaining. Law as control is by necessity material (meaning spatiotemporal and corporeal), for it is only through its very own emplaced body that the law can exert its force. Law comes nowhere but from within the controlled, their bodies of appearance and the

corridors on which they move, as Foucault's work and subsequently postcolonial theory has taught us (Bhabha 2005).

Law in the lawscape is not just the standard, written law. In this context, David Delaney refers to the nomospheric juridification that readily converts rules of social behaviour into illegal actions (Delaney 2010). Law in the lawscape is what Spinoza calls *rules for living* and what has been variously understood as the normativity of the everyday, legal cultures, the production of norms that are not 'strictly legal' yet contribute to the production of the law, and so on (Sarat 1990; Nelken 2012). The law in the lawscape is co-determined with the space between bodies (as in a social interaction or a multinational treaty or the slavery trade); the space that is produced and is occupied by bodies; the movement of bodies; the desire of bodies; and the withdrawal of bodies for another law.

Space in the lawscape is the continuum of material and immaterial bodies that includes humans, nonhumans, linguistic bodies, disciplinary bodies, buildings, objects, animals, vegetables, minerals, and so on. Bodies are not just *in* space but *are* space. Bodies are always collectivities, assemblages that include human and nonhuman elements. Just as a body, an object is already functionalised, normalised, never independent of its normative position in the world. In that sense, human, natural, artificial bodies come together in determining and being determined by the law. This expansive and diffused form of law is not necessarily a good thing. Its flipside is that it might easily act in compliance with the current surveillance culture. A diffused law takes few risks and delegates conflict resolution to what it considers to be higher levels of judgment-making – indeed, a sort of guardian authority that pursues efficiently the individual interests of its subjects: we are happy to be in a 'nanny state', we are not concerned about the problem of political apathy. The more diffused law is, the easier it is to engineer it in ways that, on the one hand might cover specific needs, such as issues of belonging, constructions of home and community, as well as emplacement; and on the other, encourage legal subjects to recede from actively questioning the law (complacency or reassurance).

FROM EPISTEMOLOGY TO ONTOLOGY

On an epistemological level, the link between space and law is tangible: the one operates as a means of better understanding the other, or at least certain aspects of it. Thus, law's obsession with naming, categorising, organising and 'tidying up' is revealed in the fact that space, despite its elusiveness, somehow 'works': whether through property regimes, state boundaries, zoning etc, space allows bodies to move in a certain way (while no doubt impeding them too). Conversely, spatial acentricity helps visualise law's materiality, especially its relation to violence, its attempt to control power struggles, and its role in the process of capital production and consumption (Lefebvre 1991) Seen through a spatial lens, law's presence is magnified to a deafening extent: planning restrictions, environmental regulations, zoning, social control, borders between private, public and restricted access areas, pavements, roads, traffic lights, metro barriers, flow of people, headscarves at schools, hoods in shopping malls, power architecture and landscaping, are just a few of the lawscaping moments. Space renders law's presence concentrated and

overt, in close contact with the production, consumption and disposal processes (Bauman 2003: 106). Space is the great testing ground for law, its loudspeaker and its gaming table. And, in turn, the law is space's measure, the (in)flexible, (un)reliable metallic ruler that makes its presence felt through inches and centimetres of propinquity and distance, determining identity and difference. Law is the regulator of spaces between places, connecting and severing bodies.

From noun to verb, lawscape is always a process. The act of *lawscaping* is the immanent process of the lawscape that in/visibilises space and law depending on the conditions. *The lawscape is the interplay of in/visibilisation between law and space*. Law and space are in a constant process of negotiation of in/visibilisation. In/visibilisation happens in degrees. *Neither law nor space disappear fully from the lawscape*. This is the *atmospheric* ambition of the lawscape. Let me put it simply: every lawscape, when it grows up, wants to become an atmosphere. For my purposes, an atmosphere is where the law becomes invisibilised and in its stead a space free from obligations and duties emerges. This is of course a fragile, artificial homeostasis.

Until then, the lawscape regulates its chiaroscuro of in/visibilities according to its needs. These needs are not transcendental but immanent: the lawscape is not here to maintain some sort of public order. The process is not a top-down imposition but a negotiation that rests on explicit and implicit desires. Thus, law can be visibilised when disciplinary conditions need to be enforced more stringently; or, space becomes more visible when consumerist or leisure practices need to be encouraged. In/visibilisation is an ontological feature of both law and space, since it allows them both to carry on with their self-perpetuating myths. Law's myth of universal applicability is needed in order for the law to deal with questions of identity, disciplinary distinction and so on. Likewise, space is mythologised as *accueil* of difference in the form of a new land of opportunity and supposed freedom; as multipolar, which conceptualises 'private' or 'place' as free from legal intervention; as exoticised and sexualised; as the breeding grounds of communitarian nostalgia, or indeed as the healing locus of escapism. The list can go on. The point is that these are self-perpetuating myths on both sides which, in order to carry on having some purchase, they must engage in the process of in/visibilisation.

In/visibilisation allows the perpetuation of control over bodies and spaces. Following Foucault, one would say that the lawscape is part of a political technology of the body that invisibilises the law, and is subsequently shaped as (spatialised forms of) disciplinary institutions within the sphere of public morality (Foucault 2003a). This is not, however, the ultimate purpose of the lawscape. Control is a by-product of the *conative* trait of the lawscape. The lawscape is not a tool in the service of the elite but a diffused ontology of desire that cannot be controlled centrally. This is not to contest the incontestable, namely that bodies are controlled by stronger bodies, in the form of disciplinary institutions, corporations, political elites and so on. Nor to say that the lawscape is flat, or indeed fair. But it is important to remember that there is no one sovereign power deciding on the state of in/visibilisation. Panopticon's central point has been replaced by a multiplicity of bodies, controlling each other, limiting each other's ability to move or pause. This is what Foucault means when he notes "the emergence, or rather the invention, of a new mechanism of power possessed of highly specific procedural techniques…which is also, I believe, absolutely incompatible

with the relations of sovereignty.... It presupposes a tightly knit grid of material coercions rather than the physical existence of a sovereign" (Foucault 2003b: 35-36). This grid is no other than the embodied and spatialised lawscape. The difference is that the lawscape regulates not only its constituent bodies but its own lawscaped and lawscaping body. This is an ontology of both invention *and* emergence.

Thus, in/visibilisation is not just a game on the side but the lawscape's only mechanism of ontological continuation: its ultimate purpose. Thus, a fully legal lawscape is the place where K arrives in Kafka's *The Castle*, full of procedural labyrinths, representational nooks and crannies, loomed over by a towering sovereign in whom all originates and to whom all ends. Now, there is no doubt that most spaces are fully legal spaces, part of the spatiolegal continuum. But they are cleverer than this. They have learned to dissimulate their legality, even to make it hyperpresent. *The Castle* becomes *The Truman Show*. One *desires* invisibilisation. A lawscape whose law is constantly visibilised is a panopticon of a Benthamite fragility: a visible spatiality *and* a visible law allow no space from which either of them is to be *seen* (Brighenti 2010).

A final clarification: despite its etymological connotation, the lawscape is not about the visual. There is no human looking here. This is a distinctly posthuman, post-phenomenological understanding. It is not a question of epistemological choice but of ontology. Clare Colebrook writes: "The very eye that has opened up a world to the human species, has also allowed the human species to fold the world around its own, increasingly myopic, point of view. Today, we might start to question the appropriate point of view from which we might observe and evaluate the human viewing eye: from our own greater will to survive, or would it not be better to start to look at the world and ourselves without assuming our unquestioned right to life?" (Colebrook 2014: 24). The human eye becomes just one of the apparatuses of in/visibility in an expansive lawscape, decentred and fighting for its conative perpetuation just as any other apparatus. One of the possible emerging lawscapes is a lawscape after the extinction of the human. In the era of the Anthropocene, a lawscape without humans is a distinct future possibility.

BIBLIOGRAPHY

Z. Bauman, Liquid Love, Cambridge, Polity, 2003 (orig. ed. 2000).

H. Bhabha, The Location of Culture, London: Routledge Classics, 2005.

A. Brighenti, *Visibility in Social Theory and Social Research*, Basingstoke, Palgrave, 2010.

C. Colebrook, *Death of the PostHuman: Essays on Extinction*, Vol. 1, Ann Arbor (MI) Open Humanities Press, 2014.

D. Delaney, *The Spatial, The Legal and the Pragmatics of World-Making*, London, Routledge, 2010.

M. Foucault, *The Birth of Clinic*, London, Routledge Classics, 2003a (orig. ed. 1963).

— *Society Must be Defended: Lectures at the Collège de France, 1975–1976*, New York, Picador, 2003b (oirg. ed. 1976)

P. Goodwin Dunleavy, *Professionalism – A Mock Trial: People of Georgia v. the Modern Lawyer*, "Journal of Southern Legal History" 3 (1994): 257-96 (orig. ed. 1987).

N. Graham, *Lawscape: Property, Environment, Law*, London, Routledge, 2011.

H. Lefebvre, *The Production of Space*, Oxford, Blackwell, 1991 (orig. ed. 1974)

D. Nelken (ed.), *Using Legal Culture*, London, Wildy, Simmonds & Hill Publishing, 2012.

A. Philippopoulos-Mihalopoulos, *In the Lawscape*, in A. Philippopoulos-Mihalopoulos (ed.), *Law and the City*, London, Routledge, 2007.

— *Spatial Justice: Body Lawscape Atmosphere*, London: Routledge, 2014.

A. Sarat, "*… The Law is All Over": Power, Resistance and the Legal Consciousness of the Welfare Poor*, "Yale Journal of Law and Humanities" 2/2 (1990), 343-80.

HOW TO QUOTE THIS ENTRY

A. Philippopoulos-Mihalopoulos, *Lawscape*, "International Lexicon of Aesthetics", Autumn 2020 Edition, URL = https://lexicon.mimesisjournals.com/archive/2020/autumn/Lawscape.pdf, DOI: 10.7413/18258630100.

Please note that this URL is fixed, since it belongs to *ILAe*'s archived edition. This allows readers to quote a stable document for academic purposes.

This entry also belongs to the first volume of *ILAe*'s printed edition. Each issue of this edition collects *ILAe*'s Spring and the Autumn online editions per year. The proper reference of the printed edition is:

A. Philippopoulos-Mihalopoulos, *Lawscape*, "International Lexicon of Aesthetics", Vol. 3, Milano, Mimesis, 2021.