

Altonaer Stiftung für philosophische Grundlagenforschung

Geographies of Law: Power, Space, Border

16th - 18th May, Hamburg

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‘Jurisdictional accumulation and struggle: the geographical and political limits of transhistorical concepts’

This contribution explores the potential of the concepts of jurisdictional accumulation and jurisdictional struggle. By using the lens of jurisdiction - both the expansionist enunciation of power *and* its defined limits - I argue it is possible to combine geographical and political analyses of transhistorical legal relations as contested social property relations. In other words, contested social property relations constitute the basis of analysis for shifts between (geographically and politically constituted) legal orders. The benefits of this approach lie mainly in avoiding the traditional dichotomies between legal actors and orders (dominant and dominated, civiliser and civilised, developed and developing, etc.), by focusing on the transitional and transhistorical processes that define those dichotomies. However, limits to the use of these concepts must also be explored. To do so, I use two examples. The first is presented here as background to the approach and refers to analyses of state formations and transitions between international legal orders since early modernity, in Europe and its colonies. These transitions are analysed through the process of extraterritoriality as constitutive of the emergence of public international law and the modern states system. The history of this strategy of expansion as both jurisdictional accumulation and struggle reveals alternative trajectories of power. As sovereignty is expanded, reproduced, limited or negated, extraterritoriality offers a new angle through which to explain transhistorically conflicts over the appropriation of territory.

Of more concern here is the second example. Here I more tentatively examine the contemporary limits of these concepts through the terms and practices of the ETO Consortium. This is a network of international lawyers, NGO workers and academics, which defends the universal and extraterritorial application of human rights, and specifically, of Economic, Social and Cultural Rights. *Prima facie*, the aim is to re-appropriate the concept of extraterritoriality to build a global order based on human rights and state obligations rather than an ad-hoc transnational order based on the homogenisation of Western legal systems. Are these practices breaking ground and signalling a shift in the international legal order (e.g. bypassing the jurisdiction of states by creating new rights such as the ‘right to land’ to combat land grabbing), or are they an alternative manifestation of the expansion and homogenisation of Western legal systems? In other words, are they indicative of socially-generated jurisdictional struggles or a jurisdictional metamorphosis of capitalist accumulation? If a political and geographical approach towards jurisdiction is useful here, this example also highlights the dangers of reproducing transhistorical concepts and arguments. Instead, it is crucial to examine orders and transitions on their own terms and in their specific contexts.

