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Legal Disruptions. Reconciling Dissent or Dissenting Reconciliation In and Through Law?

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Abstract:

The edited volume *Rancière and Law* by Mónica López Lerma and Julen Etxabe collects a set of approaches to thinking about law and legal problems via the work of Jacques Rancière. Rather than bringing together his explicit statements on law, they try to transfer his way(s) of thinking to the field of legal theory. Here special attention is drawn to Rancière's differentiation of "police", as a certain fixed order, and "politics", as acts disrupting this order. Without placing law on one of these sides exclusively, instead its ambiguous state between these opposing strands is delineated in various attempts, ranging from case studies in the history of ideas to the field of aesthetics. Thus, the volume sheds an original light on legal problems and inner conflicts developed through a Rancièrian lens.

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López Lerma, Mónica & Julen Etxabe (eds.): *Rancière and Law*. Abingdon, Oxon/ New York: Routledge, 2018. 209 pages, 115 GBP. ISBN: 978-1-138-95513-4.

Abstract:

The edited volume *Rancière and Law* by Mónica López Lerma and Julen Etxabe collects a set of approaches to thinking about law and legal problems via the work of Jacques Rancière. Rather than bringing together his explicit statements on law, they try to transfer his way(s) of thinking to the field of legal theory. Here special attention is drawn to Rancière's differentiation of "police", as a certain fixed order, and "politics", as acts disrupting this order. Without placing law on one of these sides exclusively, instead its ambiguous state between these opposing strands is delineated in various attempts, ranging from case studies in the history of ideas to the field of aesthetics. Thus, the volume sheds an original light on legal problems and inner conflicts developed through a Rancièrian lens.

As a part of Louis Althusser's course on Marx and as a contributor to the resulting volume *Reading Capital*, Jacques Rancière gained some attraction in the humanities and social sciences as early as the late sixties. Even more so in the nineties, when he came up with his unconventional differentiation of "police" and "politics", which connects political questions with those of visibility or exclusion. Considering what he calls a "police order" as the dominant "distribution of the sensible", while "politics" – far from our everyday language use of e.g. party politics – is a disruption of this order in the name of equality, he is concerned about those who are not seen or have no part in this dominant order and their claims for equality. Given this frame of a stabilized order and disruptive politics, the question might arise where to locate law here.

This question is a key concern for the volume *Rancière and Law*, edited by Mónica López Lerma and Julen Etxabe. The volume collects nine contributions that each aim to intervene in the field of legal theory or philosophy by using ideas of Rancière to develop an innovative perspective on law. Thereby

the intention is not to collect direct statements on law in his work but rather to “rethink law through the help of Rancière” (p. 2). In four subsections, discussing topics of method (1), rights and subjectivity (2), politics and constitution (3), and finally the relation of law and aesthetics (4), legal issues are viewed from different angles, while Rancière’s distinction of police and politics runs like a common thread through all the contributions (with more or less weight).

The very first contribution, by Etxabe, concerned with methodological questions and the “dramaturgy of law” (p. 17) in Rancière’s works, points to two central issues of the whole volume: First, law’s ambiguous standing between police and politics, as it takes part in defining and guarding the given order but at the same time is open for struggles – *in* and *about* law. Not reducible to pure legalism, law is challenged and can as well be altered from within (p. 28 f.). Second, we therefore need to extend our focus on law, as it is not just a matter of a collection of rules put into practice by neutral actors, but of attention that must be drawn to the situation, to the “third thing” (p. 36) between the parties and the judge in a trial, briefly to the legal “scene” and the dramaturgy of law.

This draws a bow from the first to the last section of the book, where the relevance of aesthetics and cultural studies for scrutinizing legal problems is re-emphasized. From three different angles, Petr Agha, Wayne Morrison, and Mónica López Lerma measure these intersecting fields of legal and cultural studies, where beyond dogmatic visions of law, with art and through its analysis, an ideology-critical stance can be developed. This is shown in the examples of street art (Agha) where a police order is challenged from within, as the participatory structure of street art undermines the normative representation of public and monumental art that seeks to structure places and frame a normative discourse. The police order is disrupted from inside as street art has the potential to shift visions and build common stages (a scene, as Etxabe framed it), “born out of dissensus” and “based not on normative frameworks, but (...) founded upon (visual) uncertainty” (p. 163).

The two further examples by Morrison and López Lerma deal with the relation of constructing and criticizing (meta-)narratives with and through films. While López Lerma analyses the film *No Habrá para los malvados* (*No peace for the wicked*), sketching it as an aesthetical intervention to the dominant discourse on security and justice, Morrison reviews the use of films in the Nuremberg trial, aiming to challenge the seemingly undoubtable civilizing effects of law. This is especially interesting as the dramaturgy of the trial introduces a self-legitimation of law: the judges claim to judge in the name of civilization on those subjects, who are threatening the whole civilized order, as they set themselves outside of it by acting radically evil. In a more dialectical view, Morrison confronts this statement with the fact that law is not always civilizing, but that the persecution of Jews in national-socialist Germany has been legally backed and that that radical evil embodies rather the flipside than the outside of “civilization” (p. 179 f.).

Between this bow of constellations in the field of law, culture, and aesthetics, there are no less valuable contributions discussing the relation of Rancière to key thinkers in the field of law, rights, and politics, such as Hannah Arendt (Hirvonen, Frost) or Carl Schmitt (Mikkinen). Others fathom the relations of law and politics, thus recapturing the pre-legal or at least the extra- (and counter-) governmental stance of the *demos* (Heinze), promoting a political conception of human rights (Hirvonen) or making use of law as a scene of dissensus: “Law is a tool used, not an order given.” (Lindroos-Hovinheimo, p. 85) All in all, there are strong positions developed that break with the unilinear identification of law and police order, pointing towards progressive moments of law while nevertheless keeping in sight its coercive side.

Whereas, at first glance, the volume seems to (maybe too) strongly revolve around the division of police order and politics, it proceeds to sharply develop important axes of action/perception, subjects/spectators, and oppressive/emancipatory elements of law, as well. The deeper one dives into the core of Rancière’s theory the more notions of the police/politics-paradigm are revealed. Although the borders between law and politics seem sometimes blurred here, and the latter appears in some places to be even more focussed, important insights into the Rancièrian understanding of law are certainly shaped out. The volume furthermore underlines the relevance of cultural studies and aesthetics for the study of law in Rancière’s perception of law and beyond that for legal theory as a whole. This is not just in the framing sections but in most of the other contributions, as well, where not only the protagonists and their actions but always, too, the spectators and the role of perception are viewed. According to the (successfully achieved) aim to think about law through Rancière’s work instead of presenting his views on law, it is more highly recommended to those working in the field of legal theory, in general, than to those who want to find out more about Rancière.

German Abstract:

Rechtliche Störungen. Recht als Mittel des Streits und/oder der Streitbeilegung?

Der von Mónica López Lerma und Julen Etxabe herausgegebene Sammelband *Rancière and Law* trägt verschiedene, von Jacques Rancières Arbeiten ausgehende, Ansätze der Betrachtung von Recht und rechtlichen Problemen zusammen. Diesen Beiträgen liegt nicht das Ziel zugrunde, Rancières explizite Thematisierung des Rechts darzustellen, sondern vielmehr sein disziplinenübergreifendes Denken auf rechtstheoretische Fragestellungen zu übertragen. Ein besonderes Augenmerk liegt dabei auf Rancières Unterscheidung von „Polizei“, als einer festen Ordnung, und „Politik“, als Akt der Störung dieser Ordnung. Ohne das Recht schlicht auf einer dieser beiden Seiten zu verorten wird in verschiedenen, von der Ideengeschichte bis hin zur Ästhetik reichenden Ansätzen dessen mehrschichtiger Charakter zwischen den beiden Fronten herausgearbeitet. So wirft der Band auf originelle Weise und durch die Brille des Rancièreschen Werks ein Licht auf Probleme und innere Konflikte des Rechts.

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