

rather than later. Thereafter, however, once again the author engages too closely with the case study and loses the theoretical thread.

Perhaps, a theoretical chapter in the beginning of the book would have helped to establish what exactly the author has in mind as a theoretical contribution. Nonetheless, in a following chapter that examines how to sanction 'hate speech' in Hungary, this time the author reflects on talking about 'hate speech' in the Hungarian Parliament. Without clarifying why he chose the particular time period under study, we find ourselves reading through very dense debates in the Hungarian Parliament in long quotations—first in Hungarian and then in English. The author seemingly attempts to portray whether constraints on freedom of expression by law can serve as an act against hate speech or not (p. 78). He also rightly indicates that 'creative political action takes into account key symbols related to a political issue in the political discourse of the day, the competing interpretations of those symbols, and the competing moralities that give meaning to those interpretations' (p. 80).

Overall, this book presents the background to the hate speech problems that surfaced in Hungary, especially with the rise of Jobbik. However, it missed a great chance to relate itself to recent issues of hate speech in Hungary and why Hungary can present an interesting case study for other researchers working on hate speech per se. The book is a great source for those working singularly on a particular period in Hungarian political history, but it does not appeal to anyone beyond them.

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Bruno Latour: *The Making of Law. An Ethnography of the Conseil d'Etat*
Cambridge 2010: Cambridge Polity Press, 297 pp.

Bruno Latour's *The Making of Law: An Ethnography of the Conseil d'Etat* is an extraordinary book which deserves to be considered from various angles: anthropology and ethnography, legal theory and philosophy, actor-network-theory (ANT), and science and technology studies (STS). It deserves a wide readership, especially among those who are interested in the anthropology of legal modernity. As an ethnographer, Latour takes us close to the workings of law embodied in the Conseil d'Etat (the French supreme administrative court and the legislative council of French government); not, as is often the case, by concentrating on concept-defining activities, but by focusing on the material practices of this legal institution. For an anthropologist it may be interesting to consider how an author, a non-jurist, has modified the method of participant observation as applied to modern law, which is well known for its resistance to the

ethnographic method of enquiry. Despite being an outsider who does not know the 'native language' of jurists, Latour manages to record an impressive amount of unusual data as a spectator. For a jurist it must be interesting to see how the working of the legal body is conceived without filtration through the grid of legal theory. The Conseil d'Etat is considered by Latour to be a common-law court, located in the heart of the continental code-based legal system. The comparative perspective should nevertheless be completed by the contrast between this French court which almost exclusively treats questions of law (legalism) and the courts that chiefly treat questions of fact, irrespective of statutory provisions (justice). ANT and STS researchers would probably be enthralled to see law not as a context of technology, as is usually the case, but as the (mediating) technology itself. On the other hand, law as science is not considered here, as I will demonstrate later. Latour guides the reader through the intricate legal rituals in order to grasp one key aspect—the treatment of facts for the purposes of legal certainty and security under the conditions of legalism. He then comes to the unique central point of the book, the comparison of the Conseil d'Etat with a neuroscience laboratory as two 'regimes of truth enunciation'.

The first chapter serves to familiarise the reader with the idea of law being subjected to the same method of inquiry as science in *Laboratory Life* [Latour and Woolgar 1979]. Instead of zooming in on the construction of facts, Latour's magnifying glass elucidates the construction of legal arguments in *The Making of Law*. The book begins by noting how the Conseil d'Etat went forward in time from pre-modern France into the contemporary context, with the assistance of Napoleon Bonaparte, as a remnant of the old regime that has become equally useful in the new one. Further, the specific position of the Council within the labyrinth of the French and European judi-

ciary is illuminated through the distinction of civil, criminal, and administrative law in France. We are introduced to some of the actors in the Council's inner life and slowly muster the courage to immerse ourselves in the materiality of the law as indicated by attention to words, phrases, utterances, libraries, seating orders, views from windows, the size of armchairs, working desks, piles of files, books, and the symbols used in letterheads and folders. Throughout the narrative, we are informed about the unenviable situation of the ethnographer, who feels like a 'fly on the wall'. Latour, just like anyone else, is not an ideal chameleon fieldworker. As the ethnographer, he spent fifteen months over four years as a spectator rather than a participant observer on the site.

The second chapter presents a brilliant exploration of the material infrastructure that underlies legal processes in the court. As the human characters disappear for most of their working time behind the grey and yellow files, it is the fate of the files which is followed here. The ethnography moves forward on the level of interaction between the utterances of lawyers, judges, and various legal functionaries of the court, and the files, archives, commentaries, prose of laws, expertise, material evidence, and various legal requisites. The question of how these are all clasped together to function as a technology is related to the fabrication of judgments about facts and norms intermingled together. Latour finds that files moving towards a judgment are like a climber in a crevice between two types of literature; norms and explications of norms on the one hand, and facts and interpretations of the facts such as claims or expertise, on the other. The gradual fabrication of files seems to be a slow effort to build a bridge, or rather a stairway, between those two types of writings. Far from the theoretical notion of the application of law on facts, Latour leads us to a markedly different picture of the legal

reality; a radical transformation of law and facts at once, in an intertwined bundle.

However, it is also necessary to make some critical remarks. The term 'doctrine' seems to be a source of some confusion. Although we encounter doctrine as a set of theories of law professors in the first chapter, we find another meaning of the term designating the body of texts that are considered to be the 'Law' (precedents, codes, statutes, ordinances, and the legal theory of the branches of law) all together in the second chapter. This distinction between speaking about law and speaking legally may be subtle unless we realise that the correspondence between the two is not the rule. However, the intricate relation between doctrine as a legal science and doctrine as law is only a peripheral topic of the book. Nevertheless, legal science is present in the Council at least in two respects, intellectually as the legal background of most of the judges, and materially as a 'buried hoard of authoritative commentaries'.

The author's position is probably even stickier as the judges naturally de-signify the professors of law and the professors do the same towards them, and both the judges and the law professors are inclined to de-signify the social sciences. It could be that Latour is rather trapped within the internal horizons of the judges and may be wrong in his conclusion about the meta-language of law ('law is its own meta-language'). In a similar way to Comte, who does not distinguish between theology and religion, in certain respects he makes no distinction between law as science and law as technology.

It is startling, in an otherwise excellent book, that Latour refers several times to the anthropology of law without making any specific reference to the discipline and its classics. In addition, he provides readers with a number of categorical statements about the nature of the discipline which are not fully accurate. Any potential student of the anthropology of law would

therefore be well-advised to delay reading *The Making of Law* until he or she has achieved some familiarisation with the discipline. Some preliminary study of the tradition of the anthropology of law will help in avoiding the various snares of legal thought which otherwise lie in wait for novices. Latour, on the other hand, reaches a similar position as the anthropological theory of law when locating law in materiality and context; '[l]aw does not reside in the law, but equally in the context of application' (p. 120). From that point of view, abstract rules can be found both in codes and precedents.

The perspective of the third chapter, entitled 'The Body in Palace', is chiefly sociological. Instead of an ethnological study on the human bodies within the palace, Latour demonstrates the dynamics of the internal hierarchy of judges encrypted in a sort of totem; the judges' wooden letter boxes and the changing locations of names on them. Then we are informed about the judges' external career profiles, which are surprisingly diverse, and about the judges' volatile intention to stay at the Conseil d'Etat. Latour investigates how this personal fluidity is balanced by the total sum of collective memory of the group of judges and how it is related to the files, in order to illuminate their nature of small and discontinuous micro-worlds. This, the only argument used to conclude that law is not a separate sphere of modern society, seems to be rather inadequate when considering the majority of modern courts, which are full of professional career judges.

Rather like Bourdieu, who discarded the archaic meaning of honour in order to rediscover it again at the heart of modern societies, Latour in the fourth chapter finds traces of 'the archaic practices of ordeal and divine judgement' (p. 207) in the court of contemporary France, as he did previously in American scientific laboratories. The making of law is described as a true technological drama. Each legal tool represents

a different cognitive problem to the council members. There are no facts and no norms in separate realms of the world, but rather tasks that bring them together to mingle as equally relevant parts of the law-making process, quite unofficially within the proceedings of cassation, which theoretically should treat only questions of law. The significance of the materiality of law here seems therefore to be part of the cognitive and intellectual foundations of the law, not a variation of them. We are thus guided through the processes, following the changing roles of value objects like authority, legal security, etc., to brighten the tangle of material legal practices with elements of legal ideality. This significant effort to follow the materiality of law is thus meant to explain the cognitive and intellectual foundations of the law better, rather than to replace legal reasoning by materiality.

The fifth chapter contains a unique comparison between a (neuroscience) laboratory and a legal body (the Council). Focusing on the smallest details of the mundane activities of those two institutions, Latour attempts to establish a comparative ethnology of scientists and judges, designated, in the first case, as 'a group of gamblers huddled around a cockfight' (p. 204) and, in the second case, as 'monks in a monastery' (p. 130), carrying on an obscure verbal ritual. Anthropological metaphor is obviously Latour's forte throughout the book. Those two examples emphasise that the subject of comparison is the structure of two sorts of mutually incompatible passions; *libido sciendi* and *libido iudicandi*. It would be a mistake to conclude that the output of this comparison is that science is a passionate craft, whereas law is not. All that we see are different configurations of passions, detachments, and material and power elements that assist in securing the solidity and objectivity of both law and fact. It is inaccurate to distinguish between the 'chains of references' in science and the 'chains of obligations' in law, as Latour

does, as it is the configuration and not an inherent quality of the elements that matters. To put it bluntly, they are merely chains of references both in science and in law, which, however, are linked to different associations.

In contrast to the previous ethnographic chapters, the last one, entitled 'Talking about Law?', represents Professor Latour rather lost in thought. Far from making a grounded theory, he simply proceeds to a kind of grand sermonising about 'Law', which is unfortunately isolated from previously presented data. With hardly any respect for the limits of his field, the author attempts, suddenly and surprisingly, to constitute a hypothesis of grandiose legal philosophy à la Hegel. This inauspicious sidestep away from reflexive knowledge constitutes perhaps a significant move towards preserving the legal stronghold of modernity. This corresponds with Latour's adoration of French legal culture, as expressed in the preface. Perhaps Latour's closing foray is not directed at the anthropology of law as a social science, but rather at the philosophical tradition concerning law as presented by German legal scholars and philosophers such as Jan M. Broekmann [1979] or Jürgen Habermas [1988]. Any attempt to grasp the meaning of this book for the discipline of the anthropology of law must take into account the significant differences of approach between early and late Latour.

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