Book Review
Reassembling global law: reflections on *Laws and Societies in Global Contexts*

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I. Introduction

The 'spatio-temporal co-ordinates necessary to sustain ... the modern legal constellation' are being eclipsed by new domains of 'unchartered' global law today (Walker, 2009, p. 38). Mapping these emergent ordering processes using conceptual lenses dynamic enough to capture their 'movements and contradictions' is one of the more urgent tasks and exciting opportunities facing law and society scholarship today (Zumbansen, 2011, p. 4). My intervention highlights two ways in which Eve Darian-Smith's book, *Laws and Societies in Global Contexts*, rises to that challenge and helps us empirically analyse the politics of transnational law: first, by highlighting the importance of scale in global legal analyses and, second, by bringing insights from critical legal scholarship into relation with current debates about the nature of global legal ordering.

II. Global law and the politics of legal scale

Unlike a lot of other socio-legal and post-national legal scholarship, Darian-Smith's book takes 'the global' in global law seriously. Law is often implicitly spatialised through logics of verticality and encompassment – with the global up on top, the regional and national further below, and the local down the bottom (Ferguson and Gupta, 2002). Because each scale is thought to encompass the other as one ascends the international hierarchy of norms, more of one is usually taken to mean less of the other. And so the local, national and global scales through which legal ordering and governance are arranged end up being reified and locked into some kind of zero-sum game.

So if international lawyers and political geographers were put in the same room and asked to explain a particular global problem, they would likely give wildly different responses tethered to divergent notions of scale. The geographers might talk about logistics chains, algorithmic architectures, global assemblages, geopolitical stacks or flows of infrastructural space (Cowen, 2014; Parisi, 2013; Sassen, 2006; Anderson and McFarlane, 2011; Bratton, 2015; Easterling, 2014). Complex topologies would be outlined showing how 'heterogeneous techniques, technologies, material elements, and institutional forms are taken up and assembled' (Collier, 2009, pp. 89–90). But the lawyers will probably still frame the problem jurisdictionally and in abstract normative terms, talking about the global as if it is something 'up there' and local 'down here'. Framing law in this way might offer helpful shortcuts and be a useful figure of speech from time to time. But the problem is that global law and the politics of legal scale just are not as straightforward as that (Valverde, 2015). And it is transnational legal conflicts that are underscoring just how ill-equipped conventional forms of legal analysis are in grappling with fluid governance problems that are multi-scalar and trans-boundary in nature.

'The difficulty', observed Boaventura de Sousa Santos in his seminal essay, 'Law: A Map of Misreading', 'lies in that socio-legal life is constituted by different legal spaces operating

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simultaneously on different scales and from different interpretive standpoints' (Santos, 1987, p. 288). But how can law, the most 'solid' form of authority, be analytically reframed in dynamic and 'liquid' terms (Krisch, 2016)? How might 'the global' be productively reposed as a more contingent achievement, a structural effect of legal and social practices or, as Foucault might suggest, a 'problem'? And what can the tradition of socio-legal studies possibly add to this critical endeavour?

It is this problematic that frames Eve Darian-Smith's book and that makes it so refreshing as a legal text. It is animated by a broader project of building what is called 'a global sociolegal perspective' (Darian-Smith, 2013, p. 12). And, in exploring what this might mean, the author turns to a heterodox array of literature from traditionally non-legal disciplines examining globalisation processes – including legal anthropology and cultural studies, critical race theory, post-colonial studies, law and geography, Actor-Network Theory, governmentality and feminist legal theory. This is a critical move that distinguishes this book from much of the existing transnational legal scholarship, which draws from a more limited repertoire of sources. It allows Darian-Smith to claim that globalisation is having a much more profound effect on the international legal order than conventional legal scholarship suggests.

'This book,' she argues, 'stresses the legal relations between and within local, regional, international, transnational and global legal arenas and emphasizes that the lines of demarcation between these sites and scales are dynamic and porous' (Darian-Smith, 2013, p. 8). Whilst most lawyers still try to answer global questions by looking somewhere up above, this is a text that opens up much-needed analytical space here in the present by engaging with the global as an emergent process of ordering, not some a priori source of macro-power (Marcus, 1995, p. 99). The global socio-legal perspective is presented throughout this text as an analytical challenge – both for socio-legal scholars to be less parochial and for transnational legal scholars to be less strictly normative in the ways they frame and research global legal problems.

I find this move – of revitalising the global in global legal scholarship – incredibly helpful for my own research on the politics of global security laws like the UN al-Qa'ida sanctions list (Sullivan, 2014; de Goede and Sullivan, 2016). Most literature on this issue highlights the normative clash between security and human rights in cases like Kadi and is dominated by debates between global constitutionalists and pluralists over whether the courts have gotten the answers to these legal conflicts 'right' or 'wrong'.[1] Using a global socio-legal perspective helps me to cut through these normative debates, examine a much broader range of elements as constitutive of global law and empirically analyse the Security Council as a local site 'that manufacture[s] global structures' (Latour, 2005, p. 176). It also helps me to anchor a different set of research questions that enable a better understanding of how this form of global law is assembled: How does this list, and the expert knowledge it produces, link 'calculations of rule at one place with action at another' (Miller and Rose, 2008, p. 34)? How does it work as an ordering device and practice that *produces* global law and makes exceptional governance durable (Johns, 2016; Staehili, 2012)? What kinds of techniques does it put in place and hold together to make this form of law powerful and operate with worldwide effects?

In short, by positing the politics of legal scale as a key problem to be empirically investigated in global legal research, Darian-Smith's text makes a valuable contribution to the growing literature in this field and underscores why the cross-pollination of socio-legal studies and transnational legal scholarship is something so urgently needed in the present.

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1   Case C-402/05 P and C-415/05, *P Kadi and Al Barakaat International Foundation v. Council and Commission* [2008] ECR I-6351.

III. Critical legal studies and transnational legal scholarship: bridging the divide

Bringing diverse interdisciplinary scholarship into relation with current global legal debates, however, does more than expand the conceptual toolkit. It also enables Darian-Smith to stake the bold claim that a global socio-legal perspective is something implicitly counter-hegemonic that 'destabilizes our modern and linear understandings of what law is, where law appears, and how law works' (Darian-Smith, 2013, p. 13). The book comes at a time when the empirical study of international law and transnational governance is enjoying a renewed interest (Shaffer and Ginsburg, 2012; Halliday and Shaffer, 2015). But one thing that sets this text apart is how it connects and provides a bridge to earlier strands of critical legal scholarship that have had little currency in post-national legal debates to date.

As a legal anthropologist, Darian-Smith starts her analyses from the assumption that law is a cultural artefact: '... it is both the product of social, cultural, economic and political interactions and at the same time constitutes the epistemological foundations that shape the very modes of engagement creating it' (Darian-Smith, 2013, p. 40). This foregrounding of law as culture and as something 'made up of assemblages or 'constellations' of overlapping legal systems' has important effects on the ways legal problems are framed and critiqued throughout the text (Darian-Smith, 2013, p. 40).

The current revival in the empirical study of law, for example, has been driven in large part by the rise of the 'Law and Economics' movement. Both Darian-Smith and critical legal scholars like Martti Koskenniemi agree that the 'Empirical Legal Studies' and 'New Legal Realism' movements arising out of the US on the back of this shift instrumentalise and depoliticise law. In Koskenniemi's critique, the new realist move 'only institutionalizes an anti-political, technical mindset' that embeds a 'managerial' approach reducing law to technical coordination and governance (Koskenniemi, 2007, p. 30). In this approach, the critical task that lies ahead 'is not to learn new managerial vocabularies but to use the language of international law to articulate the politics of critical universalism' and have law once more become 'a placeholder for the vocabularies of justice and goodness' (Koskenniemi, 2011, p. 361). But Darian-Smith's critique of this phenomenon unfolds on an entirely different, and to my mind more politically productive, register. Instead of going normative (Valverde, 2013, p. 963), and throwing the empirical baby out with the global governance bathwater, she urges us to reappropriate the empirical study of law from new realist control and to seize the space for a more critical, global socio-legal research programme.

So, rather than responding to the complexities of global governance by withdrawing to Kant and 'map[ping] this managerialist expanse [only] in the broadest of strokes', Darian-Smith turns to legal theorists like de Sousa Santos and advocates for an engaged empirical research agenda of 'transformative radical legal pluralism' (Johns, 2013, p. 15; Darian-Smith, 2013, p. 48). It is a provocative move that is much needed in helping to bring transnational legal debates and critical legal theory into conversation and a more productive relation.

This book is not structured like your standard research monograph, which has strengths but also certain limitations. The substantive chapters are short (about twenty pages) but each chapter covers a lot of theoretical ground and is supplemented with excerpts from texts selected 'in the hope of nurturing new conversations, questions ... and research' (Darian-Smith, 2013, p. 21). So, after introducing the global socio-legal perspective, for example, we are thrown into Saskia Sassen's (2006) work on global assemblages. And, after reading about the politics of UN-sponsored interventions, David Kennedy's critical work on the 'dark side' of humanitarianism is introduced (Kennedy, 2002; 2005). This structure gives the book a transversal, toolbox feel. It makes it generative, easy to plug into the different research projects that you are working on and helpful in forging new conceptual connections without being didactic. It also allows the text to work as a

useful pedagogical tool, reference resource and vehicle for exposing new generations of law students grappling with pressing global problems to critical traditions of socio-legal thought that they might otherwise never have heard about.

In this way, the book reminds me of Margaret Davies's classic text, *Asking the Law Question* – which brought critical legal theory to a generation of law students in an accessible and provocative way more than twenty years ago (Davies, 1994). That is a book I still go back to many years later. I am hopeful that my students and I will be doing the same with *Laws and Societies in Global Contexts* in the years to come.

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