
Conclusion: Method, Not Theory

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1 On Municipal Governance: Who Is ‘The City’?

It is high time to collectively dispel the myth that there is a single legal and financial entity, ‘the city’ – one that acts autonomously except when engaging with or being buffeted by ‘higher’ levels of government. City staff and city-level politicians constantly interact with civil society organizations and individuals in their daily work, though the identity of these interlocutors will differ across geographies. (For example, in China, city leaders will be in constant touch with Communist party leaders.) A notable example of this porousness of ‘the city’ is found in the networks of developers, philanthropists and city officials that are common in North American and British urban revitalization efforts. These formal or informal groups that wield leadership in urban affairs include business interests as well as local authorities and link them through ad hoc, evolving relationships. Other civil society interests besides the influential businessmen that have traditionally dominated urban elites can be and sometimes are very visible, to the point that in some instances, civil society groups become almost part of the city apparatus. Traditionally, homeowners’ associations had great power in United States and English Canadian cities. In recent years, however, African-American interests have emerged as occasional but important interlocutors for American city governments.

Other civil society groups have managed to become important actors in urban governance in many places, including advocates for migrants and refugees and organizations representing wage workers, women and/or ‘special’ groups, such as India’s urban ‘pavement dwellers’. These and other types of civil society groups have in many urban contexts become quite central to the decision-making process, at least some of the time. Some Canadian municipalities, for instance, have taken it upon themselves to seriously consult with Indigenous organizations, usually representing nearby Indigenous communities, on issues such as infrastructure

and public health projects.¹ Depending on the depth and sincerity of the ‘consultations’, repeated interactions can bring Indigenous leaders and entities, formerly rarely visible at the local municipal level, into decision-making circles. In New Zealand, and parts of Australia, Indigenous leaders and organizations have also sometimes managed to gain visibility in the networks that govern urban spaces and urban issues, although as in the case of Canada, their influence is usually greater in non-urban areas. Cities elsewhere similarly feature locally specific networks in which the municipality, usually represented by paid staff, interacts with and is, to some extent, influenced by civil society interests.

Urban governance is thus one thing; the formal municipal apparatus is another. The two can be coterminous, when city officials act on their own; but it is not unusual for a formal city decision to be motivated by a complex chain of behind-the-scenes negotiations with particular civil society organizations or with select corporate firms. How urban governance is produced in practice requires close empirical study of ‘the city’, which may have to extend well beyond the activities of officials on city salaries. Furthermore, while many critical urban scholars, especially in the UK and the United States, have for decades now focused on the role played by business corporations in urban decision-making, in recent decades many cities have become somewhat more democratic and more responsive to a variety of civil society entities and interests, as mentioned previously in the case of African-American groups in US cities and Indigenous interests in Canadian city governance. Close attention not only to financial flows and business interests but also to countervailing forces ‘from below’ will be needed as scholars document city decision-making in different settings.

2 Is ‘The City’ a Scale of Governance? Jurisdiction vs Scale

In both legal studies and political science, it is traditional to claim that there are four scales of law: the international, the national, the subnational (the state/province or the ‘region’), and the municipal. Socio-legal scholar Boaventura Santos developed his influential notion of ‘interlegality’ in

¹ See, for example, Anderson and Flynn, *Indigenous-Municipal Legal and Governance Relationships*,

1987 based on the assumed existence of separate scales of government and law, although his interest was not in the abstract Russian-doll model but in how the different scales interact (hence his term ‘interlegality’, which is to legal studies what ‘intertextuality’ is to literary studies). However, recent thinking about ‘jurisdiction’ (within legal studies, work by Annelise Riles and Shaun McVeigh, for instance) has complicated this picture. It turns out that when one pays attention to what are often dismissed as ‘legal technicalities’, scale and jurisdiction often coincide: but not always. Furthermore, as Rhadika Mongia’s contribution to this book shows, and as Indigenous scholars all over have pointed out, imperial relations and habits of governing persist into our present, well after empires have been officially dismantled. There is thus an imperial scale of governance, and even of formal law, in many places today, from Latin America and North America to Africa and Asia.

Jurisdictions are often functional rather than spatial. We see this in this book’s premise, namely that within the boundaries of cities there are matters – such as immigration – that are not within municipal jurisdiction. Geography is thus not much of a help in determining jurisdiction. Furthermore, jurisdiction over a certain geographic area (say the legal boundaries of a city) does not mean that every regulation applies to/governs that whole space. A city ordinance regulating parks, for example, is obviously an exercise of municipal jurisdiction: but its scale is not that of ‘the city’, but rather that of special spaces within ‘the city’ that have particular functions and uses. Hence, the governance of issues and problems that are located in urban settings requires an understanding of the complexities, in that instance, of both scale and jurisdiction.

This brings us to the question of whether official cities, cities as sites of norm-making and regulation, have a distinct way of operating: that is, one that is different from that associated with national states, which often (though not always) utilize a certain top-down gaze – ‘seeing like a state’, in James Scott’s influential formulation. I have argued elsewhere that cities do in fact often manage problems in a pragmatic and contextual fashion rather than imposing strict criminal-law style rules; but in some areas, such as public health, cities often ‘see like a state’ rather than ‘seeing like a city’.² Thus, when I refer to ‘seeing like a city’, I do not

² See Valverde, “Seeing Like a City”.

mean to create a binary opposition between a Jane-Jacobs style of local informality on the one hand and the disciplinary gaze of national-level law and national-level actors on the other. Instead, I draw attention to the persistence, particularly notable in municipal contexts, of premodern forms of knowledge and power (such as the embodied and after-the-fact logic of nuisance law and nuisance-style regulations), and the ability of premodern knowledges/powers to coexist with modernist techniques of governance. But premodern knowledges and powers and governing styles are certainly found at all other levels of law and governance as well, though there they may be more heavily disguised under the rhetorics of legality and prevention.

In addition, within legal geography and within socio-legal studies generally, there is a tendency to privilege cities and urban affairs and to see those as paradigmatic of local governance as such. The conflation of 'the local' and 'the urban' is highly problematic, however, theoretically and empirically. Migrants who cross rural municipalities or eventually settle in them become a local 'issue', and if large cities are generally more attractive to migrants and sometimes promote progressive policies such as 'sanctuary cities', it would be quite dangerous for scholars as well as activists to assume that pro-migrant activism and legal reform can only be promoted within cities. In Canada today, a good number of privately sponsored refugees are settling in small towns and even in rural areas, due to the emergence of private citizen groups interested in sponsoring migrants (and helped by the far lower price of housing in rural areas). In general, it is true that migrants tend to be attracted to cities; but the local governance of migration and of refugees cannot be assumed to be coterminous with the urban governance of migration.

Indeed, if the rise of 'cities of refuge' is currently an important topic and a theme, for scholarship and for activism and legal reform, 'municipalities of refuge' as a broader movement that would include small towns and villages may also have a future.

We see a concrete example of the unpredictability of the knowledge/power assemblages that produce and govern the urban when city councils declare that their city is a 'refuge' or 'sanctuary' for migrants. When they do so, as several contributions in this book point out, they run into difficulties, and their legal texts often lack political clarity and legal certainty. Cities have no role in formal immigration policy. And yet, the sanctuary/refuge movement can be more than merely symbolic, as Hudson and other contributors point out. Sometimes such a declaration is essentially a political resistance statement aimed at conservative anti-immigrant higher levels

of government, one that has little effectivity on the ground. But the declarations, if accompanied by actual changes in bureaucratic processes, can shape the lived experience of migration for many for the better.

I saw this personally in 2016, when accompanying a Syrian refugee family to the Toronto Public Library very soon after their arrival in Canada. The public library follows the city's sanctuary policy and even exceeds it: they are remarkably flexible with ID requirement. The Syrian children were provided with cards – and hence the beginning of a new urban identity – without any need to show legal immigration status (though they did have that).

While many suburban and rural municipalities have also acted to receive and welcome new immigrants, especially refugees, there is no doubt that cities are the primary site for on-the-ground struggles around migration. In my experience of Toronto (where I have lived as a first-generation migrant for over 40 years), migrants sometimes say they wanted to come to Canada (especially refugees fleeing from war or persecution), but in most cases, migrants state that they wanted to go to Vancouver or Montreal or Toronto. However and wherever they arrive, once within the borders they tend to congregate not only in certain cities but in certain neighbourhoods, in Toronto forming a 'little India', a Korea Town, and some 15 km away but still in the same city, a Little Mogadishu, among many other 'ethnic enclaves'.

In general, immigration experiences are clearly shaped by local structures and local policies and local norms as well as national policies and personnel. And as several chapters in the book show, Canada is perhaps a good place to highlight the cross-jurisdictional character of state policies in regard to migrants. Unlike in many European countries, where state officials perform the state's work to a much greater extent, the actual work of what is called 'settlement' (meaning immigrant reception and associated services) is in Canada to a large extent devolved on assemblages characterized by great legal and financial complexity.

Community agencies, more often than not staffed by newcomers, often professionals, receive regular grants from the Immigration federal department to deliver services to newcomers. While their activities are often highly regulated by funding systems, nevertheless, they are, in the aggregate, an actor in the network of immigration policy. In the 1980s, I volunteered as a translator at the local Centre for Spanish Speaking Peoples, then receiving many refugees from Central America. Translation was not a routine part of 'settlement' work, so I had to volunteer; but the agency staff were paid through federal 'settlement' funding. Importantly,

the federal government was not the sole funder. As is the case today, the same agencies in receipt of federal 'settlement' money also received philanthropic funding from the local United Way, which required a great deal of grant writing and auditing. They also obtained special funding, often grant-based rather than permanent, from other levels of government (e.g. provincial job retraining programs.)

In my experience, few immigrants understood just how services were being provided and by whom; indeed, they did not care, for good reasons. For that matter, the Canadian-born lawyers who provided immigration law services also did not appreciate the incredible complexity of the 'immigrant settlement' assemblage. But readers of this book might like to know that a key service for migrants, English as a second language classes, was and still is provided in part by the federal government, free of charge, and for several years; but very similar classes are provided by voluntary-sector agencies and religious organizations, and not federally funded, at least not on a permanent basis. In other words, the actual reception of migrants and refugees in a country that has long seen itself as a nation of immigrants (and where half of the largest city's inhabitants were born in another country) is the work of multi-jurisdictional assemblages of considerable complexity.

These are vulnerable assemblages, since an unpredictable event such as a decrease in philanthropic donations due to the pandemic can greatly affect an agency that requires for its basic functioning more resources than what the federal immigration department provides. The immigrant-reception assemblage is not even a single thing, since its composition differs from province to province and city to city – even though immigration law is uniform across the country.

These days it is fashionable to talk about 'multi-level governance'. Insofar as it helps to undermine the antiquated myth of a single sovereign power hovering godlike over every other organized political and social entity, the term is to be welcomed. However, the phrase can also act as one of those shortcuts to thinking that prevent us from seeing what is actually happening.³ The term 'multi-level' sounds vaguely collaborative; but it only gestures in the direction of organizational complexity. It doesn't describe anything in particular, and it could hinder us from investigating how exactly powers and resources are allocated among the 'levels' and discovering which actors wield what kind of power over which other

³ Campomori and Ambrosini, "Multilevel Governance in Trouble."

actors. (For instance, I have long heard from people who work in community agencies that the philanthropic giant the United Way exercises much more surveillance over organizations than government funders; this could well be true, in which case the formal organizational chart picture of 'multi-level governance' would be misleading.)

Is the field of migration/immigration governance particularly complex? Are the examples in this book of city actors doing things they may not be legally empowered to do totally unusual? I have not studied migration empirically, but I have studied many other aspects of urban governance. And on that basis, I do not think that immigration is an unusually complicated subject. The inherent complexity of the multi-jurisdictional assemblage that is present in the most mundane activity of a community centre serving immigrants is also found in other fields of urban or municipal governance. Studying infrastructure governance, for instance, I have discovered very complex arrangements that are seldom made visible to the taxpaying public – arrangements whose dynamics and effects are concealed rather than revealed by the constant use of the vague phrase 'partnerships'.

In general, in many countries and cities today, the actual work of the elusive network of entities that some still call 'the state' is not neatly organized and divided up ahead of time by scale, or indeed by jurisdiction. State resources, state personnel, and state rules and policies are mixed, in practice, with the resources, competences, personnel, and norms and policies of an unpredictable range of organizations.

3 Analysing Governance Networks Dynamically

The neat organizational diagrams featuring boxes linked by arrows routinely found in both official documents and scholarly papers are necessarily misleading. Why? Because political and governance realities are always *in motion*, with the various actors always doing something, or trying to do something, whether by allying with other actors or by other means. Static models found in official 'org charts' or produced by order-seeking scholars necessarily fail to capture how things work. In the real world, a federal agency may well be responsible for a certain service; but the specific path by which the service is delivered may change, with the change in 'delivery' greatly affecting the experiences of the people in question. Similarly, a city council may be thought of as a mini-sovereign, at least over matters not already claimed by higher levels of government. But that may not be true. The Toronto Public Library mentioned previously

in relation to Syrian refugees in Toronto has its own board; because the board is largely progressive the Library implemented a migrant-friendly policy regarding the ID required to get a library card. But as an arms-length agency of the city, their board could have decided to create new bureaucratic obstacles frustrating the city's official 'sanctuary' declaration. Indeed, the Toronto police force, also governed by an arms-length appointed police services board rather than directly by city council, has refused to follow the city's sanctuary policy – with dire consequences for those hapless residents who, finding themselves in contact with police, even as victims of crime, may end up being deported as the police officer decides to call a buddy who works in immigration enforcement. So much for the sanctuary city, then. Or indeed, so much for 'the city'.

Generally, decisions classed as merely administrative, such as the choice to contract out work previously done by civil servants, could have more significant effect on people than a change in the law. What 'the state' amounts to in real life depends more on administration than on law, it could be argued. For example, Canada has contracted out consular services in some countries, and this has greatly affected the people needing visas; but it will obviously also have a major impact on the lives and careers of the civil servants who are now out of a job or are moved elsewhere – thus shaping their experiences of 'the Canadian state'.

Static models of jurisdiction make for tidy charts – but these charts are not just simplifications: they are in many cases highly misleading and to that extent they are bad simplifications. Especially in countries where constitutions are difficult to amend and/or countries where legislatures are unlikely to ensure that the formal legal apparatus is up to date with social and economic and technical developments, the formal allocation of legal powers or competences may bear very little resemblance to the practical realities of governance. In the case of 'cities of refuge', whether cities have a formal legal role in immigration policy or not, it is quite possible that many cities are not reduced to simple acts of political resistance, such as 'sanctuary city' declarations. It is likewise possible that certain officials or the mayors of some big cities are consulted and their advice is taken, quite outside of formal law.

Governance is always dynamic and interactive, and hence unpredictable. For example, some 'city of refuge' declarations may have been prompted not only by a xenophobic national government but also by other events, such as the actions of certain rogue law enforcement bodies. To study cities of refuge, the text of a city council resolution is not always the best place to start. Like all political statements and laws, and indeed

like all human speech acts, any text that matters is always a response to something else, to another statement or to an action that one either likes or dislikes, approves or disapproves.

It is thus no surprise to find that the ever-shifting, largely contingent reality of immigrant and refugee policy greatly differs across cities and regions that are in theory governed by the same national laws. Law in action, as American legal thinker Roscoe Pound said a century ago, is different from law in the books. And law in action has to be studied dynamically, looking at how policy evolves, what paths were not taken, how compromises are negotiated or not negotiated – while attempting to document who are the actual decision-makers, as well as who is considered a legitimate interlocutor for the state and who is considered a mere gadfly to be shooed away or ignored.

As Nietzsche pointed out over a century ago, human thinking gravitates naturally to static abstractions. People are happy to repeatedly ask questions about abstractions, questions for which the human intellect can never provide answers ('what is the meaning of life?' or 'do humans have a free will?').

Similarly, typologies of states or typologies of migration regimes are of limited use to those interested in understanding how migration and migrants are governed, and understanding whether what is observed is a purely temporary phenomenon due to unexpected circumstances or whether it is rooted in long-term governance habits. The Canadian system of 'private refugee sponsorship', for example, heavily used to bring Syrian families such as the one I accompanied to the public library, is rooted in a very long history of state funds provided to the mainly religiously based organizations that from the earliest days of white settlement provided health care and social services (such as orphanages and homes for the aged). Currently, there are efforts to export what is known as 'the Canadian model' to other countries; but if these efforts are mere attempts at 'policy transfer', they are unlikely to succeed (see Nik Tan's chapter).

The 'cities of refuge' theme thus draws attention to a situation that is not as unusual as some would have it. During the pandemic, there have been many examples of entities, public and private, taking on new tasks for which they did not necessarily have formal legal authority. How governance works on the ground – including the governance of migration and refugee flows – cannot be deduced from some chart about formal legal powers; it needs to be studied concretely. As practitioners well know, one can look at this or that city and label a project as 'best practices'; but

whether the underlying conditions that made the practice possible in the first place are ones that exist elsewhere or can be replicated is a difficult question.

4 Spacetimes of Migration and Migrant Reception

In a recent book, *Chronotopes of Law*, I argued that social and legal scholars engaged in empirical studies of governance might benefit from choosing as their object of study not an institution but rather a network or assemblage, and analysing its spatiotemporal dynamics. For example, instead of focusing on the US–Mexico border, one might inquire into a particular event or series of related spatiotemporally specific events – such as vigilante actions by US citizens who try to make physical entry into the United States more difficult or dangerous as well as the parallel actions of benevolent pro-immigration activists who try to make that same entry easier, physically and legally. Including both would-be excluders and would-be includers in the same study would be illuminating, since implicitly or explicitly they are engaged in battle against each other. However, delimited, though, each network or assemblage of migration, enforcement, benevolence, legality, illegality, and resistance is both enabled and limited by a particular spatiotemporal scale (or more than one).

The vigilantes and their benevolent opponents likely all do their actual day-to-day work at same highly local spatial scale (a small part of the US–Mexico border); but their connections and supporters around the country and perhaps around the world are arguably also important, and so the larger scale of national and/or global politics cannot be ignored, even though one might have to rely on other people’s research to fill that in. One might also include in one’s study the ‘push’ factors, in Central America or Mexico, that drive particular groups towards the US border – even if that part of the network cannot be documented in the same detail.

Clearly, different processes converge at any of the points one might choose as the site of one’s study, and it is impossible to study all of them personally: but the best studies are those that show at least an awareness of the lines of force and influence that extend well beyond one’s research site.

5 Conclusion: Method, Not Theory

How would a greater awareness of jurisdiction, scale and spatiotemporal dynamics work, in practice? It may be that apparently opposite

chronotopes or spatiotemporal scales can be documented as operating at the same time in the same place. In that case, paying attention to spatiotemporal dynamics might shed some new light on old tensions and conflicts. Continuing with the hypothetical example of the US–Mexico border, immigration enforcement agents, within the state or in vigilante groups, necessarily rely on sovereignty tropes – the integrity of ‘America’ construed as both a mystical body of citizens and as a destiny-filled special geographical space. But that transcendental spacetime is physically acting upon the actual, all too vulnerable bodies of the specific migrants being policed, or helped as the case might be.

In the language of my book *Chronotopes of Law*, we could say that the regulation of so-called illegal migrants at the US–Mexico border is likely to both rely upon and reproduce two different spatiotemporalities at the same time: that of the individual, mainly physical ‘body of the condemned’ (pace Foucault), with its vulnerability to pain, on the one hand, and on the other hand the spacetime of the sovereign state, which especially in the case of the United States has acquired not only a sacred spatiality (as ‘the land of the free and the home of the brave’) but also an almost timeless quality, visible in the constant popular appeals to a constitution that is supposed to be eternal (as when Republican politicians refuse gun control measures because ‘the Second Amendment is sacred’, as if that text had a clear meaning and as if that text were more sacred than people’s lives.) The spatiotemporality of the United States as a nation-state has managed to acquire the semi-divine spatiotemporality of medieval kings; the sacralization even in popular speech of a certain view of what ‘the constitution’ says is part of that. But in the case of the Mexican or Salvadorean migrant in the act of walking through the desert or swimming across the Rio Grande, the mystical and almost placeless spacetime of American sovereignty bears down hard on a spacetime of almost opposite characteristics: the embodied spacetime of *this* breathing body, *right now*.

Those whose interest is piqued by the fashionable term ‘multi-level governance’ could thus consider including the spatiotemporal dynamics of relevant assemblages in their analytical framework, including the assemblage that is the body of the actual migrant, often left out in legally oriented studies of migration. Furthermore, it needs to be remembered that the spatiotemporality of particular legal tools or particular governance assemblages cannot be deduced from their location in the formal apparatus of law; understanding spatiotemporalities concretely requires an appreciation of the history and the social context.

It is conventional to end academic discourses by calling for more theory or claiming that such and such a phenomenon is 'undertheorized'. I beg to differ. In my view, conversations amongst researchers, activists and policy analysts may instead benefit from exploring the rich array of methodological tools offered by today's social science, including scale, jurisdiction and spatiotemporal analysis.