Lefebvre and the law
Social justice, the spatial imaginary and new technologies

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Introduction

For Henri Lefebvre, space is both a material property and a process which enables social interrelationships and not simply a container or frame to be filled with content. Social space is explained as ‘not a thing among other things, not a product among other products; rather, it subsumes things produced, and encompasses their interrelationships in their coexistence and simultaneously – their (relative) order and/or (relative) disorder’ (Lefebvre 1991a: 73). How we conceptualise public space is inextricably connected to what it means to be human in a particular society. Interaction between the law and spatial imagery is a developing area of importance not least of all because the extent to which the prevailing culture either perpetuates or mitigates injustice can act as justification for intervening or intruding on space, for example to ensure its more equal distribution. Because metaphors, symbols and discourses articulate wider political and social transformations, an interrogation of the complex linkages and resistant boundaries between textual legal institutions and imagery is able to reveal the spatial framing of social and political organisation. In *Legal Emblems and the Art of Law: Obiter Depicta as the Vision of Governance* (2013), Peter Goodrich describes how the architecture such as courthouses, images and iconography of law are essential to the construction of legal authority and form a central component of legal discourse. Accordingly, the figuration of space and its elaborations is no less significant than the spectacle or event; ‘the text circulates as an image and the power of its effect is largely resident in that aesthetic quality rather than its supposed rational content’ (Goodrich 1991: 236).

The association of space with discourse, as ‘rhetorical territories’, depends on familiarity and understanding, because an individual knows about and can speak of what is familiar about the place they occupy; ‘the character is at home when he is at ease in the rhetoric of the people with whom he shares life’ (Augé 1995: 108). Understood as a form of *writing* – by cultivating a spatial imagination capable of interpreting the spatial structures of the past – the organisation of power is able to be *read* by those encountering it. This reconceptualisation of space, as both political and an aesthetic, has the capacity to disrupt dominant representations of space. Whilst avoiding a purely idealised or institutionalised conception, the fluidity of Lefebvre’s spatial metaphor as structure and function has not only aesthetic but practical and political significance. It
constitutes an imagistic way of thinking which transfers one idea or concept to another, and this cross-domain mapping can usefully represent the abstract in terms of the concrete. In this way, technologies of surveillance, policing strategies, areas of separation in the built environment are able to express regimes of order and control which, in turn, describe the nature of a society (Shaw and Shaw 2016: 45). In Lefebvrian terms, ‘constructed space – a transparency of metal and glass – tells aloud of the will to power and all its trickery. It is hardly necessary to add that the “habitat” too shares in this spatial distribution of domination’ (Lefebvre 1976: 88).

Spatial images are capable of articulating the hopes, dreams and fears of a society; in that ‘wherever the hieroglyphics of any spatial image are deciphered, there the basis of social reality presents itself’ (Kracauer 1997: 60). The government employment agency, for example, constitutes a barren space which expresses the desolation of those denied a place in the workforce, just as the prison cell acts as a tiny ‘theatre of punishment’ (Foucault 1977: 113). Since spatial imagery is particularly effective in encoding a variety of diverse types of information, its connection to the formulation of law and legal policy is an emerging area of importance and academic interest. This chapter will discuss how foregrounding Lefebvre’s distinctive articulation of space can provide a better understanding of the modern socio-spatial phenomenon and a more robust theory of justice. It will also explore the language of spatial justice as an alternative methodological tool for analysing the influence of cyberspace and novel technologies as potential new sites of resistance and oppression. This is especially pertinent in the context of the emergence of a new aesthetics of security and surveillance which is in the process of transforming the nature of public life and all human interactions.

**The influence of Lefebvre on law’s spatial turn**

Before the spatial turn in law began in the mid-1990s, legal scholarship only tackled spatial themes indirectly; focusing on the material characteristics of space while ignoring the social and theoretical aspects. Although spatiality as a critical idiom is still seldom used within jurisprudence, more recently Lefebvre’s writing has influenced critical legal theorists working within the fields of law, state and the political; social justice and the city; and spatial justice. For example, Nicholas Blomley in *Law and Geography* (2003), Desmond Manderson in *Legal Spaces* (2005), Gerald Frug in *A Rule of Law for Cities* (2010), Chris Butler in *Spatial Politics, Everyday Life and the Right to the City* (2012) and Andreas Philippopoulos-Mihalopoulos in *Spatial Justice: Body, Lawscape, Atmosphere* (2015) discuss how central aspects of the law are socially produced and elucidate the ways in which law produces space and deploys subtle strategies of spatial regulation.

Following in the tradition of mathematicians and philosophers such as Euclid, Descartes, Spinoza and Kant, who all offered their own elaborations of space, Lefebvre’s idiosyncratic contribution to the spatial discourse acts as a significant counterweight to representations of space by authoritative regimes such as law and the state. Such accounts can be deceptive, as too often they serve to obfuscate social relations and conceal the manipulation of power. The construction of legal space is implicit in ideas of, for example, the ‘province’ of law and law’s ‘empire’, yet the legal profession resists acknowledging the spatiality of social life. Nonetheless, the production of space in everyday life depends upon a variety of social practices which order the material world where things have significance in relation to each other. These interrelationships are inevitably underwritten and transformed by law and regulatory structures. The production of public, civic and commercial places such as industrial developments, shopping malls, housing projects, entertainment zones, courthouses, post offices and places of worship, banks, libraries, parks and playing fields all reflect and reproduce the values of the dominant culture. For Lefebvre, ‘[a]ll we need to do is simply to open our eyes, to leave the dark world of metaphysics and the false
depths of the “inner life” behind, and we will discover the immense human wealth that the humblest facts of everyday life contain’ (1991a: 132). Socio-spatial relations are thus conceptualised in terms of their practical apparatus and their symbolic meaning; rendering social space as both a field of action and a basis for action.

As a set of material and ideological relations that are constituted by and constantly act on social relationships, space creates the conditions for playing out scenes of justice and injustice: ‘Castles, palaces, cathedrals, fortresses, all speak in their various ways of the greatness and the strength of the people who built them and against whom they were built’ (Lefebvre 1991a: 232). The agencies tasked with making a choice between the application of competing regulations and different legal principles, therefore, not only disturb and reshape material and social spaces, but also influence human responses to changing conditions. Even though the background legal framework does not determine the outcome of spatial negotiations, it affects those spatial relations which produce social relations and, in turn, engenders a set of just or unjust relationships as particular perceptions of reality are privileged over others. Lefebvre's distinct formulation provides a unique insight as to the significance of the spatial metaphor, spatial discourse and the discourses of law and the citizenry, as to what really matters for justice in space.

**Lefebvre’s spatial dialectic and social justice**

Space is depicted as manifold; it has the character of an event in that it is created and constituted via a complexity of agencies and social relations, as well as through human and non-human relations. There can be no a-spatial social relations. The spatial ordering of the material world – where things exist in relation to each other – does more than simply reflect power and politics; it is itself a kind of power and politics. Since it is the ultimate place, medium and object of conflict and resistance, the acting out of power struggles within a spatial field means that, at heart, space is always a political issue: ‘there is a politics of space because space is political’ (Lefebvre 1974: 192). Instead of simply focusing on space and places which are marked by the longitude and latitude of power/knowledge, Lefebvre uses space as a broader category with which to disrupt and interrogate the theoretical constructs of disciplinary approaches. This usefully extends beyond the formal power of the state, by implicating the professions in their imposition of abstract conceptions of social relations. His critique also includes their authoritative disciplinary canons, which conveniently situate competing interests and give meaning to their hierarchies of beliefs, ideas and categories:

No set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning. For every constitution there is an epic, for each Decalogue a scripture. Once understood in the context of the narratives that give it meaning, law becomes not merely a system of rules to be observed, but a world in which we live.

*(Cover 1983: 4, 5)*

By rendering both justice and injustice visible, grand narratives such as nation, society or judgement are subject to interrogation within the critical socio-spatial framework. Arbitrary categories of deviance and systems of exclusion which reference the underlying structural racism, sexism, ageism and classism that permeates contemporary neoliberal society are also held to account, along with lofty core values such as the rule of law – the purported purpose of which is to restrain the exercise of arbitrary power and, in so doing, protect the weak from the strong.

As an already powerful framing device, the legal institution has an almost limitless capacity to confer legitimacy on specific forms and categories of knowledge, operational principles and...
a range of entitlements and the conditions of conferring and owning such privileges. Abstract legal formulas (including the ‘reasonable person’, notions of equality and fairness, rights and duties, along with legal fictions such as the ‘corporate personality’ and ‘consent of the governed’) are the means by which the legal community exercises its control over the masses, and, notably, comprise law’s ‘narratives of truth’. Slavoj Žižek suggests in Welcome to the Desert of the Real (2002) that the terms designated to fundamental concepts such as democracy and freedom, human rights and, more recently, the war on terror have been co-opted by law and mask their origins. These ‘false terms’ only serve to mystify our ‘perception of the situation instead of allowing us to think it. In this precise sense our “freedoms” serve to mask and sustain our deeper unfreedom’ (Žižek 2002: 2). Accordingly, our freedoms themselves constitute a precarious autonomy, and the fabrication of such reality-framing untruths or partial truths (in support of law’s transformative regimes of truth) means we often lack the language to articulate our ‘unfreedom’ (Shaw 2017: 95). Law’s formative ‘narratives of truth’ are revealed, therefore, to be a potent stratagem for establishing the legitimacy of legal hierarchies and maintaining structures of power, as well as having the effect of stymieing public debate and frequently functioning as a vehicle of oppression.

The law is described as ‘an object which can throw a shadow; a definite thing, which interacts with other things in legal space, and in whose shadow we dwell’ (Manderson 1996: 1060). It acts as a domain which organises relationships, abstractly and exclusively, over a legal territory which has no authentic historical evolution or social context. Consequently, legal knowledge, dogma and law-making continue to be displaced from locality, and estranged from communication or encounter with local practice and experience. This results in the excision of difference, as people are reduced to ‘identities’ which attach to particular rights and duties set out in rarefied legal language. For Lefebvre this process of abstraction not only manufactures an unhappy consensus which legitimises state control and interference, it also affects the way in which people see themselves ‘before the law’, both as individuals and communities in their physical environment:

The error – or illusion – generated here consists in the fact that, when social space is placed beyond our range of vision in this way, its practical character vanishes and it is transformed in philosophical fashion into a kind of absolute. In the face of this fetishized abstraction, ‘users’ spontaneously turn themselves, their presence, their ‘lived experience’ and their bodies into abstractions too. Fetishized abstract space thus gives rise to two practical abstractions: ‘users’ who cannot recognize themselves within it and a thought which cannot conceive of adopting a critical stance towards it.

(LeFebvre 1991a: 93)

Nevertheless, social domination is constituted, constitutive and importantly resisted in space because abstract space is never absolute. As Lefebvre argues, this is because bodily and spatially, individuals always exceed the representations and images attributed to them by the overlapping and disciplining codes of contemporary social orders; not least of all because individuals hold different conceptions of spatial ordering and spatial justice. Where people act alone (by self-invention and self-determination) or collectively (by sharing words and actions), these spaces precede ‘all formal constitution of the public realm and the various forms of government’ (Arendt 1958: 199). The meanings and associations formed in spatial encounters are, therefore, always open to further processes of interaction and alterative interpretations. Just as spaces of marginality inhabited by the oppressed, exploited and colonised can be understood as more than simply sites of poverty, loss and deprivation. Rather, they can be construed as fragile but essential
sites of openness, possibility and resistance, which provide sustenance for the dispossessed and alienated.

The constant threat of challenge to the power of law and the state means its social relations have to be continually reproduced, reinstated and defended. The perpetual process of verification and validation is likened by Lefebvre to a ‘trial by space’ in that ‘nothing and no-one can avoid trial by space – an ordeal which is the modern world’s answer to the judgment of God or the classical conception of fate’ (1991a: 416). The trial acts as a legitimating procedure, wherein groups, individuals and ideologies must expose themselves and their beliefs to political acknowledgement and affirmation. Whether it is philosophy, science, religion or law on the dock, the defendant is subjected to a rigorous cross-examination that places continual antagonistic pressure on established forms of spatial power. Since the encounter with other values, ideas and representations may result in a loss of distinctiveness or value, each subject in the courtroom seeks to promote and maintain their own position, make their mark on space and win that particular moment’s trial by space. This is particularly important for transformative political strategies because their viability relies on their proficiency in producing, appropriating and organising social space.

Clearly, law and justice are intimately implicated in socio-spatial dynamics; for example, when imposing and refraining from imposing regulation in relation to the design, size, materials and location of the built environment. Legal frameworks impose a set of normative assumptions that underpin and inform policy and eligibility criteria, with discriminating social effects and fragmentary spatial outcomes; imposing penalties on some individuals and places whilst advancing the interests of other locales and actors. Spanning topics such as the control of public space, regulation of the city and the symbolic elements of spatial conflicts, the law is not simply a passive medium through which states can execute their spatial policies; rather, it is a productive force with a life of its own which shapes the physical, social as well as mental-subjective spaces. This is particularly pertinent in relation to regulating the impingement of information and communication technologies, social media, cybernetics and genetic augmentation onto the everyday lived space of the mundane, linear, repetitive and routine. On this matter Lefebvre asked in 1981, ‘Will computer science with its repercussions and related disciplines go as far to transform everyday life… the social relations of production, reproduction and domination?’ (2006: 236). The next section addresses this important question in the context of the cyber-spatial paradigm shift.

Lefebvre’s spatial triad and the cyber-spatial metaphor

The term ‘cyberspace’ as a synonym for the Internet has become axiomatic. Attached to physical space via network nodes or intersection/connection points and interlinked by networks of power, it offers a metaphorical parallel to physical space. The characteristic notions of control versus unboundedness and materiality versus void express something of the polarity of this equivalent virtual reality. By hosting both symbolic and perceptible forms of information exchange, cyberspace presents a horizon of potentialities (Shaw 2015: 247). For that reason, the application of the Lefebvrian spatial metaphor usefully draws out the ideological possibilities, rather than only the material properties, of Information Communication Technologies (ICTs). For example, in common with the production of power in ‘real space’, the production of power in networked space also relies on techniques of both visibility and invisibility; being inhabited by real, embodied users and understood through experience.

Once the Internet was the paradigm of digital space; however, the interconnectivity of everything from urban transport to medical equipment to household appliances in the age of the
‘Internet of Things’ has transformed the ways in which physical bodies connect with other bodies, objects and spaces. As a synthesis of human and machine, the new technologies merge diffuse aspects of life into a single entity. Encapsulating and freezing human actions and making these available in contexts other than the ones in which they occurred allows for a complete projection and distancing of the self both within and beyond the lived urban space, as people inhabit multiple spaces at any given time (Latour 2002). The myriad invisible and instantaneous switches between diverse spaces have become a common site of everyday spatial habitation in most parts of the world. Even so, cyberspace is argued to be superimposed on or augment, rather than replace or add to, Lefebvre’s conceptual triadic space. This is because, as Lefebvre explained, ‘abstractions’ are transformed into ‘real’ space by means of, for example, ‘worldwide networks of communication, exchange and information… [and] that such newly developed networks do not eradicate from their social context those earlier ones, superimposed upon one another over the years’ (1991b: 86).

The social models, relationships and practices facilitated by the Internet still contribute to the overall production of social space, as they are layered over large-scale policies and organising mechanisms such as calendars and maps that preceded the Internet (Shaw and Shaw 2016: 32). Despite being produced by a disembodied, unfettered, anarchic electronic network of connections mediating human life and abstract space, ICTs are still dependent on spatial fixity such as bandwidth and access points. Since the limitations of the physical body mean it cannot be fully absorbed into this new space – in the manner of Lana and Lilly Wachowskis’ *The Matrix* (1999) – for the present, digital transactions between technology and humans still take place in the lived space. Moreover, the experience of Web browsing in Shanghai is very different from surfing the World Wide Web in Scunthorpe or San Francisco. It follows, therefore, that digital or cyber culture continues to be produced by dominant spatial forms comprising a web of multi-layered and contested discourses, and distinct social practices.

**Cyberspace as a contested space**

While ICTs impose their own teleologies, both networked space and embodied space are continually shaped and reshaped by the dynamics of power relationships. Although corporeal space determines the properties of virtual space, they are often presented as being in an antagonistic relationship, and this is problematic in terms of finding a holistic approach to the digital production of space. Material spaces are treated as subordinate to the deterritorialised landscapes of cyberspace, in that technological mediation allows sensations to be enhanced or repressed within digital spaces, such as through the immersive experience of the new virtual reality (VR) consoles and headsets. So, while cyberspace is often defined in relation to how its technologies directly or indirectly benefit physical space or according to what it lacks or modifies in relation to real space, our perception changes with each new media innovation. That these adaptations take place within social space is ‘what permits fresh actions to occur, while suggesting some and prohibiting yet others’ (Lefebvre 1991a: 73). As our technologies advance and reconstitute the relationship between architectural constructions, urban territories, media and social practices, our thinking and behaviour also adapts in response to the evolving technology and media-driven environment.

Maps, for instance, are more than just a mirror of the world or location device. They are important signifiers; representing particular cartographic discourses, political statements, conditions of authorship and rhetorical traditions. Associated with experience and memory, which remain notoriously difficult to integrate into digital interfaces, they can be interpreted as a type of language with which to mediate a specific view of the world. For Lefebvre, the cartographic
articulation of ‘castles, palaces, cathedrals and fortresses’ offers ‘a sort of instant infinity’ of possibilities for mapping the distribution of power in space (Lefebvre 1991a: 85, 232). Yet the old metaphors of maps, movements and nations have been superseded. Online ICTs have, to a large extent, overwritten the traditional and authoritative depiction of space by means of a digitally produced version, which has transformed the relation between the global and the local. For example, electronic media are eliminating geographical space through the digitisation of maps, the digital projection of maps via Geographical Information Systems (GIS) and by the construction of virtual maps. Real-time information systems such as GPS with Google Maps are inarguably useful and have realised a wider process of historical change by connecting, in real time, ‘conceived’ and ‘perceived’ spaces of social interaction. Maps assist in framing reality by eradicating or altering details to help users see a chosen aspect of reality, and changes in mapping tools and technologies are in the process of transforming the socio-spatial. However, life forms mediated by technology tend to mask their cultural influences (due to the non-human nature of the design methodology); becoming non-linear and flattened out. Such technological innovations and their uses are dogged by an innate instrumentality which ‘pushes us back towards a purely descriptive understanding, for it stands opposed to any analytic approach’ (Lefebvre 1991b: 122).

Instrumentality is not the only problem with the digital mapping of space; users have been impacted by the medium in previously unimagined ways. Google Earth is one of the most extensively used GIS and has been downloaded more than one billion times, yet it operates what is essentially a corporate database masquerading as a photographic representation. As well as providing information to often non-technical users, it is used as a monitoring device to gather information on our home, car, health, personal habits and relationships. Ominously, new social practices are formed according to the panoptic and synoptic logic of innovative location-based technologies. Such novel inventions, and the interests of those who ‘own’ these vast networks of information, comprise new forms of exploitation and social control; and yet are too often unaccountable and exist beyond the reach of the law. It is even unnecessary to coerce the collective will into giving up their privacy as people passively accept particular ideological conceptions validated by the instruments of authority, and willingly collude in the internalisation of surveillance.

Foucault warned of the rise of the self-policing subject against the perpetual presence of ‘an inspecting gaze’ under which ‘each individual under its weight will end by interiorising to the point that he is his own overseer… thus exercising this surveillance over, and against, himself’ (Foucault 1980: 155). For example, people have become accustomed to allowing their mobile devices to track their coordinates. Also, the profound societal implications for privacy and freedom against the corporatisation of political power in the so-called snooper’s charter (now enacted as the UK Investigatory Powers Act 2016) have been largely overlooked. The visibility of surveillance techniques has emerged as a forceful cultural theme and one that is inevitably linked with spatial control. Along with reappraising the complex interaction between legal regulation and technical design, confronting the nexus of radical spatial uncertainties requires a commitment to transdisciplinary research, including critical geographers and social anthropologists.

Spatiality, power and justice in a digitised world

The contemporary world of smart cities, big data and social media is highly complex with limitless connections between people and events, and manifold causes for effects that exert a profound influence over thought and activity. This has accelerated in late modernity, as the
boundaries between human and machine have been transgressed to the extent that it is difficult to imagine human life without technological mediation. Consequently, humanity has a precarious existence, having become marginalised vis-à-vis technology (Shaw and Shaw 2015: 243). Time, space, knowledge and the body have all been subject to a reordering as a result of the intrusion of technological forms of life. In turn, this has impacted on our subjectivities, experiences and understanding of what it means to be together. Not least of all because by generating new capacities to act at-a-distance, technological mediation has reconstructed contemporary social life along the lines of what Scott Lash describes as ‘sociality and culture at-a-distance’ (2001: 107–108).

Lefebvre’s classification of space provides a framework within which to understand modern society in its current state of being distanced from reality; characterised by inauthentic space, driven by capitalist consumer values and being reimagined by cyber technology. Every day, armies of tech zombies march along the street, headphones in place, eyes down facing a screen, busy tapping away, while gaming, listening to music or focused on the latest text, tweet or email; both physically present and at the same time existentially absent or at least remote. As Seegert explains, ‘the orientations of cell phones and new media truncate our reciprocal relation with the Earth, stunting our senses and incarcerating ourselves in a technosoliloquy’ (2011: 47). These spatial incongruities have significant implications for evolving theories of space and culture, but also in relation to our sense of distracted, distanced and distributed communities in the context of the new hypermobility of users and how this affects the construction of social spaces.

Cyberspace provides a context for the layering of fantasies upon earlier fantasies, the competition of one fantasy with another and the echoing of one fantasy, desire (and more recently fear, according to a new aesthetics of security in the wake of the so-called ‘war’ on terror), by another. Yet the social structures within which we express our identity – in terms of race, class, sex, gender and age – persist, in spite of the ethereal possibilities offered by social media and virtual reality. Access to essential resources such as food, shelter and a livelihood is still subject to dominant political values. So although cyber-resistance is useful – for example, social media enabled the 2011 ‘Occupy Wall Street’ movement to go global – the sites of resistance against material injustices continue to rely on their embodied constituent. The power of technique or technology, defined as a ‘calculated, quantified, and programmed’ manner of operating, was one of the central problems that Lefebvre identified in modern society. Technological mediation within cyberspace, as an offshoot of capitalism, aligns with Lefebvre’s characterisation and remains a powerful instrument of social discipline, which extends control from the economic to the cultural and social spheres of our existence (Elden 2004:144). It follows therefore that Lefebvre’s philosophy of spatial justice can provide a framework for articulating the reasons for various incongruities and conflicts, and suggest the basis for ameliorative work towards producing a consensus of spatial-ethical values; even within the unruly and antithetical space of cyberspace.

Conclusions

A critical examination of urban space and spatial relations provides valuable insights into prejudices and discriminatory practices that too often go unnoticed and unchecked. In an increasingly complex world there is still much work to be done in relation to presenting a fully coherent and multifaceted articulation of spatialities, which explain how space is socially constructed and utilised within a multiplicity of diverse new contexts. The modern cityscape is not just a set of processes, infrastructures and networks. It is an essential mediating force (amplified by physical and virtual interconnectedness) and a discursive space which contains the possibility
of enhancing sociability, where communities produce instinctive and tacit collective memories. Space has meaning because of the social relationships forged between things and people; and although a tension-filled and incomplete process, it is also the place in which they have learned to live and flourish. It is not something human activity fills up, rather space is something human activity produces; in other words, it is the very expression of society which has ‘emerged in all its diversity’ (Lefebvre 1991b: 83, 86).

Similarly, when understood as solely otherworldly and intangible, cyberspace is a dubious concept because, experientially, it is (like physical space) multiple. As it is not a unitary space, the impact of virtual space on individuals and communities is not identical or even the same in different parts of the world. To paraphrase Lefebvre, information technologies, whether viewed as purely techniques or tools, are ‘not simply a means of reading or interpreting space; rather [they are] a means of living in that space, understanding it and producing it’ (1991a: 47–48). Although society’s public and private spaces of interaction are becoming more complex and human life has been irrevocably changed by technology, the cyber-conscious of the self remains physically situated in the lived space of pure subjectivity, of human experiences, imagination and feeling. It is, therefore, still within the borderlands of lived space that we encounter the past, the present and the future, the historical and the imagined, together with the endless negotiations of power and control.

References


