



Kent Academic Repository

Cloatre, Emilie (2018) *Law and ANT (and its Kin): Possibilities, Challenges, and Ways Forward*. Journal of Law and Society, 45 (4). pp. 646-663. ISSN 1467-6478.

Downloaded from

<https://kar.kent.ac.uk/69774/> The University of Kent's Academic Repository KAR

The version of record is available from

<https://doi.org/10.1111/jols.12133>

This document version

Publisher pdf

DOI for this version

Licence for this version

CC BY (Attribution)

Additional information

Versions of research works

Versions of Record

If this version is the version of record, it is the same as the published version available on the publisher's web site. Cite as the published version.

Author Accepted Manuscripts

If this document is identified as the Author Accepted Manuscript it is the version after peer review but before type setting, copy editing or publisher branding. Cite as Surname, Initial. (Year) 'Title of article'. To be published in *Title of Journal*, Volume and issue numbers [peer-reviewed accepted version]. Available at: DOI or URL (Accessed: date).

Enquiries

If you have questions about this document contact ResearchSupport@kent.ac.uk. Please include the URL of the record in KAR. If you believe that your, or a third party's rights have been compromised through this document please see our [Take Down policy](https://www.kent.ac.uk/guides/kar-the-kent-academic-repository#policies) (available from <https://www.kent.ac.uk/guides/kar-the-kent-academic-repository#policies>).

Law and ANT (and its Kin): Possibilities, Challenges, and Ways Forward

EMILIE CLOATRE*

This article interrogates the contributions that Actor-Network Theory (ANT) has made, and can continue to make, to the critical study of law. Both within its original field of Science and Technology Studies (STS) and beyond, ANT has enabled a reimagining of the 'social' as relational, heterogeneous, and fluid. In turn, it has argued for a renewed attention to materiality in social analysis. For law, such approach is potentially fruitful, significant, and disruptive of a number of assumptions of previous (socio-)legal scholarship. In this article, I sketch out key elements (and critiques) of ANT, previous efforts to bring ANT into law, and discuss its potential for enhancing understandings of law. At the same time, I argue that ANT in law is best approached with a commitment to care, and to kinship, and in conversation with feminist thinkers, legal ethnographies, and the discrete voices of law.

INTRODUCTION

This article aims to provide a concise guide to how actor-network theory (ANT) has been used, and could be used, in the context of socio-legal studies and the critical study of law. The task, however, is not easy, for a number of reasons. First, ANT has become a vast and shifting field: since its inception ANT has been critiqued, revisited, reinterpreted, and further developed. It has also integrated new ideas, nuances, and vocabularies. Suitably, given the approach it proposes, different versions of ANT have in fact long coexisted. Second, a broad range of scholarship, that is not explicitly or exclusively 'ANT', has become seen as part of its broader 'kinship' (some, but not all, of it labelled as 'post-ANT'). Finally, understandings of what ANT may mean

* *Kent Law School, University of Kent, Canterbury CT2 7NS, England
e.cloatre@kent.ac.uk*

Thanks to the Editorial Board for their invitation to write this piece, and to Emily Grabham and Thanos Zartaloudis for their feedback on earlier drafts.

for law are still evolving, and have themselves been varied. Even though law has not translated ANT as extensively as other disciplines have, there is no clear and single identifiable ‘law and ANT’ body of scholarship – which, again, is consistent for this type of approach. In this introduction, I am deliberately adopting a broad reading of what ANT can be said to be about, rather than advocating that it should be read as a unified set of principles for legal studies. I argue that while ANT continues to have significant potential for our understanding of law, it could be at its most useful if we are to adopt a reading that takes seriously both other relevant insights from interdisciplinary legal studies, and feminist and postcolonial critiques of ANT. As a result, this article calls for a double movement of, first, engaging ANT’s key original ideas in order to reimagine both law and society as fluid and heterogeneous, and, secondly, of translating it in conversation with other scholars that have enabled us to complicate both our understanding of the multiple lives of law in practice, and of the significance of a ‘standpoint’ in theorizing. I wish, then, to propose not a definitive guide to what ANT can do for legal studies, but a more modest set of suggestions as to how it could be used to productively help us further unpack the complexity and diversity of the liveliness of law that others have also drawn out, beyond its institutions and its own internal claims, so as to venture into new terrains through relational, material/semiotic thinking – a suggestion, thus, to approach ANT with an ethics of ‘thinking with’.¹

The article starts with a brief summary of the origins of ANT, of its core concepts, and of some of its feminist kin (which I see as particularly productive for thinking through ANT in legal studies). It moves on to explore how it has been taken up in legal scholarship, both in relation to materiality and to the fluidity of the social. It draws attention to Bruno Latour’s much commented upon engagement with law, while interrogating other potential readings of ANT for law, and alternative intellectual agendas. It concludes by proposing that ANT in law be read with a commitment to care, and to kinship, and in conversation with feminist thinkers, legal ethnographies, and the discrete voices of law.

BACKGROUND

Although this short piece does not allow for a full history of ANT’s complex origins, it is worth briefly summing up some of its key aspects.² ANT emerged from Science and Technology Studies (STS), relatively early in the development of the discipline. Its foundational texts were written throughout the 1980s and 1990s, and its ideas have since then continued to be translated

1 D.J. Haraway, *Simians, Cyborgs, and Women: The Reinvention of Nature* (1991).

2 For a more thorough history see, for example, M. Michael, *Actor-Network Theory: Trials, Trails and Translations* (2017).

and rethought as it entered new fields.³ Its reach extended through the development of other post-human theories.⁴ The context of early days STS matters to understanding the initial claims of ANT: ANT is part of the discipline's efforts to explore science as a social activity, and scientific knowledge as a particular type of social practice. STS worked from its inception to explore the social loadedness and the political dimensions of science as an institution (including how questions of power, inclusion, and exclusion are at play in scientific processes). Overall, it enabled the closed world of science to be subjected to the sort of critical inquiry that science as an institution had long avoided in the name of its neutrality and its claims to 'objective knowledge'.⁵

ANT was part of this broader effort. In *Laboratory Life*, one of the early expressions of what would become ANT, the process of construction that is at play within the laboratory is scrutinized.⁶ The work of scientists is described as one in which humans and non-humans are mobilized to translate discoveries into settled (for a while, at least) scientific knowledge enabled to circulate. From there, however, ANT took a particular stance within STS scholarship both in relation to the 'radical' claims it made of science itself and, more importantly for our purpose, of *society*. It also became critiqued and challenged both within and outside STS, to which I will return.

ANT continued to evolve first within STS, and later in a broader range of fields and disciplines – complicating any possibility of providing a generic

- 3 F. Muniesa, Y. Milo, and M. Callon, 'An introduction to market devices' in *Market Devices*, eds. M. Callon, Y. Milo, and F. Muniesa (2007); M. Puig de la Bellacasa, *Matters of Care: Speculative Ethics in More Than Human Worlds* (2017); J. Murdoch, *The spaces of actor-network theory* (1998) 29 *Geoforum* 357.
- 4 See, for example, D.J. Haraway, 'A Cyborg Manifesto: Science, Technology and Socialist-Feminism in the Late Twentieth Century' in Haraway, op. cit, n. 1, p. 149; D.J. Haraway, *Staying with the Trouble: Making Kin in the Chthulucene* (2016); K. Barad, *Meeting the Universe Halfway: Quantum Physics and the Entanglement of Matter and Meaning* (2007); J. Bennett, *Vibrant Matter: a Political Ecology of Things* (2009); S. Alaimo and S. Ekman (eds.), *Material Feminisms* (2008); Puig de la Bellacasa, id.
- 5 See, for example, and by comparison: T. Gieryn, 'Boundary work in professional ideologies of scientists' (1983) 48 *Am. Sociological Rev.* 781; D. Bloor, *Knowledge and Social Imagery* (1976); B. Barnes and S. Shapin, *Natural Order* (1979); S. Shapin and S. Schaffer, *Leviathan and the Air-Pump: Hobbes, Boyle and the Experimental Life* (1985); H.M. Collins, *Changing Order* (1985); M. Mulkay, *Science and the Sociology of Knowledge* (1995); K.D. Knorr-Cetina, *The Manufacture of Knowledge: An Essay on the Constructivist and Contextual Nature of Science* (1981); W.E. Bijker, *Of Bicycles, Bakelite and Bulbs: Toward a Theory of Socio-technical Change* (1995); T.J. Pinch and W.E. Bijker, 'The Social Construction of Facts and Artefacts: or How the Sociology of Science and the Sociology of Technology might Benefit Each Other' (1984) 14 *Social Studies of Science* 399; S. Woolgar 'Interests and explanation in the social study of science' (1981) 11 *Social Studies of Science* 365; S. Jasanoff, *The Fifth Branch: Science Advisers as Policy-Makers* (1990).
- 6 B. Latour and S. Woolgar, *Laboratory Life: The Construction of Scientific Facts* (1979).

overview of its core ideas, or indeed of affirming who its main ‘spokespersons’ could or should be. If early scholars in ANT are relatively easy to identify (Michel Callon, Bruno Latour, John Law, Annemarie Mol, and Marilyn Strathern are often cited as key players in its initial development), its translations to date both within each of these initial scholars’ work, and in that of others, complicate any attempt to give an authoritative summary of what ANT is or is not. A distinction is often drawn between ‘classical ANT’ (its early, foundational texts) and a variety of newer, ‘post-ANT’, texts, including scholarship that shares some of its sensibilities (and which I refer to in my analysis below).⁷ In this article, and in order to avoid the ANT-centrism that some uses of the ‘post-ANT’ label can carry, I choose instead to refer to works that are ‘related’, or ‘kin’, to ANT. Overall, rather than seeking to essentialize ANT as being about a particular moment or set of ideas, or indeed as being isolated from other forms of analysis, it is more productive to approach it as a field that has always been relatively fluid and ‘in the making’. Thus, I shall suggest in this article that its most promising future in legal studies may depend on our ability to embrace this multiplicity.

Although it has at times been seen as a ‘stand-alone’ theory that seeks to provide a radical reimagining of society, ANT has a number of recognized sources of inspiration. As well as the questioning developed in STS, ANT has identified its primary intellectual roots in Tarde (in his particular attention to heterogeneity and networked connections),⁸ Whitehead (in his working against the divide between nature and society, as well as his attention to the making of durability),⁹ Serres (with his thinking through quasi-objects),¹⁰ and in ethnomethodology, with its particular approach to micro-interactions as rich sources of social analysis.¹¹ These mixed origins in mostly philosophy (rather than social theory) and in a particular strand of social scientific method, are significant in grasping what ANT is ‘about’.

KEY TENETS

ANT is classically associated with a few key tenets. The principle of symmetry (or ‘radical’ symmetry), and its impact on how materiality should be approached, is maybe the best known aspect of ANT’s contributions to

7 See, also, Michael, *op. cit.*, n. 2.

8 See B. Latour, ‘Gabriel Tarde and the End of the Social Bruno Latour’ in *The Social in Question. New Bearings in History and the Social Sciences*, ed. P. Joyce (2001) 117; G. Tarde, *Monadologie et sociologie* (1999/1893).

9 A.N. Whitehead, *Science and the Modern World* (1926); A.N. Whitehead, *The Concept of Nature* (1964/1920).

10 M. Serres and B. Latour, *Conversations on Science, Culture and Time* (1995); M. Serres, *Hermes, Literature, Science and Philosophy* (1982); M. Serres, *The Parasite* (1982).

11 H. Garfinkel, *Studies in Ethnomethodology* (1967).

understandings of society, and indeed it provides a useful starting point. The proposition is that social theory should not assume that the ‘social’ is, wholly or even primarily, about humans, and that humans, in turn, occupy a place that is fundamentally different from that of others – be they objects, animals, nature, and so on. For ANT, by having privileged humans in their analysis, social scientists have missed a trick, and failed to understand the complexity of the world. In *We have Never Been Modern*,¹² Latour famously opens his discussion, and his initial explanation of this idea, by presenting the range of interventions that things are making in the front pages of a newspaper – microbes, technologies, climate change, all come to disrupt events and remake worlds. They are, he argues, at least as powerful as the humans that need to adjust, respond, and react to them. Pre-assuming the significance of one set of actors over the others in social analysis, in his view, is no more than the inherent bias of the ‘Moderns’. In his analysis, Latour challenges two dichotomies on which the ‘Moderns’ (our ‘tribe’, that claims to be different from all that preceded them) have based their stories: the dichotomy between ‘Nature’ and ‘Society’, and that between ‘Humans’ and ‘Non-Humans’. Instead of such divides, ANT proposes to reimagine society as relational. The principle of symmetry rests on the assumption that, ontologically, the world is made of heterogeneous networks that are not exclusively or even ‘particularly’ guided by human actors. Things fall into order in a particular way because of alliances between heterogeneous sets of actors – be they texts, technologies, microbes, humans, or scallops.¹³ In such processes of temporary stabilization, some actors may be better connected, or indeed inevitable for particular actions to take place (those that Callon names ‘obligatory passage points’).¹⁴ Others will be enrolled under particular circumstances, enabling a particular network to hold in a temporary form.

Such heterogenous relations are essential to the constitution of events, and such heterogeneous relationality is, for ANT, neglected in other approaches to society. In *The Pasteurization of France*,¹⁵ Latour proposes to reimagine Pasteur not as an isolated scientific hero who made a great discovery, but in his relations with the many actors, human and non-human, within and beyond his laboratory, that made his discovery ‘hold’ (and in this sense, possible). Pasteur in his story is only ‘Pasteur’ because of his ability to connect with those others, and to keep them connected and ‘interested’. This idea of relationality would remain at the core of ANT in its multiple

12 B. Latour, *We Have Never Been Modern* (1993).

13 M. Callon, ‘Some elements in a sociology of translation: domestication of the scallops and the fishermen of St Brieuc Bay’ in *Power, Action and Belief: A New Sociology of Knowledge?*, ed. J. Law (1986) 196. See, also, J. Law, ‘On the Methods of Long-Distance Control: Vessels, Navigation and the Portuguese Route to India’ (1984) 32 *Sociological Rev.* 234.

14 Callon, id.

15 B. Latour, *The Pasteurization of France* (1988).

iterations and versions. It is perhaps even more fundamental than the focus on materiality in itself: it calls for a revisiting of how society is constituted, emphasizing both its contingency, and the entanglement of actors within one another. ‘Society’ is constituted by the myriad of relations that are built between what Latour called ‘actants’ – entities that do things and create events.¹⁶ Events, in turn, can be reimagined as moments of destabilization: actants hold a particular form, or a particular role, only as long as certain relations continue to exist. When those are transformed (for example, when a new entity becomes a part of their world), they act (and when they act, they are further transformed) and so they affect the relationships that surround and compose them.

It is useful at this stage to say a little bit more about ‘materiality’, what it means to imagine materiality as relational, and its ontological implications. Indeed, ANT also offers a particular definition of materiality as complex, fluid, and ontologically multiple. Multiplicity is a particularly important feature of materials, of society, but also potentially of our readings of law, as I return to below. Multiplicity in ANT is an ontological, rather than epistemological issue: it is not a recognition of the coexistence of different readings or different meanings of the world but, rather, an emphasis on the very coexistence of worlds. The works of Annemarie Mol and John Law¹⁷ have greatly participated in directing attention to ontological multiplicities. For them, the world is composed of ‘multiple materialities performing themselves in manifold ways’.¹⁸

For the ANT analyst, materials are not fixed in the way they may appear, but are ‘vibrant’ (to borrow from Jane Bennett¹⁹). As they move and create new social relations, they become other. In this way, they do not pre-exist society, but are co-produced by it. Examples of this abound in ANT literature – waterpumps,²⁰ documents,²¹ microbes,²² doors²³ are all a different thing depending on the set of relations they create. While objects are loaded with their own initial ‘script’ (the particular set of expectations of what they should do, how they should work, and what they need in order to work, that

16 See, also, B. Latour, *Reassembling the Social: An Introduction to Actor-Network-Theory* (2005).

17 A. Mol, *The Body Multiple: Ontology in Medical Practice* (2002); J. Law, *Organizing Modernity* (1994).

18 J. Law and A. Mol, ‘Notes on Materiality and Sociality’ (1995) 43 *Sociological Rev.* 274, at 287.

19 Bennett, op. cit., n. 4.

20 M. de Laet and A. Mol, ‘The Zimbabwean Bush Pump: Mechanics of a Fluid Technology’ (2000) 30 *Social Studies of Science* 225.

21 M.-A. Jacob and A. Riles, ‘The New Bureaucracies of Virtue: Introduction’ (2007) 30 *PoLAR: Political and Legal Anthropology Rev.* 181.

22 Latour, op. cit., n. 14.

23 B. Latour, ‘Where Are the Missing Masses? The Sociology of a Few Mundane Artifacts’ in *Shaping Technology-Building Society. Studies in Sociotechnical Change*, eds. W. Bijker and J. Law (1992).

their creators ‘built in’),²⁴ they become a new thing where such expectations are not met. When so, they become ontologically different, behave otherwise, and do different things. ANT classically avoids seeing such transformation or discrepancies as ‘failures’, at least analytically.²⁵ Instead, the less expected effects of technologies, away from their initial script, are themselves informative both of social relations, but also of the richness of the technology itself. Objects that have not followed their scripts (and we can here start thinking about the implications for legal objects) navigate and create new relations; they also produce and mediate relations with human actors, and between human actors (as well as between human actors and other things). The landscape of relations shifts in this process, producing a new form of reality. This richness and complexity of materials is why ANT calls for a different form of attention to their role in defining what society is made of. ANT and its understanding of materiality suggests that society is both fluid and multiple, as are things themselves. The ambivalence of materials between stability and fluidity is captured by John Law in the idea of ‘immutable mobiles’: material objects have the ability of remaining apparently solid while being socially mobile and acquiring new identities as they travel.²⁶ Marilyn Strathern approaches this ambivalence by emphasizing the fractal nature of the world: connections and relations are always inevitably partial, worlds multiple, and our ability to seize and describe it inevitably incomplete.²⁷ Vicky Singleton draws attention to the ambivalent positioning of particular actors who can be one thing or another depending on the set of connections they are involved in for each particular purpose.²⁸ With this emphasis on multiple and complex materialities as constitutive of the social, ANT proposes a reimagining of humans as well as non-humans. Humans become better defined as hybrids,²⁹ always constituted through the connections they make with materialities, and thus as inherently relational. Such rethinking of humans relates very closely (though her purpose is more openly political) to Donna Haraway’s reading of humans as cyborgs: non-unique and non-isolated, yet always politically loaded in this materiality and hybridity.³⁰

24 M. Akrich, ‘The de-description of technical objects’ in Bijker and Law (eds.), id., p. 259.

25 J. Law, *Aircraft Stories: Decentring the Object in Technoscience* (2002); de Laet and Mol, op. cit., n. 20.

26 Law, op. cit., n. 13.

27 M. Strathern, ‘Cutting the network’ (1996) 2 *J. of the Royal Anthropological Institute* 517.

28 V. Singleton, ‘Feminism, Sociology of Scientific Knowledge and Postmodernism: Politics, Theory and Me’ (1996) 26 *Social Studies of Science* 445.

29 B. Latour, ‘Pragmatogonies: A Mythical Account of How Humans and Non-Humans Swap Properties’ (1994) 37 *Am. Behavioral Scientist* 791.

30 Haraway, op. cit., n. 1; D.J. Haraway ‘A Game of Cat’s Cradle: Science Studies, Feminist Theory, Cultural Studies’ (1994) 2 *Configurations* 59.

Through its emphasis on heterogeneous connections and their fluidity, ANT is an approach of the ‘micro’. It has been built through an attention to how apparently ‘small’ moments, or seemingly simple technologies, could tell stories of social contingency and complexity.³¹ It has also been particularly critical of any effort to provide set explanatory frameworks. Instead, concepts classically used to ‘explain’ become what needs to be explained through a renewed attention to the micro-connections that form the whole. For example, ‘power’ is classically something that is ‘constructed’ (in the sense of built/made) for ANT, and instead of assuming particular patterns of power as explainants of a given situation, we should look at how particular connections have enabled power to circulate and be replicated, and to determine how a particular actor (or set of actors) came to be so well connected that it can exercise particular influence on the network.³² For ANT, there are no external, pre-existing structures, since everything is the effect of ongoing connections. Networks themselves need to be approached as ‘flat’ (that is, thick description should not presume particular positions of power), and the role of social analysis should be to explain how a particular set of connections happen to become stable and durable.³³ Power is produced by the ability of particular configurations to hold together for a period of time, and it should be interrogated by unpacking those very connections, rather than assuming that they pre-exist in a set form as a given explanatory framework that is to be superimposed.

This particular aspect of ANT has been heavily critiqued, as generating an apolitical strategy that effectively effaces the violent histories and embedded power imbalances that constitute social relations.³⁴ To put it simply, if the idea here is that we should then not take account of such categories as gender, race, class, or concepts such as neo-liberalism or postcoloniality in our analysis, it is easy to see why ANT would be seen as at best problematic, and at worst as dangerous. This seems to be particularly so in law, where such patterns and histories are significant, and have indeed been demonstrated by an extensive (and growing) scholarship. ANT’s response to such critiques has classically been that it does not seek to deny these categories, but that they should not be used as shortcuts. Empirical investigations are expected not only to make them visible, but also give us a richer

31 J. Law, *After Method: Mess in Social Science Research* (2004); and Latour, op. cit., n. 16.

32 This approach to power is reminiscent of aspects of Foucauldian thought, where ANT’s roots are visible, though not always explicitly acknowledged: notably, M. Foucault, *Discipline and Punish* (1979) and M. Foucault, *History of Sexuality, Vol. 1* (1981).

33 J. Law, ‘Objects and Spaces’ (2002) 19(5/6) *Theory, Culture and Society* 91.

34 S. Harding, *Whose Science? Whose Knowledge? Thinking from Women’s Lives* (1991); S. Harding, *Sciences from Below: Feminism, Postcolonialities, and Modernities* (2008); W. Anderson, ‘Introduction: Postcolonial Technoscience’ (2002) 32 *Social Studies of Science* 643.

account of how they are produced: ‘following the actors’, as Latour reminds us we should do, is expected to help us unearth discrete movements and connections that constitute ‘power’.³⁵

Others, however, while otherwise sympathetic to ANT sensibilities, have pointed out that even in classic ANT studies, some voices had not emerged as much as others in the rewriting of networks.³⁶ For example, *The Pasteurization of France* still remained focused on the (still, arguably, rather heroic though more connected) scientist as enroller, and did not make the less acknowledged humans of everyday laboratory practices particularly visible. Within science studies, feminist and postcolonial approaches developed ways to move away from classic top-down, Westerned, and gendered understandings of science.³⁷ In particular, feminist thinking has furthered post-human sensibilities with a more attuned attention to such conceptual challenges, embracing those difficulties rather than pushing them to the side – ‘staying with the trouble’.³⁸ They constitute part of a broader set of STS post-human scholarship (for some, ‘post-ANT’, although, crucially, Haraway and Harding’s ideas developed both prior to and alongside ANT) that are not only worth bringing into our discussion for the purpose of this article, but also, as I argue below, well worth working with in future attempts to bring ANT into legal studies. Notably, Donna Haraway has been a powerful advocate for a reading of social contingency and heterogeneity that also enables a critical attention to positionality – a ‘critical kin’ to ANT. She suggests a nuanced approach to post-human ontologies, in which we recognize the inherent limitations of our own perceptions as researchers, as well as the pursuit of a political agenda as a necessary part of research endeavours. In other words, focusing on the micro-level and ‘following the actor’ (as ANT has often proposed as symbolic of its methods), is not enough: we need to remain alert to our own role within the very networks we seek to describe, within the academic fields of knowledge that we seek to develop, and within the broader worlds we are connecting to. Focusing on the question of standpoint, she sums up its ethical and political significance as follows:

I would like to insist on the embodied nature of all vision, and so reclaim the sensory system that has been used to signify a leap out of the marked body, and into a conquering gaze from nowhere. This is the gaze that mythically

35 B. Latour, ‘The powers of associations’ in Law (ed.), op. cit., n. 13, p. 264.

36 S.L. Star, ‘Power, technologies and the phenomenology of conventions: on being allergic to onions’ in *A Sociology of Monsters: Essays on Power, Technology and Domination*, ed. J. Law (1991) 26; J. Law, ‘Introduction: monsters, machines and sociotechnical relations’ in Law (ed.), id., p. 1.

37 E. Martin, *The Woman in the Body* (1989); E. Martin, ‘Anthropology and cultural study of science’ (1998) 23 *Science, Technology and Human Value* 24; Harding, op. cit. (1991 and 2008), n. 34; see, also, S. Harding, *The Feminist Standpoint Theory Reader: Intellectual and Political Controversies* (2004).

38 Haraway, op. cit. (2016), n. 4.

inscribes all the marked bodies, and that makes the unmarked category claim the power to see and not be seen, to represent while escaping representation. This gaze signifies the unmarked positions of Man and White.³⁹

Feminist scholars have productively engaged with the early critiques of ANT's flat ontology as not being able to account for the politics of exclusion that are fostered by relational existences. While avoiding the superimposition of social categories (that ANT has fought against) onto individual scenarios, they propose ways to acknowledge silencing as a matter we need to continue to *care* for, without imposing our end point or ready-made theories. Maria Puig de la Bellacasa sums up such an approach as a 'speculative commitment':

A commitment because it is indeed attached to situated and positioned visions of what a livable and caring world could be; but one that remains speculative, by not letting a situation or a position – or even the acute awareness of pervasive dominations – define in advance what is or could be.⁴⁰

In the analysis that follows, I review how ANT has been approached in law, and suggest that ways forward in furthering its contributions should adopt such a speculative commitment.

ANT AND LAW

ANT (in all its variants) has been taken up in law, though less extensively, and arguably with less impact to date than in other fields, such as economics and critical finance studies.⁴¹ A degree of interest in ANT by legal scholars was to be expected, maybe, given some of the parallels between the narratives that law and science tell about themselves (that is, as particular systems that work towards truth and settlement), their social authority, but also the obvious dependency on materials that they share. In law, like in science, particular spaces participate in the making of authority, documents enable the translation of such authority and its travels, and materials (including bodies, animals, things) need to be mobilized, disciplined, and controlled. From the 'classical ANT' phase, Marilyn Strathern's⁴² contributions included an analysis of how regimes of property came to constrain networks and produce particular forms of relationality, and to impose particular readings of relations that were imbued with Western assumptions.

39 D. Haraway, 'Situated Knowledges: The Science Question in Feminism and the Privilege of a Partial Perspective' in *Technoscience: The Politics of Intervention*, eds. K. Asdal et al. (2007) 109, at 114.

40 Puig de la Bellacasa, op. cit., n. 3, p. 60.

41 For example, M. Callon, 'Actor-network theory – the market test' in *Actor Network Theory and After*, eds. J. Law and J. Hassard (1999) 181; Muniesa et al., op. cit., n. 3.

42 M. Strathern, 'What is intellectual property after?' in Law and Hassard (eds.), id., p. 156.

Annelise Riles built upon such readings by broadening her attention to the role of legal documents as agents within complex networks, and as co-producing realities through technicalities.⁴³ Her work invited legal scholars to pay closer attention to documents as thick materials, and complex agents in the making of social relations. Over the following decades, the implications of ANT for understanding what law is and how it operates became a growing part of interdisciplinary legal scholarship. Legal objects were scrutinized in their material expression (and as always more than ‘simply’ materials), from consent forms⁴⁴ to legal files,⁴⁵ leases,⁴⁶ homes and ownership⁴⁷ or patents.⁴⁸ Courtrooms as sites of law making were interrogated in the light of approaches influenced by ANT (though not necessarily exclusively so).⁴⁹ As scholars thought to bring ANT influences into the study of legal events, they interrogated broader elements of the making of governance and bureaucracies, meeting other strands of scholarship that has paid attention to material constitutions and the heterogeneity of power.⁵⁰

Bruno Latour’s own study of the Conseil d’État,⁵¹ and his further engagement with law as a ‘mode of existence’, provided a particular approach to the analysis of how law operates and exerts specific forms of action. In studying this distinct French institution, he remains close to early approaches of ANT to the laboratory, and their tracing of scientists’ work as a way to understand better the workings of science as an institution. His intervention has been commented upon extensively, and at times critically,⁵² and it remains an important moment of intervention as one of the few (though not only, given Marilyn Strathern’s work, in particular⁵³) early ANT scholars exploring into the field of law. At the same time, I am keen to move beyond this particular

43 A. Riles, ‘A new agenda for the cultural study of law: Taking on the technicalities’ (2005) 63 *Buffalo Law Rev.* 973; A. Riles, *The Network Inside Out* (2000).

44 Jacob and Riles, *op. cit.*, n. 21.

45 I. van Oorschot and W. Schinkel, ‘The Legal Case File as Border Object: On Self-reference and Other-reference in Criminal Law’ (2015) 42 *J. of Law and Society* 499. It is worth also linking such engagement with files with the work of Cornelia Vismann, notably C. Vismann, *Files: Law and Media Technology* (2008).

46 C. Hunter, ‘Solar Panels, Home Owners and Leases: The Lease as a Socio-Legal Object’ in *Exploring the Legal in Socio-Legal Studies*, eds. D. Cowan and D. Wincott (2015).

47 D. Cowan, H. Carr, and A. Wallace, *Ownership, Narrative, Things* (2018).

48 E. Cloatre, *Pills for the Poorest: An Exploration of TRIPS and Access to Medication in Sub-Saharan Africa* (2013).

49 T. Scheffer, *Adversarial Case-Making: An Ethnography of an English Crown Court Procedure* (2012).

50 M. Hull, *Government of Paper* (2012).

51 B. Latour, *The Making of Law: An Ethnography of the Conseil d’État* (2009).

52 R. Levi and M. Valverde, ‘Studying Law by Associations: Bruno Latour Goes to the Conseil d’État’ (2008) 33 *Law & Social Inquiry* 805; A. de Raymond et al., ‘Droit, réflexivité et sciences sociales: Autour du livre de Bruno Latour, La Fabrique du droit’ (2004) 1(6) *Terrains et Travaux* 159.

53 Strathern, *op. cit.*, n. 41.

reading – and maybe propose building on a broader range of voices to suggest a ‘law and ANT’ agenda that continues to open up questions, black-boxes, and positionalities.

1. *Beyond materials in law and ANT*

Although a significant part of ANT and law scholarship has brought the former’s attention on artefacts to the fore, thinking in law through ANT has also always involved more than a focus on materiality for its own sake.⁵⁴ Indeed, the material shift was always inherently linked to ANT’s other tenets: the relationality of the social, the fluidity of ordering, (un)settlements and world-making, the multiplicity of realities and actors, the undoing of categorizations and boundaries in social analysis, the work away from structural frameworks to micro-events. In law, as elsewhere, these tenets enable us to reopen what looks settled, solid, and black-boxed, to unpick the scripts that objects, technologies, documents, or humans, may carry, and to observe the unfolding of those scripts through new connections and relations.⁵⁵ To legal scholars, this means paying attention to the complexity of legal objects in their great diversity, their transformation in the different worlds they become part of, their deviation from the original scripts they may have been allocated, and their reimagining and recapturing through new connections. In this way, ANT is a potentially useful entry point, or toolbox, to understand the silent ways in which law may work through the travels of materials that are already loaded with meanings, yet go on to, relationally, ‘do their own thing’ with it. As I argue further below, this potential is more likely to be realized if building on the broader critical kin of ANT.

Yet, ANT’s emphasis on the fluidity of the social also means having to re-engage with the very nature of law as a social category, discipline, institution, and label, exploring its daily workings across contexts, staying attuned to its ontological multiplicity (both as individual texts, principles, decisions, objects, and as an institution with its own mode of existence) – tolerating, as Silbey and Ewick also suggested, ‘a kind of conceptual murkiness’ about how to capture the law, and indeed what is to be captured.⁵⁶ This murkiness (or ‘messiness’ as ANT more commonly phrases it) is complicated further because the modes of action of law are themselves entangled in folding, fluid, and multiple realities – including temporal and spatial.⁵⁷ Law in this way is one (or a network) of the elements that con-

54 A. Pottage, ‘The Materiality of What?’ (2012) 39 *J. of Law and Society* 167.

55 de Laet and Mol, *op. cit.*, n. 20.

56 P. Ewick and S.S. Silbey, *The Common Place of Law: Stories from Everyday Life* (1998) 20.

57 E. Grabham, *Brewing Legal Times: Things, Form and the Enactment of Law* (2016); A. Philippopoulos-Mihalopoulos, *Spatial Justice: Body, Lawscape, Atmosphere* (2014); M. Valverde, *Chronotopes of Law: Jurisdiction, Scale and Governance* (2014).

tribute to ‘ontological choreographies’.⁵⁸ When law as an object of analysis becomes unclear, the co-constitution of materiality, practices, and norms also calls for a critical attention to what the ‘social’ may look like as a starting point to socio-legal analysis.⁵⁹ Overall, a relatively obvious consequence of ANT’s principles of symmetry and relationality is to dissolve the pertinence of the dichotomy between law and society that others had previously started undoing, but also of law *in* society: it proposes, instead, the rethinking of such a field as entirely relational.

2. Fluidity, multiplicity, and legalities

With its emphasis on messiness and co-relations, approaching law through the lens of ANT can bring a number of conceptual difficulties, and empirical challenges. ANT’s emphasis on ‘following the actors’ can prove empirically difficult precisely when leaving the institutions of law, where its traces become more discreet and mobile. More crucially, maybe, emphasizing the fluidity of boundaries and dichotomies can lead us to lose sight of the particularity of law as a site of practice and as an object of analysis. If we are to see law as relational, and as a site of entanglements of other forms of practice and other actors, and if we are to approach it through the flat and symmetrical eyes that classical ANT suggests, then it can become difficult if not impossible to get a sense of law as an object of analysis. In other words, the emphasis on fluidity and material entanglements may very well result in a certain analytical erosion of law and of its particularity as a site of authority. Here, critiques may meet those of legal consciousness and its suggestion that law should be read through the experiences and translations of others, rather than through the particularity of its own institutions.⁶⁰ Such criticism needs to be taken seriously, yet the issue it raises can be reimagined as a starting point rather than an end point, and as a set of questions, rather than affirmations. They nudge us not to take for granted the particularities of law, but to unpack them in their multiplicity, and in the sites where they are less obvious and, maybe, less dependent on legal institutions’ own claims. Those sites where law is ambivalent, is only evoked or is reimagined, impacts in ways that were not expected, sees its authority being re-read, travels where it shouldn’t be or indeed is derided where it should be impactful, are also sites in which this ambivalence of the law can be most

58 C. Cussins, ‘Ontological Choreography: Agency through Objectification in Infertility Clinics’ (1996) 26 *Social Studies of Science* 575.

59 E. Cloatre and M. Pickersgill, ‘Introduction’ in *Knowledge, Technology and Law*, eds. E. Cloatre and M. Pickersgill (2014).

60 N. Mezey, ‘Out of the Ordinary: Law, Power, Culture, and the Commonplace’ (2001) 26 *Law & Social Inquiry* 145; K. Levine and J. Mellema, ‘Strategizing the Street: How Law Matters in the Lives of Women in the Street-Level Drug Economy’ (2001) 26 *Law & Social Inquiry* 169.

fruitfully explored – sites of friction where we are less certain of what it means to be ‘legal’.⁶¹

Focusing on these more fragile sites of legality means shifting away from what law is in its own ‘laboratories’ or centres of powers, to how it works in the sites that it is seeking to control, or indeed is not expected to interest, transform or act. By exploring these more uncertain modes of ‘legal’ action in these more uncertain sites of legal presence, we may be able to return to the question of what law is, but maybe more fruitfully *where* law is (what are its material sites?) and how it operates. Importantly, fluidity does not mean full malleability – accepting the law as relational and as not predetermined does not have to mean that it does not maintain a presence or particular modes of action, but that those are multiple, discrete, and always retranslated. It is part of broader processes of ongoing (re)making and ordering, in which particular connections that come to be seen as legal are made and carry a particular strength through contextualized and heterogeneous mechanisms. As we explore such sites and processes, we may think not only of questions about definitions of law or of the ‘legal’, but also of why law matters, not in an abstract, generalized or universal sense, but in the situated practices of micro-interactions and (un)settlements. Looking at the ways in which silent legalities shape the everyday, producing particular temporary orderings, is also about how those can be undone, reimagined or reclaimed.

3. *Future directions, continuity, and disruption*

In my reading, ANT’s emphasis on the fluidity and multiplicity of the social has at least two implications for legal scholarship: first, it invites a conceptual (and speculative) rethinking of the nature of law as a field of practice (and its modes of action), which suggests that the boundaries of law should remain under close scrutiny, rather than be assumed as fixed, or even recognizable through pre-defined criteria. This thinking of law as practice is articulated through a reading of material connections, that opens up both the sites in which legal relations are played out, and the modalities through which they are enacted. Its attention to materiality *as* and *in* practice underlies how and where ANT distinguishes itself from other conceptual approaches to law, and the type of inquiries that it can open. Secondly, there is a methodological implication, in that this approach invites us to return to careful ethnographic engagements with the manifestations of these (uncertain) modes of heterogeneous legal ordering in everyday life, in ways that place ontological multiplicity at the core of the analysis. I would also suggest that such consequences are most powerful when we acknowledge the many other critical works that such ideas can build upon, or learn from – both constructive critiques of the blind spots of ANT, and works that have already contributed to our reimagining of the boundaries of law as fluid and

61 A. Tsing, *Friction: An Ethnography of Global Connection* (2004).

negotiated, and of its existence as multiple. This is both a political and an intellectual agenda, and one committed to meaningfully acknowledging the feminist readings that have enhanced some key aspects of ANT sensibilities, while not necessarily labelling themselves as ANT. My suggestion of bringing them into the heart of our engagement with law and ANT is therefore also a call for more thorough attention to the politics of citing and constructing a field, inherent to the act of summarizing and characterizing a particular method or theory – if ANT is about connections and kinship, its translation into legal studies should make such kinship visible.

Because of its understanding of the social as relational, multiple, and contingent, ANT is a useful resource towards interrogating the fluidity of law and its multiple existences. Such understandings, however, have also been proposed by others who share some methodological assumptions with ANT – including a preference for ethnography as a way to approach the study of law.⁶² ANT's particular concerns for relationality, multiplicity, contingency, and for materiality as constitutive of such dimensions of social ordering, distinguishes it from other types of (socio)-legal scholarship (and generates its own conceptual and empirical challenges). But as well as emphasizing the original features of ANT, building on overlaps with other law and society scholarship is essential for those who seek to engage ANT for their study of law. Unlike when ANT started within the relatively nascent field of science studies, we have the benefit of already having access to a vast array of thorough empirical engagements with the complexity of law, both in its making and in its practice. This literature has enabled us to question the multiple lives of law, and indeed has broadened the scope of who matters, and how, to its story, rendered visible paths of resistance against its workings, and participated in decentring the story of law from the mouth of the law itself, and its peculiar human spokespersons.

Bringing an ANT sensibility into the law does not need to break all such kinships and connections, nor deny some of the patterns of the workings of law and entailed relationships that we have elsewhere observed. At the same time, it inevitably means disrupting some of the assumptions made by previous scholarship – including, for example, an asymmetrical attention to humans, a reliance on categorizations and dichotomies, or an expectation that the 'legal' can be identified in a relatively stable and/or predictable way. In a field such as law, where earlier scholarship has demonstrated patterns of exclusion, imbalances, and foundational as well as everyday violence, juggling the need to disrupt with a desire to continue to care for such patterns

62 For a few examples of a vast field, see Ewick and Silbey, op. cit., n. 56; S. Silbey, 'After Legal Consciousness' (2005) 1 *Annual Rev. of Law and Social Science* 323; S. Bibler Coutin and V. Fortin, 'Legal Ethnographies and Ethnographic Law' in *The Handbook of Law and Society*, eds. A. Sarat and P. Ewick (2015); E. Darian-Smith, *Bridging Divides: The Channel Tunnel and English Legal Identity in the New Europe* (1999).

brings its own challenges. I suggest that approaching law as a *matter of care*⁶³ provides a way to think through and work with the long-standing dilemma of how to bring critique, and politics, into ANT analysis. Notably, proposing an ANT sensibility for the study of law can be done with a commitment to a manner of ethnographic research that seeks voices of and about the law that are less heard, sites that have been less explored, while remaining alert to our own standpoints. In such endeavours, building on what other careful ethnographies have already enabled us to notice of the particularities (or indeed sameness and non-exceptionality) of legalities, as (and in) complex sites of relations and lived interactions, can enrich stories. This is so, even if we accept that such political commitment always remains speculative: sites will almost never be quite as we imagine; causality will rarely be linear; superimposed explanatory frameworks will not suffice to explain relations in the messiness that ANT has helped render visible – and should remain committed to.

Legal consciousness is one stream of scholarship that, as an example, shares some of the questions and some of the tools of ANT, in its commitment to look at displacements and translations in the law, and of exploring the multiplicity of relationships that contribute to creating what law is and does.⁶⁴ More broadly, legal anthropology has provided some insights into the complexities of legal relations once we are outside of the most clear-cut instances of legal events.⁶⁵ Yet such approaches do not share ANT's attention to materials as socially fluid, nor its particular interest for ontological multiplicity and the heterogeneity of the social. This has significant consequences for the type of analysis it allows, and indeed for the end result of what it can or cannot render visible. Here, ANT can be envisaged as a way to work with, disrupt, and take into new directions such other approaches, notably by expanding the range of what we can see as mattering to the making of the social (and all the resulting implications). Where Annelise Riles has used aspects of ANT (or an ANT sensibility) to think about legal documents, she has taken such a leap into building upon, yet disrupting, our thinking about the law.⁶⁶

By reimagining the heterogeneity of the modes of ordering that legal relations are based upon, but also by rearticulating the role of such legal

63 See Puig de la Bellacasa, *op. cit.*, n. 3.

64 E. Cloatre and D. Cowan, 'Legalities and Materialities' in *The Routledge Handbook of Law and Theory*, ed. A. Philipopoulos-Mihalopoulos (2018).

65 Sites of illegality have been particularly illustrative of the messiness of legal boundaries. For example: J. Roitman, 'The ethics of illegality in the Chad Basin' in *Law and Disorder in the Postcolony*, eds. J. Comaroff and J. Comaroff (2006); K. Peterson, *Speculative Markets: Drug Circuits and Derivative Life in Nigeria* (2014); E. Cloatre and M. Enright, 'On the Perimeter of the Lawful: Enduring Illegality in the Irish Family Planning Movement 1972–1985' (2017) 44 *J. of Law and Society* 471.

66 A. Riles, *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (2011); Riles, *op. cit.* (2005), n. 43.

relations in conditioning, framing, and colonizing other forms of networked connections, ANT can open up important directions in law and society scholarship. ANT's proposal to pay renewed attention to materiality not as a given, but as an entry point, invites us to reimagine (socio-)legal relations as heterogeneous, multiple, and always fluid, subject to new rewritings and transformations. This provides subtle but important ways to revisit what are the many connections through which law circulates, how they can matter to its practice and its modes of action, can produce unexpected effects, render some agents visible or indeed hide others from view. In a field such as law where human relations often receive central attention, such a shift toward material connections is significant, and has the potential to disrupt how we imagine what can or cannot be taken for granted as we consider what law is, where law is, how it is enabled to act, or indeed what it takes for particular relations to produce (or not) forms of legalities. Going perhaps against the grain of early ANT research, I see the opening of such questions as most pertinent if we also maintain firmly in mind their political implications, and indeed those of the law itself (in all its uncertain forms). Without negating the usefulness of a symmetrical approach to the social, or of the distributive nature of agency, as analytical tools or methods, I remain particularly concerned with the possibilities of learning with others who, using other tools that share some if not all those of ANT, have demonstrated the complex imbalances that shape the day-to-day of legal experiences, as well as with those who have reminded us of the significance of positionality, both in the differential and multiple existences of legalities, and at the level of how this can be practiced when a researcher tries to make sense of law.

Finally, and through such re-reading of relations, the human actors of law can be reimagined as particular forms of cyborgs, whose ability to circulate are conditioned by legal possibilities⁶⁷ that are themselves often inherently colonizing, gendered, and exclusive. While ANT at its core remains a toolbox for making sense of particular moments of interaction and processes of enrolment, relations, and (un)settlements, acknowledging the violences and imbalances of law, but also a persisting collective blindness of scholarship to particular sites, experiences or voices, may be a useful departure point. In other words, to fully explore how ANT can be used in the study of law, we should stay with the trouble, to borrow Haraway's phrase, and seek not to develop 'a theory of law' (of what it is, how it works or what it does) but instead to broaden our imaginary of law through 'partial, locatable, critical knowledges sustaining the possibilities of webs of connections called solidarity in politics and shared conversations in epistemology.'⁶⁸ ANT offers an opportunity to explore the multiple ontologies of orderings that constitute legalities, while moving beyond the human-centredness of legal

67 Strathern, *op. cit.*, n. 42.

68 Haraway, *op. cit.*, n. 39, p. 117.

analysis and paying attention to the role of complex materials in building and settling particular connections. In a field such as law, as it has been in science, however, caring for the politics of such connections is critical.

CONCLUSIONS

In this brief introduction to what ANT can bring to the study of law, or what doing ‘ANT and law’ might involve, I have tried to engage both ‘classic ANT tenets’ and the further insights that critiques and correlated approaches have developed over the years. I have suggested two main ways in which ANT can be helpful: first, as a way to question the boundaries of what constitutes law and legalities, and also to bring new insights into their modes of action. Second, as a methodological call for a furtherance of thorough ethnographies of law that pay attention to both materiality and relationality. In addition, I have proposed that such efforts should remain alert to the theorists, notably feminist thinkers, who have worked alongside ANT, but who have adjusted languages and perspectives to emphasize the political and ethical responsibilities of our own positionings. Overall, ‘ANT in/and law’ may be better sketched as a ‘modest method’⁶⁹ that remains aware of the fractal nature of knowledge and of the significance of standpoints in its production. For socio-legal studies, ANT could be at its most powerful and useful if we were to use it to continue to illustrate the frictions inherent to legalities and to explore what multiplicity means in the context of law, as social process and as institution. ANT’s attention to heterogeneity, fluidity, and relationality can offer meaningful and disruptive analytical tools, unpacking through thick descriptions of everyday material practices particular ways in which the features of law, as frequently generating or perpetuating exclusions or inequalities, operate. As they continue to interrogate such potential, I suggest that legal scholars need to embrace ANT in its multiplicity – pre and post – but also build onto the ethnographic knowledge we already have as to how fluid practices of il/legality may be, and may act, in the everyday. In doing so, we can open new translations of ANT that are alert to the political implications and blind-spots of academic critique.

(This article is the first in a series aimed at introducing the reader to methods and theories that might be relevant to advancing socio-legal research projects. They are written for the curious rather than the expert reader and they provide illustrations of how theories, methods, and frameworks have been employed and might be used in your work. As always, the Editorial Board invites you to identify that which requires further explanation and progression for the benefit of the academy.)

69 Law, op. cit., n. 31.