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Social Reproduction and the challenge to Legal Studies

Enrica Rigo (University of Roma Tre) and Donatella Alessandrini (Kent Law School)

'Inserting an inherently institutional, historical and symbolic process such as that of social reproduction into the basic structure leads to radical modifications in the way the whole system is conceptualised'.

(Picchio 2003, p. 13)¹

In recent years feminist debates on social reproduction have included fields of interest that go far beyond domestic and gendered work. The lens of social reproduction has been used to: unveil the contradictions of extractive economies; analyse processes of expropriation, exploitation and expulsion embedded in racial capitalism; develop critiques of the discrepancy between life and modes of production; draw analogies between the depletion of natural resources and care processes; focus on the conundrum of life-control and independence in humanitarian policies; highlight the nexus between mobility and social reproduction on a global scale; scrutinise the financialisation of life and so on. The outbreak of the Covid-19 pandemic in 2020 has also uncovered a systemic deficit of care that brought themes such as unpaid domestic work, the externalisation of care and the feminisation of “essential” workers to the centre of public discourses and policy documents.

Nonetheless, the discussion on social reproduction has had a limited impact on law and legal studies. With a few but significant exceptions, legal scholarship has almost entirely disregarded the category of social reproduction or, at most, has relegated it to sector-based and feminised fields of interest. At the same time, when policy makers confront issues such as women’s unpaid work, the care gap and care deficit or the sexual division of labour, the outcomes rarely challenge the legal and political structures of existing social reproduction processes. And yet, far from being a merely theoretical field of dispute, social reproduction has been at the centre of feminist struggles and claims that range from income security to the necessity to rethink welfare institutions, relations of care, as well as the entanglement between urban and environmental scales.

This issue brings together short contributions from feminists who took part in a workshop convened at the University of Roma Tre in May 2023.² Building on

¹ Antonella Picchio, *Unpaid work in the Economy: A gendered analysis of the standards of living*. Routledge, 2003.

² The international workshop titled *Law and Social Reproduction: the misconceived value of care* took place at Roma TRE University, Rome, on 4-5 May 2023. The workshop, convened by Enrica Rigo, was supported by the Scientific Coordination of the PhD programme *Law and Transnational Regulation*. We would like to thank Antonella Picchio, Carlo Caprioglio, Serena Natile, Sabrina Marchetti, Giovanni

crosscutting approaches from different disciplines, the workshop explored the potential of social reproduction for developing critical legal approaches capable of addressing the challenges posed by the diversity of feminist struggles. What these contributions have in common is a materialist analysis that: acknowledges the constitutive role law plays in our societies and economies; traces how (capitalist) value relations discipline labour processes and distribute life chances across the world; attempts to *provincialise* social reproduction discourses that have been centred around particular experiences emerging from the European and the US contexts; and focuses on exploitation, depletion and expulsion as well as on processes of collective self-valorisation, replenishment and transformation that might connect very diverse political struggles.

Leopoldina Fortunati's contribution opens the issue and invites us to reflect on the transformations of social reproductive work, including the 'machinisation' of the domestic sphere, and the legacy of feminist struggles for confronting them. Prabha Kotiswaran's overview on the unconverging trajectories of feminist legal scholarship and social reproduction literature is followed by Donatella Alessandrini's discussion of the ways in which international economic law shapes and is shaped by the production/reproduction alleged distinction, contributing to global inequalities. Alessandra Mezzadri and Enrica Rigo discuss the key node of the social reproduction of value and its implications for understanding current exploitation, oppression and depletion processes in the 'global social factory', and in migration struggles. Maria Rosaria Marella brings the lens of family law to bear on the analysis of social reproduction and the devaluation of care; while Fiona Macmillan reflects on the ways intellectual property law marginalises questions of social reproduction, including in the context of ongoing 'intellectual property wars'. Shirin Rai concludes by reflecting on the importance of mitigation, replenishment and transformation strategies to tackle depletion, and on the possibility of building alliances across difference.

The different generations of scholars in conversation in this issue attest to the liveliness of the social reproduction 'lens', its capacity to include new domains of inquiry and its attitude to adapt theoretical premises to changing circumstances. Since the Seventies, the "denaturalisation" of social reproductive activities, resources and institutions – starting from the family intended as the "factory of society"- has been a key epistemological tool of this materialist feminist analysis. As Antonella Picchio has observed in relation to dominant economic thinking and policies, positing the material conditions of the reproduction and maintenance of labour power as *objective* circumstances, instead of the outcome of *political* processes and struggles, mistakes the "fundamentalism of dominant theory for solid theoretical premises",³ which in turn contributes to the immiseration of life all around us. At the same time, as her work has also shown, political struggles over our conditions of life can shape theory and policies otherwise. This epistemological and political stance informs our approach to law and social reproduction, and to Antonella Picchio – whose work continues to inspire us - we dedicate this issue.

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³ Antonella Picchio (2008), *I lavoratori non sono cavalli: visioni prospettiche, analisi e politiche di welfare*, in «Politica economica», vol. XXIV, n. 3, pp. 271-310 at 288.

We hope these contributions will generate further discussion in this journal and beyond.