

## The use of law by social movements and civil society. Presentation of the special issue.

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§1 This issue originates from an international symposium held in March 2018 in Brussels entitled *The Use of Law by Social Movements and Civil Society*. This event was part of a Concerted Research Action (*Action de recherche concertée — ARC*) — a 4-year grant awarded by the Université libre de Bruxelles — on strategic litigation (2015-2019)<sup>1</sup>. Coordinated by Annemie Schaus, this research project aimed to explore the transnational circulation of the practice of « strategic litigation », *i.e.* the process by which a social actor initiates legal action in order to bring about a political or social change reflecting the values or ideals they defend<sup>2</sup>.

§2 This concept of strategic litigation alone does not exhaust the activist use of the law: some movements also invoke legal notions and arguments outside of any judicial action to, among other things, denounce the illegitimacy of a situation and encourage people to mobilize, support demands addressed to political leaders or put pressure on private economic actors in order to get them to change their practices. This tendency from a part of organized civil society to mobilize legal instruments and reasoning seems to be on the rise — an evolution that reveals the preponderant place taken by the law in liberal democracies. Various indicators attest to this evolution, whether it be the ideological monopoly acquired by the notion of the rule of law in contemporary discourse<sup>3</sup>, the appeal of the grammar of human rights as a mobilizing framework for the most diverse causes<sup>4</sup>, or, in the field of social sciences, the scientific success of the notions of « juridicization »<sup>5</sup>, « judicialization »<sup>6</sup>, or « juridification »<sup>7</sup>. Therefore, the study of strategic litigation in isolation — without regard to the other manifestations of the political uses of law and justice — would be of limited interest or draw a reductive and, hence, probably biased picture of such uses. Thus, the objective pursued by the March 2018 symposium was to broaden the reflection beyond strategic litigation alone. It aimed to grasp the multiplicity of modes of mobilization of legal resources, on the one hand, but also of relationships to law developed by NGOs and social movements in the contemporary era, on the other.

§3 Indeed, while the notion of strategic litigation seems to convey a positive perspective on law and justice, there are significant differences among activist organizations in their attitudes toward law and human rights law, in particular. Their attitudes range from enthusiasm to deep distrust through cautious and occasional use or attempt at critically reclaiming or even tainting legal references. This relationship to law and legal action varies according to the political, social, and cultural context in which these movements operate. More especially, what strategy can be pursued through legal action in the context of a failed or authoritarian state, when the judicial system is non-existent, inaccessible, or so embedded in the contested power that its mobilization appears illusory? And what becomes, in this context, of the analytical relevance and heuristic virtues of the concept of strategic litigation? Moreover, knowing that this concept was initially

developed in studies located in the United States and then transposed to Europe, what forms of militant uses of the law do we encounter in non-Western countries? One of the symposium objectives — of which this issue is an extension — was to precisely *de-Westernize* the field of cross-research on law and social movements by focusing on case studies located outside the European and American space.

§4 This geographical opening was also linked to a disciplinary attempt at enlargement. Jurists and the legal discipline logically focus on strategic litigation. That leads to a narrowing of the concepts of law and justice reduced to their procedural, formal, and institutional aspects. Yet, as Michael McCann reminds us in his contribution, the activist uses of law inevitably results in making our understanding of the law and legal practice particularly elusive and contested. The symposium did not want to reduce this conceptual uncertainty. It rather encouraged it by organizing a dialogue between the many disciplines that were represented there — the legal one, of course, but also historical, political, sociological, and anthropological ones.

§5 More than a hundred people from different geographical and disciplinary backgrounds, met on 22 and 23 March 2018 in Brussels to discuss thirty-nine theoretical and empirical presentations, selected from the ninety-eight proposals received by the scientific committee<sup>8</sup>. As the most representative sample possible of this diversity, ten original and unpublished studies have been brought together in this issue of *e-legal*.

§6 This issue logically opens with a contribution by Michael McCann, professor of political science at the University of Washington and a leading figure in research on law and social movements<sup>9</sup>. This article — entitled *Law Litigation and the Politics of Social Movements* — looks back at the scientific encounter that took place from the 1970s onwards between research on social movements, on the one hand, and, on the other hand, the legal discipline, which was also undergoing profound changes that gradually led it to leave the moorings of the then (and probably still) dominant positivism. The study of legal mobilization was initially limited to strategic litigation effects and thus to the analysis of judicial decisions on the evolution of an activist cause — what McCann calls *Empirical Studies of Judicial Impact*. Nourished by critical approaches and legal constructivism, it made it possible to refresh many classic questions concerning both law itself — is it always synonymous with power, what are its links with politics? — and activism — when is it a success or a failure? It moreover led to a particularly rich scientific agenda in which McCann points out several projects that are already well advanced — among others, the study of legal professionals — or still embryonic — for example, the study of legal mobilizations in an authoritarian context.

§7 This first theme, the role of legal professionals, is the subject of several contributions to this issue. First of all, the French sociologist of law Liora Israël, in

her article entitled « À l'articulation du droit et de la société civile : les professionnel·le·s du droit et les mouvements sociaux », proceeds to the genealogy of scientific works on the participation of jurists, mainly lawyers, in various mobilizations. This author — whose work on the political involvement of French lawyers throughout history is authoritative<sup>10</sup> and who has largely contributed to the importation of the concept of *Cause Lawyering*<sup>11</sup> into the francophone literature — concludes her panorama by pointing out three themes, which have been neglected by research to date: the articulation between the training of lawyers and the modalities of their commitment; the extension of research to other legal professions than those of lawyers (magistrates but also the so-called auxiliary professions such as that of clerk<sup>12</sup>), and, finally, the participation of justice professionals in causes considered as « right-wing » or « conservative »<sup>13</sup>, the current research continuing to privilege the study of mobilizations said to be « left-wing ».

§8 Studies in the field of *Cause Lawyering* have thus highlighted the transgressive nature of the activist commitment of justice professionals, breaking with the ideal of a neutral law, of impartial justice, and professions with those latter qualities<sup>14</sup>. This is the starting point of the contribution by sociologist Helena Flam, professor at the University of Leipzig. Entitled *Lawyers, Their Transgressive Cases and Social Movements*, her article examines three specific regions — the United States, Japan and Hong Kong — and focuses on the relationship between professional organizations in the justice sector and various civil society movements. She forges the concept of *embedded professions* to acknowledge the anchoring of these organizations within civil society and the porosity between these universes of meaning, yet regularly distinguished by the literature. The interest of such an approach is to break with the often unidirectional dimension — a movement solicits the expertise of a professional—which characterizes the joint study of social movements and jurists: in reality, Helena Flam tells us, this relationship is reciprocal and the discourses or values carried by civil society influence just as much the positioning and the behavior of professional organizations that cannot be artificially extracted from the social, political, and economic context that sees their birth. The other originality of Helena Flam's research consists in shifting the focus: it is not so much the transgressive nature of the professional commitment that is studied here as that of the case as such « it is not necessarily the lawyers who are conservative, progressive or 'transgressive' (or good or bad), but rather the cases they (are told to) take on ». This double postulate — questioning the reciprocity of the professional/activist relationship and being more interested in the cases than in the people — thus ends up highlighting the conflictuality of this relationship that can be observed in certain cases. The author raises two cases in the United States directly initiated by lawyers, independently of the needs expressed by the associations in the field, even developing a strategy opposed to that envisaged by these associations. In Japan or Hong Kong, it is within a rather militant vacuum that several lawyers have brought to court cases left untouched by the local

associative fabric. In this scenario, legal professionals are the vectors of struggle, anticipating in some way a mobilization that may or may not deploy following these legal actions. These actions are therefore situated more upstream than downstream of social activism.

§9 But the ultimate transgression is of course to break the law voluntarily and publicly. In her article *Life Story from the Right-to-Die Movement in Italy*, Cristina Poncibo, professor of comparative law at the University of Turin, illustrates this strategy based on a paradoxical use of law and justice. Based on the life story of a leading activist for the right to die with dignity and proceeding to a genealogy of Italian associations that have campaigned for the legal recognition of this right, this study considers how this movement has been able to combine several a priori contradictory strategies: on the one hand, by developing strategic litigation on the issue of euthanasia through the solicitation of a judicial authorization to end palliative care; on the other hand, by claiming the transgression of the law prohibiting euthanasia through the public support given to people wishing to practice it in Switzerland, exposing themselves in doing so to (a desired) criminal prosecution. This double strategy of both soliciting and defying justice paid off: not only did it contribute to raising public awareness of this thorny issue, but it also led the Italian Constitutional Court to change its jurisprudence and Parliament to adopt a law that authorizes, under certain strict conditions, the interruption of life-sustaining treatment for a person who is permanently ill. This contribution shows that the practice of civil disobedience is not antinomic to strategic litigation: better, carefully articulated, these two judicial tactics can on the contrary reinforce each other.

§10 The research of Helena Flam and Cristina Poncibo are essentially concerned with the mobilization of a positive law that one seeks to see evolving. In their respective case studies, what is summoned or transgressed is indeed the law, as laid down by the political institutions. However, one long-standing result of the sociological approach to law<sup>15</sup>, that the study of legal mobilizations has been able to confirm, is the observation that law is not limited to state law alone. The « normativity phenomena »<sup>16</sup> are in fact particularly complex and polymorphous: the contribution of Christine Vézina, professor at the Faculty of Law of the Université Laval in Québec City, and specialist in public health policies, confirms this postulate. Entitled « L'effectivité internormative du droit à la santé chez les organismes communautaires de lutte au VIH/Sida du Québec : un possible prélude à la mobilisation du droit », this study goes one step further: it shows that one does not need to be a lawyer to use the law and, even more paradoxically, that one can make a right effective without even mobilizing it. To explain this result, which at first glance seems counter-intuitive, the author coined the concept of « field norm », *i.e.* an « informal social norm [...] internalized and commonly shared » by members of associations supporting people living with HIV and which « draws its sources from the needs and realities of the field ». This norm, much more than the

formal ones recognizing a right to health, guides the activist practices developed by these associations. It is thus by the yardstick of this norm of proximity that the imperatives set by the public authorities that subsidize them will be analyzed, reappropriated, and translated into daily life. In so doing, these associations concretely participate in the effectiveness of the right to health in a political context where their autonomy is constantly threatened by a State that is less and less inclined to fund these community organizations without any counterpart. Based on extensive empirical research, this contribution illustrates the explanatory potential of the theoretical concept of « internormative effectiveness », which « makes it possible to identify phenomena in which the force of social norms contributes to orienting practices towards the realization of the right ».

§11 While Christine Vézina's research points to the social consequences of a state policy of budgetary restrictions on the funding of grassroots associations, the situation in Québec cannot be described as authoritarian. Other countries mentioned in this dossier can, however, be characterized as such. Three contributions question the very possibility of invoking the law and seeking justice in a context that is particularly repressive towards activists<sup>17</sup>. They offer relatively contrasting results on this point and ultimately illustrate a certain militant inventiveness when it comes to obtaining justice from a power whose political and judicial institutions are at best corrupt, at worst criminal.

§12 The first of these studies, entitled *Social Movements' Skepticism in the Nigerian Judicial System and the Rise of Mass Protest as a Strategic Alternative to Legal Action*, is the work of Usman Adkunle Ojedokun, a researcher in the Department of Sociology at the University of Ibadan in Nigeria. The portrait that this author paints of Nigerian authorities is quite disturbing: despite the formal democratization of the country since 1999, it remains largely in the hands of the military that regularly suspends public freedoms through states of emergency and other emergency decrees. Moreover, the executive branch unquestionably has the upper hand in managing the country, to the detriment of a moribund legislative branch and a judiciary whose decisions are trampled underfoot. The judiciary itself is not immune from reproach, as its corruption appears to be endemic. This context is not very conducive to the militant use of law and justice, which explains why local social movements — the author mentions the *Bring back our girls* movement following the kidnapping of 266 schoolgirls or the actions of the indigenous people of Biafra — prefer mass public protest actions. The author analyses these actions in the light of the generalist literature (Tilly, Della Porta in particular) or the Africanist literature (Eberlei). Both have long pointed out that these demonstrations are not the result of a lack of political will but are rather based on « sites of contestation in which bodies, symbols, identities, practices and discourses are used to pursue or prevent changes in institutionalized power relations » and that they allow for the emergence of « a collective identity, which is a condition for subsequent concerted action ». Finally, Ojedokun also explains the

success of these mass demonstrations by the media audience, often international, that they meet, where more formalized legal proceedings would probably remain confidential. The fact that these demonstrations can sometimes be severely repressed, especially during election periods, is paradoxically an opportunity for increased media coverage. More fundamentally, the question asked is that of the success of this militant strategy, both forced and chosen, a particularly thorny question to which it is difficult to give a definitive answer<sup>18</sup>. In reviewing several recent struggles led by Nigerian civil society, the author points out four factors that seem to condition the results obtained from mass demonstrations: (i) the political context in which they take place and the correlative repression to which they are subjected, (ii) the fact that they are or are not supported by the political opposition to the government in power, (iii) the popular support they may enjoy in a country characterized by its multi-ethnicity and religious pluralism, and (iv) the reactivity of the judiciary, which is sometimes called upon to prohibit or authorize such demonstrations.

§13 The second piece of research rooted in an authoritarian context is by Salman Hussain, an anthropologist and researcher at York University in Toronto. Entitled Human Rights in a 'State of Emergency': Protest Politics and Legal Activism in the 'Missing Persons' Cases in Pakistan, the article is particularly enlightening on the instrumentalization of the « war on terror » for domestic political purposes since the 9/11 attacks. Indeed, following these attacks, the Pakistani regime practiced a policy of massive extrajudicial arrests and enforced disappearances of political opponents, with the complicity of the United States. Salman Hussain first describes how the so-called « war on terror » was expanded in a war on political dissent. He then also depicts the mobilization of the families affected by this policy. This long struggle has been brought before the local courts with some fragile success, as evidenced by recent rulings that found several of the laws that allowed the policy to be implemented unconstitutional — laws that, for example, declared and extended a state of emergency that gave free rein to law enforcement and military forces. The contribution of Salman Hussain, who met with several leaders of this struggle, summarizes nearly twenty years of struggle. His account is set in the general context of a war against terrorism. The logic of this war illustrates law ambivalence: law enabled this war and its perverse effects<sup>19</sup> as much as it was a tool of contestation for its victims. Thus, the Pakistani courts, and particularly the Supreme Court, were transformed into veritable political arenas, which was not without consequences: on several occasions, through the suspension or dismissal of judges deemed too close to the plaintiff families or the use of dilatory procedures, the authorities tried to disrupt the normal course of justice (which, moreover, gave rise to several popular actions in support of these judges, what the author calls the « Lawyers Movement »). Placed in a more general context of tension between the political authorities and the judiciary, the Supreme Court tactically avoided any direct confrontation with the authorities in order to gain a few victories that a more offensive strategy would probably not have achieved.

From then on, it was also outside the courtroom that the struggle was waged in order to continue to put pressure on the political authorities and to support the daring activity of the Supreme Court, or rather of some of its most emblematic members. Indeed, one of the results observed by Salman Hussain is that this soft activism from the Supreme Court was mainly carried out by committed judges who were in the minority, and their dismissal or retirement considerably weakened the movement for the right to truth led by the relatives of the disappeared. The strictly judicial result of this struggle may seem mixed, given that it has remained dependent on the personality and political courage of certain judges. Still, this strategy of combining legal recourse and grassroots demonstrations has nonetheless made it possible to raise the profile of the issue of enforced disappearances in Pakistan and to impose it in the local political context, whose aporias and troubles go beyond the war on terror.

§14 The third contribution focusses on an event that marked the recent history of Burkina Faso: the assassination on 13 December 1998 of the journalist Robert Zongo, a murder that remains officially unsolved to this day<sup>20</sup>. In his study entitled '*Vérité et justice pour Norbert Zongo* : une mobilisation conjointe du droit et de la rue au Burkina Faso', University of Ouaga II's sociologist Habibou Fofana invokes the concept of the « vocabulary of motive » coined by U.S. sociologist Charles Wright Mills<sup>21</sup>. He aims to show how, despite the apparent rejection of the judiciary by local civil society, the grammar of human rights was at the heart of the motives of the many people who mobilized to demand that the Burkinabe state initiate an impartial and rigorous investigation into the circumstances of Norbert Zongo's murder. Based on extensive field research and numerous evocative excerpts from interviews with several local activists, Habibou Fofana's article places this mobilization in context — a country then in transition to democracy after years of dictatorship — and provides a fascinating genealogy. The Zongo case gave rise to a continuous mobilization of numerous local social actors — journalists, unions, student movements, but also opposition political parties — whose respective motives may have differed, but who found in the discourse of human rights, and in particular in the demand for an effective judicial investigation, a sufficiently broad and generic cause to crystallize the struggle. Gathered under the umbrella of a collective whose internal structures echoed the diversity of the groups that made it up, the organized local actors thus simultaneously multiplied field actions, political appeals, and legal proceedings. Significant tensions among the members of the movement arose from this juridicization of the cause. Habibou Fofana explains that

« the inclusion of the claim in the repertoire of human rights will certainly make it possible to exert an international constraint on the State, but the actions of the protest movement will be affected in return by the need to be subject to the principle of legality that follows from this. The tension between 'immediate action', which does not concern itself with 'forms', and 'actions inscribed in

legality', which appeared very early on, will not cease to haunt the protest process [our translation] ».

Among the many results obtained from this exceptional research, two certainly deserve our attention. First, this study considerably nuances the hypothesis of an exogenous legal discourse — human rights — which would be artificially endorsed by local actors. It rather shows, in greater detail, how this discourse is the object of a singular reappropriation specific to the postcolonial African context. Secondly, the fault lines observed by Habibou Fofana within the umbrella collective do not really intersect with the traditional ones that divide legal professionals and laymen; « in a more subtle and complex way, they will oppose certain human rights and trade union organizations to partisan organizations on the best way to make the demand for 'truth and justice' succeed ».

§15 The last case study in this issue takes us to Brazil and focuses on a legal tool, the *Public Civil Action*, and its use by several local environmental groups. The author of this research, Cristiana Losekann, is a professor of political science at the Federal University of Espírito Santo in Vitória and a recognized specialist in Brazilian environmental mobilizations. Her study focuses on several struggles of this type — against deforestation, mining or pollution of fishing areas —, which aims to go beyond the institutional approach that traditionally characterizes the study of legal mobilizations<sup>22</sup>. Indeed, Cristiana Losekann intends to complete this type of perspective — of which the concept of legal opportunity structures<sup>23</sup> is emblematic — with an interactionist and pragmatic approach inspired by the work of John Dewey. In doing so, she aims to develop an « understanding of the microsociological aspects of collective action, including the analysis of elements that extend beyond the structural aspects of legal opportunities » by highlighting the variety of interactions between actors internal and external to the legal field in general, between activist groups and two judicial institutions specific to Brazil — the Public Prosecutor's Office and the Public Defender's Office — on the other. Cristiana Losekann's thesis is as follows: it is not so much the existence and availability of such legal institutions that explain the recourse to a judicial strategy as the sum of interactions, often informal and interpersonal, between multiple actors — grassroots activists, local political leaders, committed jurists, informed magistrates... And it is precisely examples of such interactions that she presents in the unpublished synthesis of more than fifteen years of work offered here. In so doing, this author goes beyond the paradigm of resource mobilization, which tends to condition the emergence of a repertoire of legal actions on the existence of a stock of expert resources made available to collectives by specialized groups. In fact, what Cristiana Losekann's research shows is the immeasurable diversity of such interactions and the possible collaboration that can thus be established

between the formal actors of the Brazilian judicial system — such as the public prosecutor and the defender of rights — and the associations in the field.

§16 The last contribution, which concludes this special issue, is a collective article written by Bruno Frère — philosopher and sociologist, F.R.S.-FNRS Research Associate and Professor at the University of Liège and at Paris I Sorbonne —, Charitini Karakostaki — sociologist and researcher at the University of Liège —, and Emmanuelle Tulle — sociologist and professor at the University of Glasgow. Entitled *The Impasse of French Critical Sociology: Attempts at a Materialist Renewal*, this article does not aim, like the previous ones, to present the results of research circumscribed to a particular mobilization studied empirically, but rather, as its title indicates, to propose a path of theoretical renewal that could explain and accompany several contemporary mobilizations. The starting point of this article is the aporia that our three authors identify in a large part of critical sociology, the one embodied by Pierre Bourdieu, himself inspired by the main authors of the Frankfurt School (Adorno, Marcuse, or Horkheimer). The criticism, expressed in a very simple way, is that this intellectual stream cannot think about social change because of the dark and fixed portrait it paints of individuals. For Bourdieu and the Frankfurt School, the modern individual is inevitably alienated and, therefore, incapable of discerning the logic of domination exercised over him, logics that he unconsciously reproduces even though they are unfavourable to him. Thus, our three authors write, « Bourdieu's position lies in the postulate that human consciousness is reified, decadent and distorted by petit-bourgeois habitus, consumerism or dominant class values in late capitalism ». In addition to the rather idealistic tone of such a perspective — a pure consciousness untainted by the naturalization of domination and its resorts could exist —, Bruno Frère, Charitini Karakostaki, and Emmanuelle Tulle also point out the overhanging position that these critical sociologists adopt, believing themselves to be the only ones able to reveal an unconscious logic that escapes the individuals. Above all, our three authors highlight the impasse into which this critical sociology leads us: would we be definitively condemned to unconsciously reproduce and legitimize a system that alienates us? How can we think about social change in this framework? Should we sweep aside, because they are also guilty of reproducing a system they claim to fight, the attempts at emancipation regularly observed among social actors? To get out of this impasse, they propose to redesign a sociological project, this time at the level of, if not alongside, these actors. It would be futile to try to summarize this particularly dense project, which is based on a double filiation in contemporary French sociology: the pragmatic approach of Luc Boltanski, on the one hand, and the materialist approach developed by Bruno Latour, on the other. In short, according to Frère, Karakostaki, and Tulle, the issue is no longer to demonstrate the false consciousness of individuals and to reveal the mechanisms of the internalization of their domination, but this time, to take seriously, from their lived experiences, their emancipation attempts. In Boltanski's grammar, these attempts take the form of counter-definitions, or more precisely,

alternative definitions to those provided by the institutions, especially the legal ones, the sum of these institutional definitions constituting, according to Boltanski, the reality — that which hangs together — that he opposes to the uncertain world. In this context, the role of sociologists consists in « focusing on the actual lives experiences of people in the world; in particular, looking for emancipatory events and desire that people express in the flow of everyday life and are noteworthy because they might oppose the logic of reality ». Using several examples of recently observed civil disobedience practices, Bruno Frère, Charitini Karakostaki, and Emmanuelle Tulle consider how pragmatic and materialist sociology can accompany such activist activities by giving them meaning, translating them for a wider audience, articulating them with other critical discourses, in short, reformulating them in order to expose how unacceptable reality really is. This perspective makes sociology a kind of incubator and catalyst of other realities present in the world and that many individuals test empirically in their activist practices. It thus bets on the agentivity and the reflexivity of social actors that the critical Bourdieusian sociology tended to undermine. From then on, sociology is no longer only a combat sport, it is above all a « political act » anchored here and now, situated as close as possible to the critical practices aiming at redefining and transforming an instituted reality.

§17 This call for a militant scholarly practice, anchored and oriented towards social change, powerfully questions the role of urban intellectual elites and more particularly the relationship maintained between the scientific field and the activist field<sup>24</sup>. Several contributions in this issue echo this invitation to develop a sociology (especially a legal sociology) that serves the studied collectives. Can we imagine that the companionship established between Salman Hussain and the relatives of disappeared persons, between Habibou Fofana and the search for truth in the context of the Zongo case, between Usman Adkunle Ojedokun and Nigerian civil society, between Christine Vézina and the community health centers, between Cristina Poncibo and the activists for the right to die with dignity, or between Cristiana Losekann and the environmentalist groups, left these colleagues insensitive to the struggles thus studied? How can we not see in the results of their respective research the product of the perspective traced by Bruno Frère, Charitini Karakostaki and Emmanuelle Tulle? Without even summoning the powerful conceptual apparatus convened by these three authors, the case studies gathered here constitute a fruitful illustration of what can be produced by an embodied knowledge whose scientific advancement is inseparable from that encountered by the struggles that are its object.

§18 In concluding this special issue devoted to the use of law by social movements and civil society, we would like to highlight three key points that seem to emerge not only from the articles edited

here, but also from all of the presentations held at our March 2018 symposium.

First, law seems to be definitively anchored in the scientific landscape taking organized activism as its main object of research. This apprehension of law by the sociology of social movements does not leave unscathed, neither the legal object as such nor the jurists, as Michael McCann and Liora Israël, underline in their respective contributions. From this point of view, the law is no longer only the law established by legitimate institutions; legal professionals are no longer only lawyers. Christine Vézina's contribution is quite emblematic of this broader vision of legal matters and the people who make them happen. Habibou Fofana's contribution also tends in this direction. He shows how a legal discourse that is a priori exogenous is invested and reappropriated by people who, again a priori, have not been trained in it. Cristiana Losekann's contribution illustrates the observation that between the professional lawyer and the layman there is a whole series of intermediary actors, distant more or less from formal institutions but who, through their networked practice, make law a living and evolving thing. Secondly, most of the contributions take a skeptical, or at least measured, view of the activist benefit of a strategy focused on the legal register. In some cases, as Helena Flam's study shows, the confiscation of the struggle in the hands of legal professionals alone can even lead to a strategic hiatus and partly ruin the efforts of grassroots associations. Thus, the question of how the recourse to legal argument and the judicial apparatus can be associated with other, more direct and less formal, activist actions remains primordial from the point of view of the activists, a fortiori in an authoritarian context. Generally, it is how these two orders of activism are articulated that will partly condition the success or failure of the struggle, and it is these articulations that are the subject of the most stimulating research in the field of studies devoted to law and social movements today. Thirdly, this field seems to have progressively acquired, if not a disciplinary autonomy, at least a certain epistemological coherence (referring to the very conception of law that runs through this work) as well as a methodological coherence (with the quasi-systematic recourse to empirical data) that makes this trend, initially marginal and annexed to the sociological study of activism, an increasingly accomplished and homogeneous scientific corpus. One of the observations made by the members of the scientific committee at the beginning of the colloquium, of which the present issue provides only a glimpse, was the following: at the end of these two days of presentations, we were generally unable to determine the specific disciplinary anchorage of each of the participants in this scientific event. And the reading of the present issue confirms this first impression: the joint study of law and social movements results in some way in smoothing out the differences between the disciplines that feed it. Less than half a century after the publication of one of the founding works of this field of study, the fragmentation of this research current appears less salient. The increased density of interdisciplinary dialogues, such as the one we have sought to encourage through this colloquium, has resulted in an increasingly unified perspective that is still busy refining its theoretical references and research methods. Thus, far from being confined to a simple juridicization of pre-existing concepts — such as the juridicization of political opportunity

structures into legal opportunity structures — the study of law and social movements is now succeeding in forging its own tools and methods that are likely, in the long run, to make some disciplinary distinctions obsolete.

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1. *Strategic Litigation. Using courts to achieve social change? Fighting poverty and impunity in judicial arenas*. See the website dedicated to the project, in [<https://arc-strategic-litigation.ulb.ac.be/>] ←
2. This research project also included a section devoted to the use of strategic litigation by private companies. In this context, the strategic objective pursued through litigation is to promote certain economic interests. ←
3. For a critical reading of this monopoly, see a.o. Luisin B., « Le mythe de l'État de droit—L'État de droit rétrospectivement », in *Civitas Europa. Revue juridique sur l'évolution de la Nation et de l'État en Europe*, n° 37, 2016/2, pp. 155-182. ←
4. See the special issue edited by Julie Ringelheim: « Les droits humains saisis par les mouvements sociaux », in *Revue interdisciplinaire d'études juridiques—Droit en contexte*, vol. 75, 2015/2. ←
5. See Commaille J., Dumoulin L., Robert C. (ed), *La juridicisation du politique. Leçons scientifiques*, Paris, Librairie générale de droit et de jurisprudence, 1999. ←
6. See Commaille J., « La judiciarisation : nouveau régime de régulation politique », in Giraud O. and Warin Ph. (ed.), *Politiques publiques et démocratie*, Paris, La Découverte, 2008, pp. 305-319. ←
7. See Paternotte D., « La juridification ou le droit comme matrice de l'action collective : la revendication du droit au mariage entre personnes du même sexe », in *Politiques et Sociétés*, vol. 31, n° 2, 2012, pp. 93-112. ←
8. In addition to the five signatories who directed the edition of this issue, the scientific committee of this colloquium also included now Professor Agatha Verdebout (ESPOL - Université catholique de Lille and associated researcher at Centre de droit international - Université libre de Bruxelles), Professor Annemie Schaus (Centre de droit public - Université libre de Bruxelles) and Professor Geoffrey Pleyers (Centre de recherches interdisciplinaires démocratie, institutions, subjectivité - Université catholique de Louvain and president of the Research Committee 47 « Social Movements » of the International Sociological Association). The complete program of this scientific event can be consulted [online](https://arc-strategic-litigation.ulb.ac.be/2017/11/27/la-mobilisation-du-droit-par-les-mouvements-sociaux-et-la-societe-civile/); in: [<https://arc-strategic-litigation.ulb.ac.be/2017/11/27/la-mobilisation-du-droit-par-les-mouvements-sociaux-et-la-societe-civile/>]. ←
9. Michael McCann, whose bibliography is particularly extensive, is the author of the entry « Law and Social Movements » in the following reference work in sociology of law: Sarat A. (ed.), *The Blackwell Companion to Law and Society*, Wiley, Blackwell Publishing, 2004, pp. 506-522. ←
10. See a.o. Israël L., *À la gauche du droit. Mobilisations politiques du droit et de la justice en France (1968-1981)*, Paris, éd. EHESS, coll. « En temps & lieux », 2020 et *Robes noires, années sombres. Avocats et magistrats en résistant pendant la seconde guerre mondiale*, Paris, Fayard, 2005. See also her synthesis work on the relationship between law and social mobilization, *L'arme du droit*, Paris, Presses de SciencePo, coll. Contester, 2<sup>e</sup> éd., 2020. ←
11. Liora Israël is the author of the entry Cause Lawyering in the edited by Fillieule O., Mathieu L. and Péchu C. (eds.), *Dictionnaires des mouvements sociaux*, Paris, Presses de SciencesPo, coll. Référence, 2<sup>e</sup> éd., 2020, pp. 98-104. ←
12. It should be noted that in Belgium, research in the junior judicial professions is still in its infancy and is essentially in the field of criminological or penal research; see Jonckheere A., *Le rôle et l'organisation des greffiers d'instruction. Rapport de recherche*, Bruxelles, Institut national de criminalistique et de criminologie, 2014, consulted on 27 October 2021 in [[https://nicc.fgov.be/upload/publicaties/rapport\\_ndeg36-aj-greffiers\\_dinstruction-aj.pdf](https://nicc.fgov.be/upload/publicaties/rapport_ndeg36-aj-greffiers_dinstruction-aj.pdf)]. ←
13. On the study of mobilizations considered as « right-wing » or « conservative », see Agrikoliansky É. and Collovald A., « Mobilisations conservatrices : comment les dominants contestent ? », in *Politix*, n° 106, 2014/2, pp. 7-29; Castelli Gattinara P. and Pirro A.L.P., « The Far Right as Social Movement », in *European Societies*, vol. 21, n° 4, 2019, pp. 447-462. We should also note the long-standing work of Michel Offerlé on employer mobilizations; see, for example, « Militer en patronat. Engagements patronaux et sociologie du militantisme », in *Sociétés contemporaines*, n° 98, 2015/2, pp. 79-106. In the United States, research on the use of law and courts by right-wing, Christian or

supremacist movements is more developed than elsewhere. See esp. Southworth A., *Lawyers of the Rights. Professionalizing the Conservative Coalition*, Chicago, The University of Chicago Press, 2008; Decker J., *The Other Rights Revolution: Conservative Lawyers and the Remarking of American Government*, New York, Oxford University Press, 2016. Moreover, it should be noted that the expression « counter-movement » to qualify reactionary mobilizations is emblematic of the second rank that these mobilizations occupy in the scientific field; see the entry *contre-mouvement* written by Sommier I. in Fillieule, Mathieu, and Péchu (eds.), *Dictionnaire des mouvements sociaux*, see *supra* note 11, pp. 154-160. ←

14. See on this idea of transgressive professional practice; Bloom A. and Scheingold S., « Transgressive Cause Lawyering: Practice Sites and the Politicization of the Professional », in *International Journal of the Legal Profession*, vol. 5, n° 2-3, 1998, pp. 209-254; Israël L., « Quand les professionnels de la justice revendiquent leur engagement », in Commaille J. and Kaluszynski M. (dir.), *La fonction politique de la justice*, Paris, La Découverte, coll. Recherches, 2007, pp. 119-142. ←
15. One thinks, of course, of the paradigm of legal pluralism, which one of the first directions taken by the sociology of law, in particular from the notion of 'social law' forged by the French legal sociologist of Russian origin Georges Gurwitsch (1894-1965). On this author, who founded a certain reading of law, see Le Goff J., *Georges Gurwitsch. Le pluralisme créateur*, Paris, Michalon, coll. Le bien commun, 2012. On legal pluralism, see Merry S. E., « Legal Pluralism », *Law & Society Review*, vol. 22, n° 5, 1988, pp. 869-896. ←
16. Berheim E., « Le 'pluralisme normatif' : un nouveau paradigme pour appréhender les mutations sociales et juridiques ? », *Revue interdisciplinaire d'études juridiques*, vol. 64, 2011/2, pp. 1-41, p. 1. ←
17. On authoritarian contexts and the possibility of using the law and justice, see Dupret B. and Ferrié J.-N., *Délibérer sous la coupole : L'activité parlementaire dans les régimes autoritaires*, Beyrouth, Presses de l'IFPO, 2014; as well as Kubal A., *Immigration and Refugee Law in Russia. Sociolegal Perspectives*, Cambridge, Cambridge University Press, 2019. ←
18. On the question of the failure or success of a militant action, see for a first overview the entry « réussite et échec des mouvements sociaux » written by Giugni M., in Fillieule, Mathieu, and Péchu (eds.), *Dictionnaire des mouvements sociaux*, see *supra* note 11, pp. 516-520. For an illustration of the difficulty of the exercise and the evidence of indirect success when the direct object of the mobilization is not met, see de Galember C., « Le droit à porter le voile : cause perdue ou naissance d'une politics of rights? », in *Revue interdisciplinaire d'études juridiques — Droit en contexte*, vol. 75, 2015/2, pp. 91-114. ←
19. On the legalization of the war against terrorism, see Keenan J. H., « L'utilisation du 'droit' dans la guerre contre le terrorisme », in *Revue québécoise de droit international*, dossier hors-série « La justice pénale internationale comme projet politique et sélectif » dirigé par Hébert-Dolbec M. L. and Pieret J., December 2015, consulted on 27 October 2021 in [<https://www.sqdi.org/fr/lutilisation-du-droit-dans-la-guerre-contre-le-terrorisme/>]. ←
20. On this assassination and the immediate mobilization that it provoked, « the sprintime of the press » (« le printemps de la presse »), see also Frère M.-S., « 'Cadavres en sursis' : l'affaire Zongo et la difficile libération des médias au Burkina Faso », in *Africultures*, n° 71, 2007/2, pp. 34-42; and from the same author « 'Enterrement de première classe' ou 'leçon de droit' ? La presse burkinabé et l'affaire Norbet Zongo », in Hilgers M. and Mazzocchetti J. (eds.), *Révoltes et oppositions dans un régime semi-autoritaire. Le cas du Burkina Faso*, Paris, Karthala, coll. Hommes et sociétés, 2010, pp. 241-267. ←
21. Voyez sur ce concept Wright Mills C., « Les actions situées et les vocabulaires de motifs », (texte traduit et présenté par J.-B. Lamarche), in *Sociologies*, 2017, consulted on 27 October 2021 in [<http://journals.openedition.org/sociologies/6041>]. In short, by this theory, Charles Wright Mills did not intend to probe motives as the intimate springs of an action, but rather as the linguistic supports that social actors call upon when they interpret a given situation and intend to respond to it. In this sense, communicated to others, these motives condition the strategy adopted by these actors and shape their behavior. The question is therefore not so much to understand why a given actor undertakes a given action as to explain how he does it. ←
22. Let us recall that in the typology established by Doug McAdam, Sidney Tarrow, and Charles Tilly in *Dynamics of Contention* (Cambridge, Cambridge University Press, 2001), the use of law and justice is a matter for the « contained contention » which they distinguish from the "transgressive contention". ←
23. For a use of this concept in the context of British environmental struggles, see the work of Lisa Vanhala, a.o. « Legal Opportunity Structures and the Paradox of Legal Mobilization by the Environmental Movement in the UK », in *Law & Society Review*, vol. 46, n° 3, 2012, pp. 523-558. ←

24. On the articulation between sociology of social movements and activism, see Dunezat X., « Une sociologie des mouvements sociaux entre militantisme et scientificité », in *Raison présente*, n° 191, 2014/3, pp. 97-105. One of the contributors to this issue has explored the different configurations that can be observed between scientists and activist groups, based on her own research; see. Vézina C. and Gagnon M., « Les postures du chercheur dans ses rapports au militantisme : incursions dans la recherche en droit et en sciences infirmières », in *Aporia*, vol. 6, n° 2, 2014, pp. 27-39. ←