

# The Politics of the [x]

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For the last few years, I've been fascinated with the emergence of North American social movements that label themselves with the word "justice." The best known are probably "environmental justice" and "reproductive justice," but there is also "food justice," "water justice," "energy justice," and "land justice," among others. In an article in the *Canadian Journal of Women and the Law*, I describe these movements collectively as "[x] justice movements," and I argue that they share commitments to undermining some of the central projects of white settler law.

When I started this project, I called these movements "[x] justice movements" as a shorthand for their common self-designation. But, as I've thought further about what they're doing, I've begun to engage with a different usage of the [x]: a willing embrace of the unknown. I'll say something first about the theoretical re-designation of the [x], and then I'll say something about what I see as the possibilities of [x] justice movements from this perspective.

## The politics of the [x]

Paola Bacchetta observes that theorists and activists who embrace the concept of "interlocking oppressions" often mark their commitment with an embarrassed or glib reference to "race, gender, class, sexuality, disability, etc." Bacchetta wants to take the indeterminacy of this list seriously—as a recognition not only that a full account of the identities made invisible or excluded by existing relations of power would be unwieldy, but that such an account is likely impossible: (1) because, at the psychic level, relations of power shape our own capacity to think and act so that we are always only partially visible to ourselves; (2) because, at the social level, our intentions and actions in the world change that world so that new identities become possible; and (3) because, at the physical level, we live in a quantum uni-

verse that is fundamentally creative, indeterminate, and not fully legible to us.

In February 2002, Donald Rumsfeld, who was the United States Secretary of Defense, stated at a Department of Defense briefing: "[t]here are known knowns, there are things we know we know. We also know there are known unknowns, that is to say we know there are some things we do not know. But there are also unknown unknowns—the ones we don't know we don't know" (see "RUMSFELD / KNOWNNS").

Everyone had fun of him at the time, but he was onto something. Bacchetta uses the idea of levels of the unknown to incorporate uncertainty, futurity, and humility into critical theory. She proposes that we replace the embarrassed "etc." ("race, gender, class, sexuality, disability, etc.") with theoretical terms that deliberately accept our limited understanding of how power and subjection interact. The new terms she seeks to introduce are "et cetera" (written out rather than as an abbreviation) and "x." Here is how she describes the project:

While the etc., et cetera and the x all signal an outside to the analytic, the etc. only acknowledges a fraction of the relations of power that potentially comprise the et cetera and the x. The et cetera and the x can go where the etc. cannot venture. The etc. represents known relations of power, while the et cetera denotes both the known and unknown-knowable, and the x both the unknown-knowable and the unknown-unknowable. The et cetera, then, is about absent-presences while the x is about absent-absences.

## White settler law and operations of power

In my article, I argue that white settler law—liberal law as it operates in white settler societies like the United States and Canada—operates through

at least two distinct modes of power. I won't go into too much detail about them here, but the modes I identify are *subjection* and *spatialization*. By subjection, I mean the law's participation in creating subjects that are recognized before the law in the first place, and also the law's participation in differentiating those subjects: designating some as full subjects, others as defective or dependent subjects, and others as non-subjects. I'm using "subjection" roughly in the Foucauldian sense. For example, think about corporations, states, persons, wild animals, farmed animals, women, Indigenous Peoples, racialized minorities, and children. These are identities partially authorized by law and given different powers under law.

By spatialization, I mean the law's role in creating material spaces through invisible borders and boundaries—spaces like "Canada," "the United States," "the ghetto," "the wilderness," "Indian country." I also mean the law's role in creating conceptual spaces—like "the private sphere," "the public sphere," "the market," and "the state." Subjection and spatialization work together to create and stabilize relations of power in white settler societies.

What I find interesting and hopeful is that [x] justice movements work to undermine both of these dynamics, making space for anti-colonial and perhaps de-colonial futures. I argue that [x] justice movements share three basic commitments: (1) a commitment to "justice" that explicitly calls attention to the limits of existing law; (2) a commitment to acknowledging interlocking systems of oppression, instead of embracing single-axis identity analysis; and (3) a commitment to a "politics of life," which transgresses conventional conceptual spatial boundaries.

First and foremost, [x] justice movements refuse the limits of law. Lawyers working for environmental justice, for instance, acknowledge the need to put lawyers "on tap, not on top." And other [x] justice movements similarly seek a transformation in relations of power, not liberty or equality as defined by law. Second, [x] justice movements begin with "the etc." but, I would

argue, make room for the et cetera and the [x]. Here, for instance, are the words of one reproductive justice website:

Reproductive justice is in essence an intersectional theory emerging from the experiences of women of color whose multiple communities experience a complex set of reproductive oppressions. It is based on the understanding that the impacts of race, class, gender and sexual identity oppressions are not additive but integrative, producing this paradigm of interlocking oppressions. For each individual and each community, the effects will be different, but they share some of the basic characteristics of interlocking oppressions — universality, simultaneity and interdependence. (#Trust Black Women)

Giovanna di Chiro argues that [x] justice advocacy is moving beyond this conventional “etc.” politics of interlocking oppressions into a broader understanding of subjection beyond a specified list of identities. She notes that, working together, some environmental justice and reproductive justice organizations in the United States now understand their struggles not so much in terms of individual human rights, but as “about fighting for and ensuring social reproduction” (Di Chiro 285). If we, like Di Chiro, define social reproduction as “the intersecting complex of political-economic, socio-cultural, and material-environmental processes required to maintain everyday life and to sustain human cultures and communities on a daily basis and intergenerationally” (281), we move from the “etc.” to the et cetera.

If we look more deeply into the material-environmental processes required to maintain everyday human life, we begin to open to the [x]. As scientists are pointing out, “human” and “life” are both terms that are increas-

ingly dissolving as known knowns, and as we open to the uncertainty of the future, the et cetera becomes the [x].

Another example comes from climate justice work. As Kyle Whyte notes, for Indigenous Peoples climate justice work is intertwined with “the systems of responsibilities their community members self-consciously rely on for living lives closely connected to the earth and its many living, nonliving, and spiritual beings, like animal species and sacred places, and interconnected collectives, like forests and water systems” (600). Accordingly, Indigenous Peoples are designing and leading movements to protect the rights of living systems such as rivers and forests. In this way, [x] justice movements begin to undermine the subjection dynamics of white settler law, disrupting the known subject of “the human.”

[X] justice movements begin to undermine the spatialization dynamics of white settler law as well. Here, the example I’ll give has to do with conceptual spatialization. Eric Holt-Gimenez and Justine Williams write:

The challenge for land justice is not just how to confront the issues of concentrated private property and the financialization of agricultural land, or how to forge an agroecologically sound and economically equitable form of agriculture, but how to confront capitalism. Our skewed system of land tenure reflects a regressive political-economic system, itself embedded in a continuing legacy of dispossession, concentration and exploitation. (259)

The radical wing of the food justice movement similarly calls our existing food system “broken” and calls for new political economies of food built from the ground up, instead of the top down, requiring a disruption of capitalism. Water justice calls for the de-commodi-

fication of water. Maxine Burkett, writing on climate justice, notes:

[T]he climate movement does not purport to be an environmental one. It aspires to be much more than an attempt to legislate to correct a discrete environmental harm. It seeks to correct a deeper harm that disparately dismantles livelihoods as a result of a changing climate, and to introduce a different kind of political economy. (17)

In attempting to dismantle capitalism itself, [x] justice movements self-consciously adopt a politics of the [x], not only the et cetera but a commitment to unknown unknowns. This is a politics that ruptures the fundamental liberal borderline between “the state” and “the market,” calling for forms of governance and types of spaces that we can’t as yet imagine.

## Conclusion

The first of the 17 principles of environmental justice adopted at the 1991 People of Color Environmental Leadership Summit in Washington, D.C., provides that: “Environmental Justice affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction.” To work for this objective is an anti-colonial project; to achieve it would be a decolonial project.

The politics of the [x] envisions a decolonized world. [X] justice movements posit the existence of a freedom that, in Alexander Weheliye’s words, “most definitely cannot be reduced to mere recognition based on the alleviation of injury or redressed by the laws of the liberal state . . . [S]aid freedom might lead to other forms of emancipation, which can be imagined but not (yet) described” (15).

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## Law & Critique: Hubris in a Time of Environmental Change

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Thank you to Dayna Scott and Sonia Lawrence for this event. It is an honour and pleasure to have the opportunity to engage with and learn from my fellow panelists. I will elaborate on some of the themes raised by Angela Harris about producing knowledge with humility. I want to think about why it is so hard for lawyers, particularly international lawyers (and I include myself in this group) to produce knowledge in such a way.

Before getting to "Critical Theory for the Future," I begin with some background about myself and my discipline. I am an international lawyer. My interest in international law and understanding of it are shaped by where I come from. I was born in India and became an Australian citizen when I was a teenager. My interest in international law began after moving to Australia because I wanted to understand the disparities of power and wealth between the so-called First and Third Worlds, and international law seemed the appropriate field to grapple with questions of global injustice.

I was drawn to various critical movements within law that explained the discrepancy between the promises of equality that are repeatedly reiterated and inscribed within international law, and the increasingly unequal world we live in. Specifically, I was drawn to "TWAIL" or "Third World Approaches to International Law," which is a postcolonial movement that unpacks the ongoing colonial legacies of international law, and demands decolonization and inclusiveness.

In Australia, law is an undergraduate degree and, while I was studying law, I undertook a parallel undergraduate degree in the history of art. The juxtaposition of these two fields of study was an apt illustration, very early on, that in law we are dealing with a deeply conservative discipline. Critical theory enters law slower and later than it does other fields, such as art history, literature, and so on—sometimes with a gap of many decades, with postcolonialism being just one example. It is from this background that I ponder the future of critical theory within law. Without question, the central challenge is how critical legal theory responds to environmental change.

The international law response to environmental degradation is a specialization called international environmental law. It is a high-growth specialization. Commencing in the 1970s, it now consists of an increasing number of treaties, international organizations, research centres, funds, textbooks, graduate degree programs, courses, and so on—all the accoutrements of a successful legal specialization that has staked out its space and is busy putting down roots and putting up shoots.

The initial response of critical international lawyers to international environmental law was interesting. For many decades, international lawyers in the global South—whether critical or mainstream—were largely united on the environmental issue. Both critical and mainstream international lawyers from the South emphasized that environmental problems were caused for

the most part by the global North and hence the global North should shoulder the bulk of the burden of fixing these problems. Additionally, as the global North had enriched itself through environmental destruction, the global North also had much greater capacity to shoulder the burden compared with the impoverished global South. Critical legal scholars in the global North rarely engaged with the environmental question at all but, on the rare occasions when they did, they largely supported the stance of Southern scholars.

With Southern lawyers engaged in the international environmental law project, legal principles reflecting the Southern position were successfully proclaimed within international environmental law, such as an acknowledgment of our common but differentiated responsibility for the global environment. The legal concept of sustainable development also incorporated an understanding that those who cause environmental harm and those with the greatest capacity to mitigate it should take the lead. These ideas were incorporated in various ways within treaties, the best-known example being the Kyoto Protocol.

However, these principles and ideas have been to no avail. In each of the environmental issues that international law has tackled—climate change, biodiversity preservation, combating desertification and deforestation, fighting pollution in the air, water, and earth—we have failed. Each of these problems is worse now than before the advent of international environmental law. Yet international environmental law has grown in leaps and bounds and will continue to do so.

In light of this state of affairs, what is the response of critics today? Have they changed their stance? For some, not much has changed. Some scholars,