

‘Playing It by the Rules’: how users of shared spaces of everyday life impact the production of that space through legal strategies.

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The Social, the Spatial and the Legal

‘Any “social existence” aspiring or claiming to be “real”, but failing to produce its own space (.) would (.) sooner or later disappear altogether, thereby immediately losing its identity, its denomination and its feeble degree of reality’ (Lefebvre, 1991:53).

The social is produced by the spatial, just as the spatial is produced by the social. More specifically, space is produced, as French urbanist Lefebvre (1991) analyzed, through the interaction of three different dimensions: space as it is planned, space as it is lived, and space as it is perceived. Ideally, these three dimensions line up in harmony, with one another and with the needs of the social entity using it. The momentous importance for any social entity to have presence in the spatial entails that every social entity will attempt to produce space in accordance with its needs and urges. When multiple social entities –with diverging or even opposing needs- stake a claim on singular space, contestation often ensues.

This paper examines a particular tactic in the competition over space, namely instigating legal regulations to criminalize contested use of public space by an opposing claimant. It specifically regards state-sanctioned legal regulations that are ‘morally entrepreneured’ (Becker, 1963) by an entity vying for dominance in a shared space of everyday life. Using Lefebvre’s conceptual triad on the production of space, the paper examines how dominance is sought out in the legal realm and subsequently countered through everyday tactics in the lived and perceived realm, thereby clarifying how dominance in the legal dimension relates to – but does not automatically entail- overall dominance in a particular space.

Strategizing Law and Emotional Ownership of Public Space

The focus of the paper is on the theoretical argument of regarding legal interventions at the level of the planned dimension of space, that subsequently have effects on the lived and perceived dimension of space. The legal interventions under scrutiny are formalized social control, the result of a process Habermas (1987) denotes ‘juridification’. To note, they are not a top-down directives from a distant authority, but initiated at the grassroots level; they represent the strategy of one social entity to ensure their norms to have precedence over alternate norms of other social entities. The reason for entrepreneuring the codification of a social norm is argued to be to secure disrupted *doxa* into *orthodoxy* (Bourdieu, 1977): in sharing space it becomes evident that the norms regarding that space are not shared and subsequently the desire arises to institutionalize the own norm. Moreover, the endeavor to entrepreneur the codification of a social norm is undertaken for space for which one feels ‘emotional ownership’. ‘Emotional ownership of public space’ is a new concept coined to encompass emotional place attachment, the duty of care and the felt right to control

a given space. Emotional ownership can invoke the strategizing of law, and the counteract of non-compliance through everyday tactics varying from outright opposition to covert game-playing (Braithwaite, 2009). Building on the work of Lefebvre, Habermas and Bourdieu, the power dynamics in the everyday politics of urban public space are analyzed from a legal angle. The interaction between informal and formal social control (i.e. law) on the one hand and the production of urban everyday public space in a competitive constellation on the other hand is unraveled and defined with regard to a specific case study.

The Case Study: A Municipal Ban On The Public Use Of *Qat* on a Neighbourhood Square

The case concerns a small neighborhood shopping-square in a socio-economic deprived, fringe area of a provincial Dutch town. Multiple restrictive measures exist in the square, including a ban on gathering, a ban on alcohol, a ban on psycho-active substances and extensive closed-circuit television surveillance. The square is a pivotal social place for Somali migrants who use the space to congregate and chew *qat* – a centuries old cultural use that originates in Yemen and Ethiopia. Somalis in diaspora have adopted *qat* as a badge of social identity (Beckerleg, 2008). Though up till January 2013 it was not an illegal substance in the Netherlands, chewing *qat* was expressly forbidden in this space. In competition to the Somali migrants the shopping square is also claimed by male adolescents of mainly Moroccan and Antillean descent, as well as incumbent native Dutch residents who mostly first moved into the neighborhood as it was being built in the 1960s. The case was researched through extensive ethnographic fieldwork, policy analysis and legal research from 2008 to 2012. It was one of three cases researched comparatively within the frame of a larger investigation into juridification of social control in public space, culminating in the PhD dissertation 'Playing It by the Rules', defended June 2015 at the University of Amsterdam.

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