

PART THREE

POWERS, LAWS AND KNOWLEDGES: MAPS FOR FAMILIAR PLACES

INTRODUCTION

In Part Two I analyzed a broad horizon of sociolegal landscapes framed by three major time-spaces: locality, nationality and transnationality. The identification of such a plurality of legal orders calls for a radical theoretical reconstruction of the legal field. A first step in this direction is undertaken in Part Three.

This theoretical reconstruction must be done in line with the epistemological and historical inquiries undertaken in Part One and with the paradigmatic research and political agendas grounded on them. In Part One I tried to show the close complicities between modern science and modern state law in the construction of capitalist modernity. Promoted to a first-order rationalizer of social life, modern science was granted an extraordinary epistemological privilege as the exclusive form of knowledge. By the same token, promoted to a second-order rationalizer of social life—filling the temporary gaps in scientific rationalization—modern state law was also granted an extraordinary legal privilege as the exclusive form of law. By narrowing down the rich epistemological traditions from the first Renaissance onwards to modern science, and the rich legal traditions since the reception of the Roman law to state law, the liberal state of the nineteenth century played a key role, and granted itself an extraordinary political privilege as the exclusive form of power. This triple reduction of knowledge to science, of law to state law, of social powers to liberal politics—however arbitrary in its origins—gained its shred of truth as it became embedded in social practice, and eventually became a conceptual orthodoxy. The critique of this conceptual orthodoxy in Part One concluded in favor of a theoretical reconstruction that would highlight the plurality of forms of knowledge, law and power circulating in social life, as well as the interactions among them. Rather than equating power and knowledge (and omitting or neglecting law) as Foucault does, I pleaded for the identification of different kinds of knowledges, powers and laws, which I see as mutually intelligible through a plurality of isomorphisms, anchored in different social practices and

entertaining specific relations among them. In Part Three, I will present the broad outline of such a theoretical reconstruction. The task has no foundationalist claims. It merely aims at a rhetorical, metaphorical knowledge in the process of identifying knowledges, powers and laws, a style of inquiry which, as will become clear in Chapter Seven, takes metaphors so seriously that it literalizes them in search for new insights and broader analytical horizons.

The epistemological perspective advanced in Part One allows for a wide variety of analytical strategies, as long as they take as their starting point the dialectical tension between regulation and emancipation. The emphasis on an agency orientation is premised upon the idea that knowledges, powers and laws are socially constructed. It is, however, a qualified emphasis, in that it posits the need to look beyond agency, into nonagency, into the social processes that suppress forms of agency by declaring them impossible or improper, immoral or illegal, utopian or insane. In social practice, the dialectics of regulation and emancipation is played out in clusters of agency and nonagency, conflicts over possibility, propriety, morality, legality, realism or normalcy. Given the infinite variety of social relations, the dilemma of anchoring in them forms of knowledge, power and law lies in the fact that the emphasis on such forms brings about its own trivialization: if knowledges, powers and laws are everywhere, they are nowhere. The same can be said of regulation and emancipation: in order to escape the dilemma of pervasiveness/trivialization, the dialectical tension between the two must be kept alive. An analytical balance between structure and agency, as illustrated in Chapter Six, accomplishes as much.

The spatial metaphors are at the core of the theoretical enterprise of Part Three. Structures are here conceived in rhetorical terms, as metaphorical places and topic fields. Perelman has shown that, while classical thought was dominated by spatial metaphors, modern thought is dominated by temporal metaphors, such as progress, evolution and development. I suggest that the postmodern transition entails the reevaluation of spatial metaphors—to be sure, not the old, locally-based metaphors, but new, local-national-transnational metaphors. Structures are topic fields, or fields of *topoi*. They are both social relations of power and law, and social relations of knowledge that generate circumscribed, regional common senses, through which the exercises of power and law are “naturalized” as discourses of truth and necessary practices, that is to say, as courses of action (and nonaction) without reasonable alternatives. There is not one single topic field, but six of them. This means that social regulation is not monolithic, rather its exercise is always more or less composite. The same applies to emancipatory struggles. The controlled proliferation of centers of power, law and knowledge involves also the controlled proliferation of margins and borders to be policed and crossed over. This double proliferation is, however, not symmetrical: the proliferation of the center weakens the center, while the proliferation of margins expands the possibilities of resistance. The emancipatory bias of the analytical strategy in Chapter Six is thereby made explicit.

While in Chapter Six I draw a broad map of forms of law, knowledge and power, in Chapter Seven I concentrate on the forms of law. In this chapter the spatial metaphor is stretched a step further: Chapter Six presents a map of laws, whereas Chapter Seven presents laws as maps. By using the metaphor of maps in

the literal sense, the metaphor is stretched to its extreme and hence destroyed. From a cartography of legalities I move to conceive law as cartographical. This analytical transformation opens new insights into the ways different legal orders constitute their objects of regulation. Many a debate on the role of law in society lies on a deficient definition of the *regulandum*, and to that extent it is a false debate. I resort to cartography in order to underscore the difficulties in defining the *regulandum* adequately. Just like maps, laws are the product of complex negotiations between representation and distortion, between guiding and misguiding. While Chapter Six highlights the breadth of the legal landscape of modern societies, Chapter Seven draws our attention to the intrinsic limits of different forms of law as guiding principles of social action.