HYBRID SPACETIMES: SOCIOLEGAL STUDIES IN A NEW KEY

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Studies of law and governance, I argue, can be reinvigorated by drawing on a bundle of quite heterogenous analytical tools that do not have a single provenance or a single political or normative aim, but that work well in combination. The most important single source of the tools presented here is the work of Mikhail Bakhtin, from whose work I borrow/adapt the notions of intertextuality, dialogism, and, last but not least, the ‘chronotope’. Borrowing these notions increases our ability to generate dynamic analyses—rather than the static models that are the usual currency of social science and conventional theory.

Because this paper’s task is to explain how some of the concepts elaborated by Bakhtin in his studies of literature can be adapted for legal studies purposes, it will necessarily remain somewhat abstract; but it may be worthwhile to point out at the outset that one of the reasons why I believe that Bakhtin’s work is useful for those who, like me, have worked with largely Foucaultian tools to understand governing mechanisms is that Bakhtin’s work converges with the otherwise very different Foucaultian tradition in regarding concrete analyses as the real aim and objective of theoretical work. In sharp contrast to both traditional legal theory and traditional sociology, for which the world consists of a series of ‘case studies’ and ‘examples’ whose purpose is to either confirm or reject a static theoretical model, the tradition that goes from Nietzsche to Foucault and arguably includes at least some of Bakhtin’s work holds that the task of thought is to apprehend our world as concretely and dynamically as possible. One reason why I have become fond of Bakhtin’s work is that in his work analytical terms (e.g. ‘chronotope’) are not precious conceptual jewels to be polished and displayed, but rather tools whose purpose is to help us understand how works of literature (and works of everyday embodied speech) are put together, and with what effects. Which brings us to the first substantive section of this paper.

The status of Bakhtin’s terms

When someone suggests that a particular field of study, in this case sociolegal studies, adopt a new approach or even a new idea, there should be – but in fact there rarely is—a preliminary collective discussion about the status of that approach or idea. Concepts such as Ulrich Beck’s risk society (Beck 1992) or Giorgio Agamben’s ‘homo sacer’ (Agamben 1998), just to name two out of a multitude of currently fashionable terms, become popular as other, usually more empirically oriented scholars find them useful as labels to describe and/or explain a particular
process under study. As applications of theoretical terms proliferate, scholars then argue about whether concept X or concept Y is more appropriate to describe a specific phenomenon (e.g. ‘This is an instance of biopolitics, not of governmentality’). They—or rather we—also go on to argue about the correct interpretation of X and Y (e.g. ‘What Agamben really meant in this book was A, not B as claimed by Prof. Jones’).

The first of these common intellectual moves is classification; the second is ascertaining the ‘true’ or authentic content of concepts. Both of these moves are of course necessary and useful. Classification is essential to human thought, from a child’s first efforts to classify colours and animals to the most sophisticated biological science. And some scholarly discussion about what influential thinkers meant by a particular term is unavoidable. However, channelling the vast majority of theoretical debate into these two formats has the effect of precluding other types of inquiry. In particular, both of the formats for theoretical debate highlighted here (classification and definition) sweep under the rug the issue of the status of the idea in question.

By referring to the status of an idea (and here I use ‘idea’ quite loosely, including everyday notions as well as scientific concepts that articulate with others to form a system), I mean to highlight the effects not so much of particular ideas but of a framework’s, or a literature’s, conceptual architecture. The architecture of each thinker’s particular set of interrelated concepts is generally shared with other theorists. While there is often much originality in the content of a particular thinker’s thought, there is little originality at the level of conceptual architectural styles. The probability that a single thinker can invent a whole new genre of theory is as remote as the probability that a particular writer has invented a new literary genre, or an individual architect a whole new built-form style.

The history of high theory is often written as a succession of autonomous heroic thinkers whose philosophies are self-contained, original systems generated by a kind of mental parthenogenesis. This way of thinking about theoretical production suppresses both the influence of predecessors and the effects of horizontal coexistence, collaboration, and agonistic conflict. Harold Bloom famously documented the constitutive effects of the ‘anxiety of influence’ on literary creators’ efforts to be original (Bloom 1973). Others, not least Bakhtin, have shown that both speech and writing are much more dialogically constituted than the ‘great man’ theory would allow, with this phenomenon not being limited to actual dialogue with one’s contemporaries (Holquist 1981). Much of the interactive constitution of one’s thinking is hidden from view; none of us can claim to really know where we first learned to speak or think in a particular way. Thus, practices such as scholarly citation and academic in-person arguments are but the tip of a very large iceberg; no matter how brilliant the speaker or writer, intellectual debts extend much farther than either the speaker or the audience can see. And of course, rejecting existing views is as constitutive as the act of adopting and validating.
Now, to be fair, one cannot completely rule out the possibility that even after the ‘anxiety of influence’ and other dialogical effects are taken into account, a few thinkers (Aristotle, Kant, Hegel and Nietzsche come to mind) could be said to have invented a whole new intellectual architectural style, not just designed a new conceptual cathedral. But even if one admits that an author can perhaps create a new style, the vast majority of theoretical work, even if innovative as to content, is highly unlikely to be original as to architecture. And for present purposes, the two styles of conceptual architecture that I want to contrast are (1) world-scale theory and (2) pragmatically oriented assemblages of ideas (see Li 2007).

Examples of world-scale theory are plentiful in sociology and theoretical geography: Niklas Luhmann’s systems theory is one example from the recent past. World-scale theories are necessarily static, even if what they claim to explain is change (and since the emergence of evolutionism in nineteenth-century Europe, generating models that domesticate and explain change has been the central preoccupation of theorists in all fields). World-scale theories are what Bakhtin would call monological, being written from the traditional philosopher’s standpoint that Donna Haraway famously called ‘the God’s eye view’ (Haraway 1991, 183-201).

Foucault’s approach, by contrast, is a good example of a pragmatically oriented assemblage of ideas. ‘Assemblage’ is a term currently used by Bruno Latour and his numerous followers and by those working with Deleuze as well as by Foucaultians; the common denominator is a rejection of the idea of ‘system’ in favour of an interest in understanding the contingency, mobility and fluidity of the often ad hoc constellations of governing techniques and governing discourses that ruling authorities, low as well as high, utilize. Scholars whose prefer the ‘assemblages’ metaphor for theory generally study the contingent ways in which practices of governance, practices of inscription, and symbols and discourses borrowed from heterogeneous existing assemblages are re-assembled in an ad hoc and never permanent manner in the daily work of governing.

When regarding governance from the ‘assemblage’ point of view (rather than through one of the many available world-scale theories), the point of analysis is not to classify, or to conceptually refine definitions, but to try to understand shifts, moves, contradictions, and, in general, dynamic processes, concretely. Assemblage thinking (if we can call ‘it’ that given that many different types of work today use the notion of ‘assemblage’) is thus by definition suspicious of definitions. For example: Foucault, who largely followed Nietzsche’s struggle-based philosophy (in which philosophy’s tools are themselves flexible and in constant struggle), the meaning of key terms depends to a large extent on which particular struggle or conflict Foucault is analyzing in a given text. Thus, the ‘sovereignty’ that appears as a relatively simplistic and static mode of power in Discipline and Punish (a work devoted to highlighting discipline) appears, by contrast, as highly mobile and innovative in the much earlier historical context of the emergence of state sovereignty out of older feudal political ideas (for more on this see Valverde 2010). Students are
invariably dismayed by Foucault’s persistent refusal to provide static definitions for his key terms; but such definitions would have undermined the project of sharpening intellectual tools to allow us to better capture the way in which ideas, as weapons in both historical and more micro-level struggles, are constantly shifting in meaning and effectivity as they are used for different aims.1 In a somewhat similar manner, Bakhtin seeks to experiment with terms and modes of analysis in an open-ended manner, exemplifying, in the text’s own logic and form, the very open-endedness of the ‘dialogism’ that is also the object of his analysis (cf. Todorov 1984).

In the rest of the paper I will show that explaining some key Bakhtinian terms (intertextuality, dialogism, and chronotope) simultaneously demonstrates the usefulness of Bakhtin’s assemblage-like conceptual architecture for studies of law and governance ‘in action’. That is, whether or not legal and sociolegal scholars are persuaded that all or most of Bakhtin’s key terms are useful for our purposes, I hope to persuade my readers that work on law and governance would benefit from abandoning once and for all the formats of world-scale theory. To put it differently: it is the conceptual architecture of Bakhtin’s work on intertextuality, dialogism and chronotopes that I argue is particularly important and useful, not so much the content of specific neologisms. Let us thus turn to the first Bakhtinian term that I am arguing we should adapt for our use, intertextuality.

**Intertextuality**

Bakhtin’s work was innovative in breaking with Saussure’s structuralist interest in documenting the static relations that constitute not only the meaning of specific words but also the parameters of speech. Instead, Bakhtin suggested that language be regarded as always already social, as always already dialogical. For Bakhtin, texts and speech acts are always in constitutive relationships with one another, and, simultaneously, with their producers and with their changing audiences. ‘Intertextuality’ is not Bakhtin’s own word (as I understand it from those who read Russian). But Bakthin’s thoughts on how meaning is produced in the always situated and never completely determined relationships that texts and people have with one another were later synthesized under the hugely influential term ‘intertextuality’, apparently invented by Julia Kristeva in her commentary on Bakhtin [Todorov 1984, 60]).

Intertextuality is an idea of great importance to legal studies, although this has not been recognized very widely. Bakhtin is not cited in Boa Santos’ influential article ‘Law: a map of misreading’ (Santos 1987), in which he developed the notion of ‘interlegality’; but, whatever the specific motives behind Santos’ neologism, the way he uses the term ‘interlegality’ is very much in keeping with Bakhtin’s approach. Santos uses the word ‘interlegality’ to encourage sociolegal scholars to move beyond structural views and try instead to understand legal power dynamically and relationally, paying close attention to the ways in which different legal orders, both formal and informal, and both past and present, constitute each other’s practical meaning. And as it
happens, Bakhtin scholar Tzvetan Todorov remarks that law is mentioned by Bakhtin as a field that is particularly intertextual, more so than other fields of knowledge, such as the natural sciences (Todorov 1984, 63). In the essay ‘Discourse in the novel’, Bakhtin remarks that legal sites are excellent places in which to examine how one type of utterance (say, witness testimony) is subject to authentication and verification by another type of utterance (say, cross-examination, or judicial summing up). He then writes: ‘All this calls for further study. Juridical (and ethical) techniques have been developed for dealing with the discourse of another (after it has been uttered), for establishing authenticity, for determining degrees of veracity and so forth (for example, the process of notarizing and other such techniques)…’ (Bakhtin 1981, 350).

The processing of utterances through law, in other words, is seen by Bakhtin as more overtly intertextual than other types of encounters between different types of discourse. Scientific discourse, Bakhtin says in a passage that seems to foreshadow Bruno Latour’s analysis of the differences between science and law (Latour 2010, 198-243), seeks to validate its own discourse by recourse not to another discourse but to nature itself, to ‘the facts’ (ibid., 351). But unlike scientific writing, which must at some level claim to be authorized by nature itself, legal discourse (especially judicial discourse) readily admits that it is in the business of generating words that have the special status of assigning value and meaning to other utterances. A legal actor’s definite intervention is required if a particular oral statement or written document is to be admitted as valid in the legal assemblage – whether this be the notary public’s signature or a judge’s conclusion about the reliability of a document or the veracity of a witness statement. Going beyond Bakhtin’s own analysis, we can add that legal systems are noted for developing highly complex formal written rules to standardize the evaluation and judging of one discourse with the tools of another (e.g. assessing the credibility of witnesses or the authenticity of a contract). Given Bakhtin’s admittedly brief comments on the potential that legal and especially judicial discourse holds for those interested in intertextual dynamics, it is surprising that Bakhtin’s work on intertextuality is rarely used or even cited by sociolegal scholars.

Todorov’s authoritative study further remarks that the key Bakhtinian term that he translates as ‘translinguistics’ (the Russian word metalinguistika) denotes the socially rooted, pragmatic logic of language-in-use (Eco 1976) that Bakhtin pioneered, as against the rigid, static models of the structure of language in general that were in vogue at the time: ‘The term in current usage that would correspond to Bakhtin’s aim is probably pragmatics, and one could say without exaggeration that Bakhtin is the modern founder of this discipline’ (Todorov 1984, 24, emphasis in original). I would not agree that pragmatics is a discipline (Valverde 2003b); but I do agree that the fact that Bakhtin’s thought consists mainly of tools that were chosen because they were useful for a particular purpose, tools that, to use Tania Li’s formulation, were pragmatically assembled (Li 2007), means that if one borrows one of Bakhtin’s terms, this move does not bring in its wake nearly as much theoretical baggage as would be the case if one tried to borrow single concepts from systematic thinkers. If a concept has been developed as an addition to a
pragmatically oriented assemblage of loosely related tools to help us understand, dynamically and relationally, how meaning is produced and/or how power relations are put together, it will be easier to transport that concept into a different but also pragmatically oriented assemblage than would be the case if one were to take a notion that is firmly embedded in a grand, systematic theory. Sources of methodological and theoretical inspiration that are unrelated to one another but that share a general pragmatic conceptual architecture can be more easily combined than is the case with clearly defined concepts that are integral parts of a world-scale theoretical model.

Therefore, the argument here is not that Bakhtin gives us the one true theory that tells us how time and space coexist and interact in legal mechanisms. Specifically, in the term ‘chronotope’, which synthesizes spatial and temporal scales, Bakhtin offers not a theory of time and space or of what some call ‘spacetime’, but rather, at most, a theory of communication that can be adapted for a variety of uses, including for legal studies purposes. To reiterate: what Bakhtin offers is not a coherent and static system that competes with other systems but rather a set of loosely connected concepts and insights that his lengthy analyses of literary works demonstrates can shed new light on how acts of communication take place. Bakhtin’s approach is hence suited to being adapted for new uses in a flexible manner for legal studies purposes, with ‘interlegality’ being one such adaptation.

**Dialogism/heteroglossia**

Bakhtin’s wide-ranging studies of ancient and modern literature led him to conclude that some genres, most notably the modern novel, not only reveal but also pleasurably revel in the multiplicity of perspectives, narratives, and modes of speech that exist around us, a multiplicity that he calls ‘heteroglossia’. Heteroglossia is a general feature of the social world, but it is not reflected in all genres. Some genres suppress heteroglossia. For example, the epic (a grand-scale narrative, often interpellating a unified people) consists of a one-voice story told by a single, all-knowing narrator: ‘the epic world knows only a single and unified world view, obligatory and indubitably true for heroes as well as for authors and audiences’ (Bakhtin 1981: 35). By contrast, the novel not only portrays the world as heteroglossic but is actually based, as a genre, on the idea that there is no one single point of view. It does not merely depict multiplicity; it performs heteroglossia, as we would now say. A novelist gives his audience a whole cast of characters with distinct, individual voices but, and thus offers audiences a wide variety of perspectives and mini-languages.

In contrast to the more monotone style of genres such as the epic, novels include a wide variety of communication formats. ‘Authorial speech, the speeches of narrators, inserted genres, the speech of characters are merely those fundamental compositional unities with whose help heteroglossia can enter the novel; each of them permits a multiplicity of social voices and a wide variety of their links and interrelationships (always more or less dialogized).’ Thus, ‘this
movement of the theme through different languages and speech types, its dispersion into the rivulets and droplets of social heteroglossia, its dialogization – this is the basic distinguishing feature of the stylistics of the novel’ (Bakhtin 1981, 263). And elsewhere he comments that the prototypical novelist ‘injects social heteroglossia into the body of the novel and leaves it to the orchestration of its meaning, frequently giving up altogether any pure and unmediated authorial discourse’ (Bakhtin cited in Todorov 1984, 77).

What about the related term ‘dialogism’? By that term, Bakhtin conveys the idea that dialogism is not a purely sociological phenomenon, as already indicated in the comments on intertextuality. Dialogism also includes the fact that as one talks or writes, one is responding, knowingly but mostly not, to the indefinitely large number of texts and speakers that have already used the same words, entities, both real-life and ghostly, with whom one is necessarily in dialogue (see Todorov 1984, x). The term ‘dialogism’ thus covers more than the terrain covered by social interactionism: it also includes the endless and unrecorded chains of interactions amongst previous utterances and texts within which any one speech act is but a mere link—that ubiquitous phenomenon that later came to be called ‘intertextuality’. Todorov, incidentally, argues that ‘dialogism’ is a somewhat narrower term that can be taken as an instance of the universal phenomenon of heteroglossia or intertextuality; but his interpretation may be a little too rigorous, a little too fixed, especially if one is reading Bakhtin for social science purposes rather than for literary analysis purposes (Todorov 1984, 60). Dialogism could just as easily be taken as the primordial condition of human communication: the biblical Adam did not exist in a heteroglossic universe (yet), but he certainly was constituted in and through a dialogical relationship with God. For what it is worth, the Bible shows heteroglossia as a later phenomenon, made visible at the time of the Tower of Babel.

Be that as it may, dialogism, like intertextuality, is hardly a modern invention: but the genre of the novel consciously breaks with older, somewhat more monologic literary styles, and brings the dialogism of speech to centre stage as well as making it aesthetically pleasing. In other words: instead of repressing multiplicity and conflict, as many literary genres and some types of speech do, the novel acknowledges and even promotes social and historical dialogism. The novelistic literary techniques associated with dialogism and heteroglossia imply that reading novels not only teach readers about life but also allows them to imaginatively participate in social life; however, it does so without imposing a single way of being in the social world, since readers always has a range of characters and mini-languages with which one could identify.

It is clear—although to my knowledge this has not yet been noticed—that Bakhtin’s terms ‘intertextuality’, ‘dialogism’ and ‘heteroglossia’ have an obvious affinity with the law and society movement’s longstanding effort to de-centre the hegemonic, authoritative speech of formal state law. From classic legal pluralism, to postcolonial scholars’ analyses of overlapping normative systems, through regulation scholars’ work on nested systems of rules and norms, a
wide array of subliteratures within law and society show that, just as certain literary genres tried but eventually failed to suppress dialogism, so too in respect to political and legal struggles, monologism is a perpetually failing operation (see for example Lawson 2011, Smith 2003).

**Chronotope**

The term ‘chronotope’ was apparently inspired by early twentieth century relativity theory, which as is well known broke with the Newtonian habit of regarding time and space as separate and objectively real dimensions of the world in favour of a dynamic and indeed ‘relativistic’ model of ‘spacetime’ (Bakhtin 1981, 84). Now, considering questions of time and space together rather than separately is not what made Bakhtin’s ‘chronotope’ an original and radical idea. Any number of anthropologists, geographers, and theorists of history readily admit that to isolate the temporal from the spatial dimensions of human existence is problematic. What makes Bakhtin’s chronotope an important innovation whose implications we have yet to understand is that, unlike legal geographers, anthropologists, and historians, who by and large either ignore one dimension or else carry out an analysis of temporality and then add an analysis of spatialization or vice versa, Bakhtin devised a notion—the chronotope—for the precise purpose of analyzing how the temporal and the spatial dimensions of life and governance affect each other. How exactly the term could be used for sociolegal studies requires translation, however, because Bakhtin's main goal was to understand the specificity of literary genres, not sociolegal mechanisms or governance logics.

Bakhtin’s essay ‘Forms of time and chronotope in the novel’ appears at first sight to aim at an interpretation of how the modern novel differs from earlier literary forms. However, it actually pursues a much loftier objective: namely, a new method for ascertaining what makes each genre what it is. In addressing the age-old literary theory question of genre specificity, Bakhtin chooses to focus precisely on space and time, but with these two dimensions of human life and human perception taken together and taken relationally, rather than separately. The ‘chronotope’, Bakhtin states, is ‘the intrinsic connectedness of spatial and temporal relationships that are artistically expressed in literature... Time, as it were, thickens, takes on flesh, becomes artistically visible; likewise, space becomes charged and responsive to the movements of time, plot, and history’ (Bakhtin 1981: 84, emphasis added).

‘Time’ and ‘space’ are thus **not** taken as separate dimensions to be considered one after the other, as is done in sociolegal case studies that provide historical context in one section and an analysis of spatial governance in another section. The specificity of a particular literary genre—a particular, collectively produced and culturally established way of telling stories and capturing human relations—lies precisely in the way in which, in each genre, time ‘thickens’ and becomes spatialized in distinct ways, while ‘space becomes charged and responsive to the movements of
time, plot, and history’. The particular shape of this process is specific to each of the genres that are available within the same culture or across historical and geographical boundaries.

Analyzing the progression of Western proto-novelistic genres since the Greek romance, Bakhtin shows that each genre constructs time and space in characteristic ways. This is an insight which legal historians and legal anthropologists could easily produce without reading Bakhtin. But more profoundly and innovatively, he demonstrates that particular spatiotemporal modes constitute the ‘essence’ of each genre, each major mode of cultural expression. When a genre routinely uses Fate to move the plot along, for instance, a certain semi-sacred spatiotemporality is at work, one that contrasts with the profane, disenchanted, human-actor centred spatiotemporality of the modern novel, in which events are always the effects (though often unintended effects) of individuals’ choices.

The logic of the ancient Greek romance is not merely temporal. The specific temporality of the Latin ‘Fortuna’ is intertwined with a spatialization that, as Bakhtin describes it, appears to have much in common (rather surprisingly) with the ‘abstract space’ that writers from Mary Poovey to James Scott have identified as a modern creation (Poovey 1995; Scott 1998). Providing several examples of the peculiarly static, featureless geographic settings of classic Greek romance, Bakhtin points out that in this genre heroes are shown as travelling from Egypt to Greece and to the Near East without encountering any real geographic or cultural differences, as if the spaces through which they travel were essentially alike. This abstract spatialization is intertwined, by means of the ‘chronotope’ that constitutes the ancient Greek romance, with an also abstract, or perhaps merely static, sense of time. Bakhtin points out that the final reunion of star-crossed lovers characteristic of Greek romance (and Shakespearian comedies, one might add) erases time twice. First, the lovers do not visibly age despite the lengthy and arduous adventures they undergo; and, secondly, the world to which they return also turns out to have remained static while they were undergoing lengthy trials and mishaps. Therefore, even when the heroes move through space and time, these movements have no deep significance, and do not bring about any substantial change. This absence of spatial and temporal change stands in marked contrast to modern novels, in which displacement across time and space is presented as fundamentally altering, often for the better but sometimes for the worse, the characters’, or at least the protagonist’s, inner self.

A key contention in this paper is that, like literary genres, different legal processes are shaped and given meaning by particular spacetimes. Applying Bakhtin’s ideas to the legal realm is not wholly without basis in Bakhtin’s own thought, since (to the dismay of purer literary critics such as Todorov [Todorov 1984, 81]) Bakhtin de-centres literature, and indeed writing, by emphasizing that literary discourse is only one of many forms of human communication, and legal discourse is one of his many extra-literary examples. Bakhtin carefully defines genre in an
explicitly non-literary manner: ‘A genre is the set of means for a collective orientation in reality, aiming for completion’ (Bakhtin quoted in Todorov 1984, 83).

The spacetime of penal law versus the spacetime of land use law

Insofar as law too is (among other things) a system of communication, Bakhtin’s ideas can be applied in that field without major distortions. How would this appropriation, this sociolegal dialogue with Bakhtin himself, work? One apposite example is that if we consider a basic modern legal format (the penal code) as a genre in the Bakhtinian sense, we see that penal codes are written in a manner that homogenizes the spacetime of the state —or, more accurately, a manner that tends towards homogenizing political spacetime and in so doing boosting the unity of the state. Modern penal codes create crimes that are absolute prohibitions applying to all persons, or at least non-insane adults, at all times, without considering the social status of the person or the time, space, and context of the event. Modern penal codes are also triggered by an event in the past (a crime) that is seen as requiring punishment. Preventing future crime is often an element too, but it is subordinate since without a definite, site-specific crime the machinery of criminal justice cannot begin to operate.

To bring into relief the specificity of the chronotope of the modern penal code it is useful to note that most non-criminal systems of legal rules apply only to people in particular relationships (e.g. employers, landlords, parents, spouses, vehicle drivers, etc), thus differentiating the citizenry. The way in which modern penal codes homogenize spacetime also comes into focus when the classic Beccaria-style penal code is contrasted with local police-style local regulations, which to a large extent consist of nothing but time- and space-specific rules governing such intersubjective and situated problems as trash disposal, driving, parking, building fences, using parks, and so forth. A good example of the latter format or genre of law are parks bylaws that make it illegal to sleep in parks but only at night, and that internally differentiate the space of the park to separate playing sports from walking dogs and so on. (Land use law also differentiates local space, often in an almost maniacal, obsessive manner; but it does not provide as good a contrast with the genre of the penal code as parks regulations because temporality is relegated to the background, with the apparently atemporal knowledge format of the map being a key tool).

That the logic of modern criminal codes is well suited to supporting and upholding state sovereignty is well known; but the spatiotemporal dimensions of coercive penal codes have received less attention, and within that especially the temporal aspects. Stuart Elden’s erudite and detailed genealogy of modern ‘territory’ demonstrates that it was only with the rise of theories and practices of state sovereignty in early modern Europe that territory, as we know it, emerged as a central mode of spatialization (Elden 2013). But a Bakhtinian analysis would go on to explore the temporal logic of the kind of state power, including penal power, that is exercised over piece of land that has been ‘territorialized’. Penal codes, a Bakhtinian analysis would
suggest, not only secure a spatially defined territory, but also act as a temporal hinge, one that performs the crucial role of connecting the past with the future, retribution with prevention. While retribution for past misdeeds is the main temporal logic of criminal prosecution and criminal punishment from the judicial standpoint, from the standpoint of the sovereign penal codes are not merely retributive, since they are written, and to some extent enforced, in such a way as to not only punish past offences but simultaneously secure the future. In other words, from the strictly judicial point of view the important temporal dimension is the past, or rather the very particular past that is constructed by ‘who done it’ inquiries, judicial and otherwise (Foucault 2014, Valverde forthcoming). From the sovereign point of view, however, establishing the true facts about blame for past acts is not the real point. The point is to use such opportunities as might be provided by judicial inquiries into past offences to secure the state into the future. Generally, then, excluding temporalization from the analysis of the relationship between political/legal power and territory (as Elden does in his magisterial account) impoverishes the account of legal-political governance.

Modern land use law, especially when driven by expert planners, is characterized by a chronotopic logic that is in sharp contrast to that of penal codes. This is a relatively recent phenomenon; before the rise of planning, with its ‘seeing like a state’ chronotope, conflicts about the use of land were generally managed through legal tools that were backward-looking and site-specific, most importantly the category of ‘nuisance’. (Valverde 2011). Nineteenth century nuisance law deployed and constituted a spatiotemporality of concrete and relational particularity that was explicitly dialogical: an activity or a land use only became a nuisance at the time at which a certain type of person or land use appeared next door, and nuisance offences were only prosecuted if there were complaints (although a municipality could act as the complainant, in the case of public nuisances, and such actions paved the way for the far less dialogical logic of professional urban planning).

By contrast, twentieth-century planning law looks almost completely to the future, not the past, and it seeks to govern not the one place where a conflict has happened but rather the whole of a territory—doing so, furthermore, proactively, by means of a general future-oriented policy usually embodied both in various sets of numbers and in an official plan and an official zoning map. (These maps, not coincidentally, are unusual among maps in that they seek to map future development more than present reality; currently existing buildings and activities that do not meet the standards set for the future are either ignored in the official maps or marked as ‘legal nonconforming uses’, a label that subordinates the present to the future). For twentieth century planning law, the dialogical and situated relations between two actual neighbours exist only as opportunities to either enforce or not enforce or modify the overall plan (Valverde 2011).

In keeping with Bakhtin’s observation that chronotopes are not always internally consistent, it should be noted that even the most future-oriented and modernist of municipal official plans
leave room for a contradictory chronotope: the backward-looking, nostalgic spatiotemporalization best embodied in the notion (and the legal doctrine) of ‘the character of the neighbourhood’. The coexistence of these two contradictory chronotopes is explained by the operation of scalar mechanisms. That is, the conflict between the future-oriented modernist discourse of growth and improvement and the nostalgic temporalization enshrined in the doctrine that zoning variances are to be granted only if ‘in keeping with the character of the neighbourhood’ (as the Ontario Planning Act has it) is managed, quite impersonally and without a need for political debate, through an implicit scalar distinction. The modernist, future-seeking logic of economic growth is tethered to the scale of city-wide or region-wide plans, while the logic of nostalgic preservation and ‘heritage conservation’ is in turn confined to the scale of micro-neighbourhoods -- a scale that often covers no more than a single building or block.

As other chapters in the Chronotopes book show, scalar differentiation is the key to understanding how these conflicting logics can coexist: projects with contradictory spatiotemporal logics would not find it easy to coexist if they were carried out at the same scale. ‘Heritage conservation’, for example, has become a powerful chronotope in urban design circles. Because this chronotope is embodied strictly in small-scale projects that produce tiny ‘heritage’ enclaves—for example, fancy coffee shops with sandblasted brick walls displaying the odd relic of nineteenth century industrial heavy industry—, it does not directly threaten the much better resourced chronotope of city-wide and regional innovation and economic growth, the chronotope embodied in large suburban developments, gigantic shopping malls, hightech ‘hubs’ and very tall downtown condo buildings.

Before concluding the paper with more detailed examples of legal chronotopes, it is important to acknowledge that the sociolegal adaptation of Bakhtin’s work on chronotopes need not be undertaken completely from scratch. There are some passages in Bakhtin’s long essay on chronotopes, in particular, that already go part of the way towards a sociolegal interpretation. These will be discussed here because, unlike the general idea of the chronotope, they have not been explored by sociolegal scholars, to my knowledge.

**The agora: first example of a ‘real-life chronotope’**

As what he calls a ‘real-life chronotope’, Bakhtin notes (unfortunately just in passing), that the agora's spatiotemporality was essential to the Greek sense of a free (male, free-citizen) self engaged in becoming wise and learning to practice freedom. Bakhtin’s point is that what we would call personality, character, or for that matter freedom only acquired meaning and reality as it was made visible and seen by others in the specific spacetime that was the agora. That the ancient Greek (male, privileged) self often associated with the birth of freedom itself was constituted in publicly visible interactions that took place under open skies in the public square (rather than in the interiority of, say, Descartes’ famous one-person cabin with a warm stove) is a
fact that need not be elaborated here. But understanding why Bakhtin thinks that the agora is a chronotope rather than merely a space helps us to understand how chronotope analysis sheds light on phenomena often swept under the rug by legal geography.

What Bakhtin does not say, but is implied, is that the political speeches, criminal trials, and market transactions that formed the substance of ‘the agora’ were as limited by temporal markers as by the more apparent spatial markers that are still visible in Greek town ruins across the Mediterranean. An encomium speech, for instance, would not function as an encomium if delivered in the middle of the night, or at the wrong time (as Derrida notes, from a very different perspective, in his discussions of embodied practices of friendship and their relation to justice (Derrida 1997, 2006).

Like other places of economic and social exchange, then and now, the agora was defined by formal and informal temporal rules as well as by legal spatializations. The spatiotemporal regulations that have constituted markets and other socio-economic spaces since the agora (for instance, the complex medieval rules allowing markets in specific spacetimes) have not been immortalized in high culture in the same way as their rhetorical counterparts (the eulogy, the encomium, the call to military sacrifice). Nevertheless, such spatiotemporal regulations continue to shape what is meant by a valid transaction. Contemporary techniques that constitute markets temporally include the stock market's crucial performative, namely the opening bell, as well as the techniques used by electronic financial systems for stopping trade on some stocks in the wake of temporally unusual trading patterns.

Therefore, if we try to build on Bakhtin's passing comment about the agora as a ‘real-life’ chronotope, we can see that it is very productive to understand the venue that was the agora as the chronotope that simultaneously enabled the earliest formulations of Western-style citizenship, Western-style market transactions, and Western-style narratives of honour and civic virtue, with simultaneity being the most important element for purposes of our analysis.

**The ancient Roman patrician family household**

‘Another real-life chronotope’, Bakhtin writes, is that which grounds the genres of Roman autobiography, biography, and memoir (Bakhtin 1981, 137). These classical Roman genres privilege a space—an interior space, the legal-physical-social space of the family household. Bakhtin does not comment on how Roman law both constitutes and is shaped by this particular type of indoor space and household, because he is only concerned with understanding how the family household is the place in which a certain literary and social entity—the essential, personal character of the great man whose biography or autobiography is being written—is put together. He therefore only remarks that the Roman patrician household is a chronotope in which ‘historical reality is deprived of any determining influence on character’ (*ibid.*, 141), since events
in someone’s life are never formative, being only occasions on which the inborn, unchanging character of that great person can be displayed (Plutarch’s Lives is Bakhtin’s main text here).

However, given the huge influence of Roman law on subsequent European legal systems, especially in private law, future scholars may well benefit from considering how the chronotopes that made up Roman socio-legal culture might have shaped legal developments many centuries later. The ‘paterfamilias’, to name only one classic Roman socio-legal figure, would be from a Bakhtinian point of view not a sociological ideal type but rather a stock character in a narrative with a distinct spatiotemporality. Insofar as the paterfamilias has exercised a huge influence not only on family law but also on public law—for example in the law on ‘the police power of the state’, which as Markus Dubber has influentially argued is based on an analogy between the household and the state (Dubber 2005) —, examining the features of the chronotope of the Roman patrician household could prove fruitful for those interested in the genealogy of terms and doctrines in current law.

Since the publication in English of Bakhtin’s work a vast number of studies have used Bakhtin’s ideas in new ways; but Bakhtin’s influence has been felt almost exclusively in the humanities. Studies of legal and other types of governance carried out with social science tools, however, could also benefit from experimenting with Bakhtin’s ideas. By way of illustrating the benefits of such a move, I will now proceed to analyse two examples of legal chronotopes: first, the courtroom, or more accurately the court of law; and secondly, the ‘single-family-detached’ entity that is constituted in and supported by planning law. These examples, I hope, will serve to put some sociolegal flesh on the bones of the borrowed term ‘chronotope’, before we go on to canvass other relevant literatures in chapter 2 and the issue of jurisdiction’s relationship to spatiotemporal scales in chapter 3.

**The courtroom as a chronotope**

A legally important venue that is usefully considered as a chronotope is the court. The spatial differentiation of court buildings and courtrooms has of course been discussed by many sociolegal scholars and legal historians, mainly with a view to showing how certain notions of the majesty of law are given architectural form. But the law’s majesty is also produced and furthered by means of temporal manoeuvres, and this dimension is generally excluded from analyses of legal architecture. The court is not merely a room; and it is not a court simply because of its architecture and furniture. The spacetime in question is only a court of law at certain times. At other times, it is merely a room in a public building. Working courtrooms are temporally specific in part because, like other state institutions they only effect and perform state power during certain publicly announced opening times and during ‘business’ days; but, more specific to law, courtrooms are also temporally specific because the space only becomes a court
of law at a highly particular time within that business day, an point in time that is only indirectly
governed by the standardized clock time that determines when public servants are working.

The specific majesty of law’s time begins not at the publicly advertised opening time but only at
the far less predictable time when the judge enters the room and the clerk says ‘All rise’ (or ‘the
court is now in session’). The courtroom is usually open earlier, and lawyers talking with one
another or accused people snatching a few words with families in the public gallery might well
populate the space and engage in dialogues with legal significance (for example, a plea bargain
might be put together in this pre-law but post-opening-time time). But if the judge's official
entrance is delayed from the official time of 10 am until 10:15, then 10:15 becomes the time zero
of law, not the time at which the door was opened or the time at which whispered conversations
began amongst lawyers.³

In addition, the official time of courtroom law is not continuous, unlike clock time. When the
judge orders a recess or declares a lunch break, the time of law stops and has to be re-started
later. The spacetime of the archetypal ‘court of law’ thus shares many commonalities with the
spatiotemporality of sports matches. A football game might be scheduled to start at 8 pm; but the
relevant time is determined by the referee, not the publicly visible clock, and it is only when the
referee blows his whistle that the space (the football pitch, say) becomes a working, effective
football pitch. Further, just as the referee uses his sovereign power over the specific chronotope
that is the sports match to signal breaks and decide on the exception (from adding extra minutes
to calling off the game due to bad weather or unruly fans), so too the judge’s power to stop and
re-start the time of law, as if he/she had a legal stopwatch, both presupposes and performs a
particular kind of sovereignty. It is interesting to note that the judge’s sovereignty, in
spatiotemporal terms, is usually greater than the judge’s official legal power. One can read
textbooks and find out which judges can claim jurisdiction over which cases and what different
d judges can do by way of exercising power over the parties and over lower-level judges: but all
judges, no matter how lowly in the hierarchy, have a spatiotemporally specific sovereignty that
covers all aspects of the physical arrangements and the human conduct of ‘the court of law’, and
not just legally relevant events. Even a lowly magistrate, for example, can throw spectators out
for talking too loudly, and can send a lawyer home to change into more appropriate shoes. Such
decrees, which have no effects on the substance of law, and are not subject to appeal to a higher
court, emanate from the spatiotemporal sovereignty conferred on the judge by the chronotope of
‘the court of law’.

The way in which a specific temporality (the judge-centric, discontinuous, referee-style time that
is relevant for purposes of a legal transcript) acts on and through the physical space of the
courtroom to create the legal chronotope of the court perfectly exemplifies Bakhtin’s point about
how time ‘thickens’ space, cited above. The judge’s sovereign power to start and stop the legal
game is what makes the courtroom space a court of law. In turn, the interior design of the
courtroom as a space is constitutive of judicial time, the official time of law: if lawyers run into
the judge in courtroom coffee shops or other spaces, the spatial location of those speech
interactions has the effect of excluding those bits of time from the official written record of the
progress of the trial through time.

Of course, sociolegal scholars know that law is not limited to formal proceedings in formally
designated times and places; but a plea bargain concocted in the men’s room of a court building
is not law until it is re-narrated in the official space during a time that is official court time (that
is, not during a lunch break). To summarize, then: the space of legal speech acts to draw
boundaries around law’s official time; and, in the same way, temporal markers (e.g. the judge’s
or clerk’s pronouncement that the court is now in session) also redefines, instantly, the space in
which the remark is made. Seeing the courtroom as a chronotope, therefore, amounts to more
than adding an analysis of the temporal logic of trials or hearings to existing analyses of court
design and architecture. The term ‘chronotope’ encourages us to explore how different legal
times create or shape legal spaces, and vice versa: how the spatial location and spatial dynamics
of legal processes in turn shape law’s times -- how spatial dynamics thicken time, to use
Bakhtin’s evocative phrase⁴.

Furthermore, it is possible –although I would not want to press this point too far-- that paying
attention to the way in which time and space interact to constitute the courtroom helps to shed
light on the dynamics of what is called ‘justice’. Just as the chronotope of the agora is
constitutive of Greek-style citizenship, Greek-style commerce and Greek-style justice, at the
same time and through the same processes, so too the spatiotemporality of the court of law (or
better, the spatiotemporality that is the court of law) is constitutive of what is called justice, as
Linda Mulcahy has carefully demonstrated, though in an analysis limited to spatial organization
(Mulcahy 2012). In the Middle Ages justice was produced outdoors, often on the steps of the
local cathedral or other major church. And while images of justice being rendered outdoors and
especially, for symbolic as well as practical reasons, under trees can still be found today (as
Mulcahy’s brief discussion of post-apartheid South Africa shows [Mulcahy 2012, 6]), today the
public, and not just official legal actors, would not regard judgments rendered on church steps or
under a tree as equivalent to ‘having one’s day in court’, even if the substance of the judgment
accorded with local norms. A proper legal ruling has to be issued in a specific, consecrated
indoor space at a particular time.

Barbara Yngvesson’s influential study of the work performed by small-town court clerks in the
US similarly highlights the spatialization of the pre-legal or paralegal work done by clerks
through the evocative image of ‘the courthouse steps’ (Yngvesson 1988). Her study also
demonstrates that this liminal, threshold space (which may not be physically on the steps, since
this liminal gatekeeping work can be done in hallways or on the pavement) is also temporally
specific: it takes place in the non-official, pre-game temporality that the clerk dominates. The
clerk’s distinctive spacetime thus shapes the content of law insofar as a significant proportion of justice-seekers are discouraged, in the specific chronotope controlled by the clerk, from pursuing formal justice. In screening cases, the clerk renders instant para-judgments that do not quite have the force of law but which are taken by most people as final. Thus, the clerk’s spacetime (or more broadly the spacetime of legal gatekeeping, which can be controlled by any number of different personages besides clerks, such as paralegals or community agency workers) is closely connected to but is chronotopically distinct from the spacetime of the court of law, of the formal justice that is rendered visible and actionable in court transcripts.

The property-owning nuclear family and the legal chronotope of ‘single-family detached’

The second example of a legal chronotope is drawn from the legal field in which I have done most of my empirical work in recent years, namely local urban law. Studying how North American cities use their legal tools, historically (Valverde 2011) and in the present (Valverde 2012), reveals that one of the key chronotoposes of local law—and one not found in either criminal law or constitutional law—is that which literally houses the privileged subject of Euro-American urban citizenship: the home-owning nuclear family household.

The exclusion of homeless people and street people and those living in informal housing from citizenship in all its dimensions has received much attention among sociolegal scholars in the global North as well as the South. But what has received far less attention is that while homelessness and illegality certainly act to create political and not just social exclusion, legally occupying a private place to eat and sleep does not guarantee true citizenship and belonging. Tenants; young single people living with their parents or with roommates; low-income seniors living in rooming houses or retirement ‘homes’; families temporarily sharing a dwelling with another family for economic reasons; boarders and lodgers; couch-surfers; those who informally occupy residences or build shacks on land they do not own—there are numerous groups, and not only in global South cities, whose exclusion from legal as well as symbolic citizenship at the local level is effected in large part by the legal-cultural privileging of a particular form of domestic life.

Leaving for another occasion the topic of business ownership as a mode of citizenship, it is well known, at least within critical urban geography and planning, that local law has a set of legal tools of diverse provenance (most visible in North American zoning law) that constitute in law the paradigmatic domestic life form of the home-owning, morally respectable nuclear family. However, such critiques rarely explain that law’s control over social life can never be total, not only because of what is called ‘resistance’ but also because of law’s contradictory internal dynamics, which can be made visible by focusing on scale and jurisdiction. Zoning ordinances, for instance, clearly prop up the culturally and politically privileged homeownering nuclear family: ‘single-family detached’ is the top, least restricted land use in every North American zoning
scheme, as anthropologist Constance Perin noted long ago (Perin 1979). Perin was certainly correct in emphasizing the constitutive role played by local law; however, the fit between the socio-economic-cultural-sexual unit that is the nuclear family (a social chronotope) and the legal entity known as ‘single-family detached’ is by no means perfect. While residential suburbs with detached homes are marketed to owner-occupiers, and a large number of legal and financial tools (e.g. federally guaranteed mortgages and accessible 25-year bank loans) have facilitated homeowning as opposed to renting, in the US especially but in many other countries as well, the property rights of owners who may want to rent out their homes and the property rights of those who want to sell to non-family households can be partially limited, but never fully trumped, by local regulation.

The usefulness of chronotopic analysis emerges very clearly if we inquire into governance problems arising from the lack of perfect fit between a boilerplate legal container (‘single family detached’) and the social-sexual-emotional-financial content that is normatively assumed to naturally occupy the container (the nuclear family). This conflict is swept under the carpet, hidden from view, by the operation of a strongly moralized temporal framework that normalizes (Western) human life, one is best embodied in the sociological cliche of ‘the’ life course. Mainstream sociology of the family, the source of the life course idea, works as a Bakhtinian literary genre. Individual sociologists generate speech acts and scholarly articles that assume and thus reproduce the basic chronotope of ‘the life course’—one that is then found further afield, even in feminist scholarship on such issues as the plight of older divorced women. In general, it can be said that sociologists of kinship and family relations pay close attention to one type of temporalization (the stages of ‘the’ life course), to the detriment not only of spatial normalization but also of the workings of other forms of temporalization (historical shifts, for example).

A Bakhtinian lens can help to bring into sharper focus the intertwining of spatial and temporal norms that takes place as the hegemonic narrative of stages of the life course converges and mixes with the differentiated spatializations found in both planning law and in real estate discourse. The highly normalizing generic narrative that results from this convergence goes as follows: rented apartments are the natural habitat of those who are young and single (with this being classified as a preparatory stage in the life course), while single-family detached homes appear as the proper spatial domain of and container for the spatiotemporal status known as ‘married with children’. On their part, the in-between life-course categories of just-married and ‘empty nesters’ are supposed to be spatially contained in transitional North American real estate categories, namely, condominiums and townhouse developments.

The cultural narrative by which building forms and types of property relations are associated with distinct stages in ‘the’ life course is strongly supported by municipal legal rules; but dialectical reversals are always hovering in the background, since the same narrative is also
undermined, at least on occasion, by law’s own rules – rules from other fields of law, such as human rights law. While developers, even in this age of familial and household diversity, continue to build suburbs in which all houses have the number of bedrooms associated with a normative number of children, human rights and equality-driven legal mechanisms prohibit municipalities from reserving certain residential neighbourhoods for actual families. A single man cannot be prohibited, by local law, from buying the standard North American three-bedroom house: the spacetime of ‘single family detached’ is therefore not hard wired to the spacetime of the nuclear family. For the same legal reasons, multi-generational households cannot be completely banned either, although such households (often associated with the spectre of the Orient) can be and are targeted by micro-local prohibitions on building additions and basement apartments. So too, the wholly arbitrary local rules about how many unrelated people can legally live in a single-family home (four or five, in most North American jurisdictions) highlight the persistent contradictions between the spatiotemporal logic of one legal process—local zoning—and the logics of other state and federal equal rights and privacy laws.

In conclusion: while clever rules can be designed that discourage any group of people other than actual nuclear families with a relatively small number of children from living in the prime residential areas designated as ‘single family detached’, the legal chronotope ‘single family detached’, powerful as it is, is constantly undercut by competing legal chronotopes, from property law to human rights law. Studying local regulatory practices reveals a quiet process that brings together ‘home’ (a hybrid of a building, some highly temporalized financial arrangements, local legal rules about the size of yards etc., and myriad cultural tropes) with ‘family’ (another hybrid of people, objects, norms and myths), and then wraps that super-hybrid assemblage in layers of architectural, financial, aesthetic, and legal rules – but with the operation of both legal and social family-related chronotopes being subject to any number of bumps and countercurrents.

Spatial normalization has long been critiqued by the progressive planners and feminist urban geographers who have documented the history and the ideology of the ‘white picket fence’ suburban home. But in keeping with the general tendency to not examine temporality other than in the narrow form of historical background, few have noted that the archetypal homeowning, lawn-mowing family is constituted not only spatially but also through specific temporalizations. The daily, weekly and seasonal rhythms that make up anthropologists’ kinship systems play the same constitutive role for middle-class white North Americans as the moon’s phases, the temporal markers of adulthood, and the yearly sacred feasts do for more ‘exotic’ peoples. The normalized cyclical temporalities in question include: the daily routine of breadwinners going to work and children going and returning home from school; the weekly family outings to sports events or Sunday extended family dinners; the occasional but predictable neighbourhood gatherings at which men play a key role, often by cooking outdoors; the yearly cycle of neighbourhood-based children’s sports activities; the generational cycle of kids growing up and
going away to college or to seek work elsewhere; and of course the all-important yearly extended-family holiday celebrations, such as Thanksgiving and Christmas, or Passover for Jewish families. And while it may seem at first sight that familial mini-chronotopes (e.g. the annual Christmas dinner) are wholly cultural rather than legal, most jurisdictions have laws and regulations that presuppose and reproduce certain familial chronotopes and not others. These include not only official state holiday days but also an array of sub-state regulatory practices, from school calendars to store opening times and public transportation schedules.

Unfortunately, there are very few studies that document the multiple legal strategies that have been used to attempt to stuff the social chronotope of the domesticity of the ‘married with children’ cultural chronotope into the legal chronotope of ‘single-family detached’; Perin’s 1979 study remains the classic source for this (Perin 1979). Bakhtin’s ideas, however, offer a number of new analytical resources for sociolegal scholars wanting to pursue critical analyses of the various chronotopes of residential land uses, analyses that go beyond the better understood dynamics of spatial normalization and begin to explore how ‘time thickens space’.

The two examples given here (the court of law and the ‘single-family detached’ category) are given here in the hope that other scholars will be inspired to carry out proper, detailed analyses of these and other legal chronotopes. Entities that have been generally studied as spaces by critical legal scholars be usefully studied as chronotopes, if we accept that temporality cannot be measured or analyzed as if it were independent of spatial considerations, and vice versa.

And to make matters even more complex, chronotopic analysis demands not only that we consider how temporalization affects spatialization and vice versa, but also, how heterogeneous and even contradictory chronotopes coexist not only in a single literary (or legal) text but even within a single utterance. The final section of this chapter will therefore explicate Bakhtin’s notion of ‘hybridity’, which has thus far received no attention from sociolegal scholars despite its obvious affinity with legal pluralism.

**Hybridization: toward a fluid and pluralistic chronotopic analysis**

Today as in the past, much of our education consists not in gaining the skills needed to undertake innovative concrete and dynamic analyses but rather in learning how to classify and categorize, like entomologists. Therefore, the term ‘legal chronotope’, insofar as it becomes popular, is likely to be taken up in studies that classify actually existing legal processes as belonging either to X or to Y chronotope, just as literary scholars classify each particular works as a either a sci-fi novel or police procedural. While a classificatory sociolegal adaptation of Bakhtin might produce some interesting results, it would nevertheless amount to an impoverished interpretation. Bakhtin’s chronotopes are analytically distinct; but they do not amount to classificatory labels,
and before we conclude the chapter it is important to discuss why it is that chronotopic analysis does not amount to a classification exercise.

First of all, each genre, or a particular work written as a contribution to a specific genre, is not necessarily internally cohesive. There can be multiple mini-chronotopes, as it were, within a particular work. Exploring, in a way that is very reminiscent of legal pluralism, the internal pluralism of literary works, Bakhtin remarks that the figure of the clown or the court jester, which appears in an array of different genres, acts as a kind of mini-chronotope of its own. This figure is produced by, and it enacts, distinct spatiotemporal governance processes that differ from and sometimes clash with those that constitute the main plot of the work in question and the main, serious characters (1981, 158-9). Prefiguring the much longer analysis of the carnival provided in Bakhtin’s work on Rabelais (Bakhtin 1968), Bakhtin states, in the chronotope essay, that the figure of the fool/court jester allows and even encourages a critical response; but it does so in a format that allows the criticism—most notably, the criticism of the monarch who is often portrayed as the court jester’s sovereign as well as employer—to be disavowed (ibid., 162-3).

Marked by very distinct clothing, demeanour, and speech patterns, the figure of the fool, as soon as it appears, signals to the audience a wholesale change in spatiotemporality, with the subversive logic of the fool/jester chronotope being clearly limited, in advance, to the short times during which this figure is on stage. The mini-chronotope of the clown/jester erupts and disrupts but the disruption is from the start destined to be contained, primarily by being spatiotemporally confined.

In the brief passage on the jester/fool figure Bakhtin implies that it is dangerous to treat each work of literature (or each ‘real-life chronotope’) as internally cohesive; elements can be inserted bearing logics that are quite at odds with that of the main plot. This point has great significance for any adaptation of Bakhtin’s work for legal studies. The assemblages that I have argued can be usefully read as legal chronotopes are also often shot through and even undermined by eruptions, as it were, of conflicting chronotopes. Many examples of such an eruption process can be found in a classic piece of feminist legal analysis from the 1980s: Fran Olsen’s detailed study of how left-feminist legal projects often amount to nothing but trying to govern the family as if it were a market, and/or conversely, trying to govern the market as if it were a family (Olsen 1983). Criminalizing marital rape, as has been done in many jurisdictions from the 1980s onward, is an example of the eruption of one kind of legal chronotope (centred on the free autonomous person whose consent is formally required for all transactions) in the middle of a different chronotope.

A closely related point, developed not in the chronotopes essay but in the somewhat earlier long essay entitled ‘Discourse in the novel’, is that the hybridity and heterogeneity that one sees in works of literature that use multiple chronotopes exists not only at the scale of the work but also at the scale of the individual ‘utterance’ or speech act. ‘What is hybridization? It is a mixture of two social languages within the arena of an utterance, between two different linguistic
consciousnesses, separated from one another by an epoch, by social differentiation or by some other fact’ (Bakhtin 1981, 358). Hybridity at the micro scale is particularly important in explaining how languages evolve over time. ‘We may even say that language and languages change historically primarily by means of hybridization, by means of a mixing of various ‘languages’ co-existing within the boundaries of a single dialect, a single national language….’ (ibid., 359). Bakhtin would thus ridicule the ongoing efforts of academies in France and in other francophone jurisdictions to keep English words out of the French language.

Hybridization, Bakhtin goes on, can be intentional, as when a scholar writing an academic tome inserts an anecdote from personal experience; or it can be unintentional and diffusely collective. Clearly, both intentional and unintentional hybridization are important features of legal discourse. Examples of intentional legal hybridization would include the seepage of bureaucratic European Union terms into the domestic law of each member state, and, going back in time, the mixing of ‘law French’ with common-law English terminology. Unintentional hybridization, in turn, is most apparent in the popular use, in English, of terms such as ‘junta’, ‘coup d’état’, ‘jihad’, etc.; it is also visible in the use of terms taken from systems of private law to describe legal processes – the most famous example perhaps being the emergence of ‘three-strikes’ laws in the US, laws relying on the powerful chronotope of baseball law as their underpinning.

Bakhtin’s comments on the format/genre of the famous Spanish early novel Don Quijote are particularly suited to illustrating the key conclusion arising from his analyses of ‘hybridization’, namely, that each chronotope, while analytically distinct, does not function as a unified entity with solid borders. Bakhtin comments that Cervantes’ key move, his genius, was to hybridize two different, indeed conflicting chronotopes: the miraculous logic of medieval chivalric romance, on the one hand, and the ‘road trip as life’s journey’ chronotope best exemplified, in Cervantes’ own time, in the picaresque novel (1981, 164-5). The chivalric romance in turn drew much of its spatiotemporality, Bakhtin says, from the ancient Greek romance; but it augmented the power of the older notion of Fate by recourse to the specifically Christian idea of the miraculous occurrence (ibid., 151). In literary works associated with chivalry, it is not just that miracles happen (as they do in the New Testament); more radically, time itself is elastic and miraculous, with days or even years passing in a single moment. Space too is completely elastic (somewhat like Einstein’s cosmic space), with journeys across Europe or across the Mediterranean appearing to take but a single hour.

Cervantes’ main work, as is well known, features an ambiguous character, Don Quijote, who is so addicted to reading chivalric romances that he mistakes windmills for giants, but whose chivalric actions are undercut at every turn by the workings of more realist and modern chronotopes. A story about inaccessible perfectly fair ladies and evil giants that would on its own be a medieval romance is thus ironically undermined by Cervants’ accounts of social encounters that take place along a realistically portrayed, almost modern road. These encounters, Bakhtin
argues, reflect the new, post-medieval, more socially fluid and mobile world that could now (in the 17th century) be found within a domestic jurisdiction, that is, without travelling across the seas as the heroes of Greek romances and epics did. Thus, while the road-trip-as-self-discovery-journey chronotope existed in ancient Greece (as Oedipus’ fateful wandering in search of the truth about himself shows), when this venerable chronotope is inserted into the ironized story of a wandering knight, the road chronotope has the power to demonstrate ‘the sociohistorical heterogeneity of one’s own country’ (ibid., 245) —a heterogeneity that is distinctly modern. The heroes of ancient Greek romances were depicted as travelling around the Mediterranean but never encountering real difference: ‘what happens in Babylon could just as well happen in Egypt or in Byzantium’ (ibid., 100). By contrast, ‘Don Quijote sets out on the road in order that he might encounter all of Spain on that road – from galley-slaves to dukes’ (ibid., 244).

Most importantly for our purposes, the archetypal road (best known now for road movies and soul-searching Kerouac-style road trips) is not merely a space, but is rather best seen as a chronotope: ‘Time as it were, fuses together with space and flows in it (forming ‘the road’); this is the source of the rich metaphorical expansion’ of ‘the road’ as a literary and indeed popular trope (ibid., 244). While ancient Greek audiences, when told a character was travelling, expected trials and ordeals that would allow characters to exhibit their unchanging essence, today, the very mention of a road signals to the audience that a transformative journey is about to take place—by means of a chronotope in which ‘time, as it were, fuses together with space and flows in it’.

Bakhtin therefore shows us that while chronotopes, legal and otherwise, constitute our world before we even begin speaking or writing, we nevertheless always have opportunities to reassemble existing chronotopes in novel ways. Hybridization, the motor force of changes in communication, and therefore in social relations, can be created not only in a consciously designed literary work but even in an unplanned single utterance. Gilles Deleuze, and contemporary thinkers such as Elizabeth Grosz who are influenced by Deleuze, have from their own perspective reminded us of the crucial ways in which temporalization—which they tend to take as singular and unidirectional—enables creativity (Grosz 2005); but Bakhtin’s analysis is arguably more useful for legal studies. One reason is that chronotopic analysis does not privilege either space or time, but focuses instead on their interaction, which enables analyses that are not biased a priori. A second reason is that for Deleuze and his readers temporality tends to be singular and forward-looking; the past is somehow invisible, and temporality is identified not only with the future but with freedom, which is clearly only one type of temporality. Bakhtin’s framework encourages us to avoid metaphysical speculation about time in general and focus instead on documenting the large variety of temporalizations that exist even within a single legal system. A third reason why Bakhtin’s approach to the temporality (of law and of governance) is more useful than that of Deleuze, and philosophy in general, is that the vast majority of the hybridization processes that one can discern in various legal complexes are not produced by the
creative efforts of individual authors or autonomous ethical subjects but rather by the mostly collective and largely unplanned workings of legal processes. A lawyer, a judge, or a plaintiff using a term in a novel manner is unlikely to have done so out of a well-designed creative plan to reform language in general or law in general. Legal innovations often (probably most often) arise from tactical decisions to borrow a term that intuitively seems to work for one’s pragmatic purpose. These pragmatic, on-the-spot reconstructions of legal assemblages and legal chronotopes sometimes live for a day only, but in some cases the creative move is found useful by other actors and it becomes institutionalized – as I showed in the particular instance of the term ‘sexual orientation’, which became useful for legal purposes in the late 1970s and came to play a large role in human rights law without ever having had a certified author (Valverde 2003a, chapters 4 and 5). As legal assemblages are put together, taken apart and reassembled, a variety of conflicting chronotopes end up being juxtaposed, with unpredictable and sometimes quite arbitrary effects – for example, when zoning bylaws reconcile human rights logics with planning logics by admitting that up to four or five unrelated people can count as a ‘family’, the regulation is hardly a coherent policy; it is clearly a compromise between incommensurable chronotopes of law.

**Conclusion**

It is by no means novel to observe that legal processes and legal knowledges are fundamentally spatialized and temporalized. Nevertheless sociolegal scholars, like social theorists generally, have tended to treat questions of space separately from those of time even when both are considered. The separation of time from space in scholarly analysis is the product of the implicit conventions and institutional habits that constitute the different genres of academic discourse. While scholars associated with geography tend to fall into spatial determinism, or else add a small historical layer of analysis to the more thorough study of spatialization, those whose reading habits and institutional locations lean toward philosophy have paid far more attention to temporality than to space, for instance by recovering Henri Bergson’s work for purposes of legal thought.

Thus, a Bakhtinian approach not only enables new insights about governance, but also, at the reflexive level, challenges the taken-for-granted divisions of intellectual labour that are produced by the kind of normalization of academic work that goes on not only through ‘disciplinarization’ but also in interdisciplinary fields such as legal geography. Learning from or being inspired by Bakhtin’s important work on the way in which time and space interact and shape one another can greatly help us to produce concrete analyses in an open-ended manner, remembering that our first commitment is not promoting the prestige or the theoretical rigour of our chosen disciplines or fields—much less our chosen neologisms—but rather understanding the world we live in.
References


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1 My own interpretation of Foucault’s method has his work converging to an indeterminate extent with the ideas about thought, speech and meaning developed by William James and other pragmatists, who in my view shared more with Nietzsche than is apparent at first sight. The question of whether today’s Foucaultian sociolegal scholars ought to read less continental philosophy and more William James would be a digression here, however, so I am leaving it for another occasion.

2 There is a chapter on Bakhtin in the influential anthology *Thinking Space* (Crang and Thrift 2000), but, in keeping with the geographical bias of the work, this contribution illuminates how Bakhtin’s dialogical imagination could be used to understand space, with the chronotope receiving only passing mention (Holloway and Kneale 2000).

3 I owe this insight to Karrie Sandford’s not yet published ethnography of high-volume courts in Toronto.

4 For a similar analysis, though not informed by Bakhtin, see Leticia Barrera’s brilliant ethnography of the Supreme Court of Argentina’s building, hallways, etc (Barrera 2012).