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The Stuff of Legal History

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The study of legal history has decisively shifted beyond the examination of words on the page, pronouncements in the courtroom, and notes in the file. By thinking with and through objects, legal historians have been able to say much about the ways in which law unfolded in real-world settings. Law, the materialist turn has suggested, is more than the pronouncements of jurists and judges, or even the maneuverings of litigants—as important as those might be. Law is enacted in real space; it is anchored in books, files, and instruments; it is projected from wigs, robes, gavels, and turbans; and it arranges itself onto leather armchairs, benches, stands, and rows of seats. Law is thus neither just "out there" in the ether of ideas nor "in here" in our consciousness—or rather, it is both out there *and* in here, pulsing through objects and material spaces. As historian Tom Johnson declares, "the historical phenomenon of law itself has been constituted by material things."[1]

Perhaps the most familiar iteration of the material turn has been the attention that historians have lavished on how legal authority was projected through artifacts, and within the built environment of the court—on law's more theatrical manifestations. At least some of the essays here reflect some of these concerns: they explore the built environments in which legal authority was projected, particularly in colonial contexts—in tribunals, courtroom complexes, and prisons, all of which manifest disciplinary power in ways that are immediately recognizable to historians. The essays also highlight some of the technologies that officials drew on in the process of establishing their claims to authority—like maps, whose persuasiveness lies precisely in the claim to have rendered a messy reality legible in service of a project of political economy.

But as the essays in this forum point out, the desire to project authority was often confused and contested, and always aspirational. Built spaces didn't always function the way they were designed to: prison walls crumbled, laying bare the impotence of the penal project, and colonial populations asserted themselves in the courtrooms and the spaces surrounding it in ways that

[1] Tom Johnson, "Legal History and the Material Turn," in *The Oxford Handbook of Legal History*, ed. Markus D. Dubber and Christopher Tomlins (New York: Oxford University Press, 2018), 512.

actively domesticated the project of imperial legal governance. The claim that maps had to represent the reality on the ground, too, was often undermined by the reality of shifting tides and disappearing islands. As representations, they were necessarily imperfect—or perhaps, they were imperfect precisely because they were representations of a reality that was far more fluid, and more contested, than a map could ever capture. All told, even the most assertive aspects of colonial governance often came across as precarious and tentative.

Nor did the power of law, imperfect as it was, ever only flow down from the top. Legal historians know well by now how authority could percolate upwards into the arena of law, from everyday people engaging in their own forms of legal posturing and claim-making. Stuff mattered here, too. People expressed claims to legal authority through things—often ritual artifacts, like staffs, but also through objects that are less obvious to the observer, like textiles. And as cultural anthropologists have long recognized, these things are ensconced in a world of signs, concepts, and institutions; objects could become conduits through which notions of law and authority pulsed. But also, as objects, they were invariably embedded in a field of practice: they did not only hang suspended in static webs of legal significance, but were actively mobilized in the arena of legal claim-making. What an object was understood to be, and what legal actors used it to do, were not always the same thing.

The system of signs that an object inhabited were rarely sealed off from those around it. Objects were already-always caught up in multiple webs of interpretation at once, and the actors who engaged with them were cognizant of this. The notion in colonial Oaxaca that a staff could signify a relationship with the crown and imbue its holder with the king's authority emerged in part because of the significance that they held in pre-Columbian Mesoamerica. The *batik* cloth that officials donned in photographs of the *landraad* tribunals to signify their place in the social hierarchy were combined with other material investitures of authority that more closely linked them with colonial authorities: blue coats, for example. The worlds of law and authority that objects traversed were (to use an intentionally imprecise concept) entangled—and legal actors wielded those objects in ways that would channel meaning to their intended audiences. "As socially and culturally salient entities, objects change in defiance of their material stability," writes the anthropologist Nicholas Thomas; "the category to which a thing belongs, the emotion and judgment it prompts, and the narrative it recalls, are all historically refigured."[2]

To go back to the theatrical: law could often seem as a performance, and the objects props. Here, it should be pointed out that not everyone was always privy to the same script. For meaning-making to happen, it often needed to be accompanied by the work of translation. As objects crossed from one arena to another, actors engaged in a process of decoding and re-encoding them so as to render them legible—"to find in one 'language' adequate

[2] Nicholas Thomas, *Entangled Objects: Exchange, Material Culture, and Colonialism in the Pacific* (Cambridge, MA: Harvard University Press, 1991), 125.

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terms to give a reliable account of something in another."[3] This is particularly meaningful for historians of law, who have long grappled with the multivocality of the legal arena and the recognition that not everyone understood the language of law in the same way. Through a close reading of meaning-laden practices that emerge around objects, historians might arrive at a more textured account of how changing understandings of law were brokered across different domains of social, economic, and political life—though, as Ramnath's discussion of maps suggests, not always with success.

By scaling their focus down to the material world, the historians in this forum have managed to say much about the law write large. They help us see how legal concepts are given flesh and bones; how the movement from a sense of law "in the books" to law "in action" takes place in the spaces in which litigants make statements and maneuver, and through the objects that they mobilize in order to speak law without ever having to utter a single word. More broadly, they invite us to think about a more textured, and ultimately more generative) approach to writing the legal past—one that braids together insights and approaches from law, history, and anthropology.

[3] Finbarr Barry Flood, *Objects of Translation: Material Culture and Medieval "Hindu-Muslim" Encounter* (Princeton, NJ: Princeton University Press, 2019), 9.

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