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LAW UNLIMITED: MATERIALISM, PLURALISM, AND LEGAL THEORY by MARGARET DAVIES (Routledge GlassHouse, 2018, 175PP. £36.99 paperback)

'Theory is about understanding yourself, don't you think?' says Margaret Davies, in response to my observation that her book *Law Unlimited* appears to have been drawn from a career's worth of ideas. I interviewed the SLSA 2018 Theory & History Book Prize winner in autumn 2018 to discover more about the author's influences and motivations in writing this book, and to consider further the role of socio-legal theoretical approaches in the task of unlimiting law.

Davies has plainly had a long-standing interest in this task. Her 1996 monograph *Delimiting the Law* (Pluto Press), which provided a deconstructionist critique of the parameters and tradition of analytical legal philosophy, can perhaps be read as the first step along this path, but it is clear that the author considers this latest book to be a different conceptual project:

> *Delimiting* was very much developed in the spirit of a rejection of the tradition of analytical legal theory, but also in frustration with where critical legal theory was at that point in time. Over time I thought, however, it wasn't just about the deconstructive thing, it was about trying to imagine outside. Deconstruction leaves the limits in place … you haven't imagined something different.

Law Unlimited is thus more overtly creative: the book opens with the stated aim 'not to delimit law but rather to *unlimit* it – to suspend law's conventional conceptual, doctrinal, and institutional boundaries in an effort to imagine different modalities for understanding law' (preface, viii, emphasis in original). The boundaries under challenge are, first, those distinctions Davies considers to have become embedded in the Western legal imaginary – nature/culture, subject/object, mind/matter, for example – and second, the legal theoretical constraints she sees as restricting possibilities of thought and as (pre-emptively) closing down potentially new modes of understanding. She explains this latter problem early in the second chapter:

> 'Restricted' legal theory has traditionally been limited by several factors: it looks mainly at the *law of the nation-state*…, it constructs its theory from the perspective of an *insider to this law* but who is nonetheless regarded as capable of making objective pronouncements about it, and it takes a decidedly *Western philosophical approach* to the analysis of law' (Davies 2017: 23, emphasis in original).

Only through questioning its own foundations, argues Davies, can legal theory shake loose of its restraints and realise that 'All of these limitations … are in fact variables rather than constants' (23). By imagining law without such limits, by unlimiting law, it thus becomes possible to question its allegedly unified and abstract character, and in this manner to explore the law's plurality and materiality. These sub-titular strands of materialism and pluralism are woven throughout the book, in turn united by strong underpinning ideas of relationality, interconnectedness, and (inter)dependence. It is perhaps this idea of interconnectedness that comes through most strongly as the book's animating concept: Davies talks at various points about trying to 'untangle a knot in which everything legal is connected to everything else – social, environmental, corporeal, psychological' (ix), about starting with 'the presumption that law is connected and relational' (1), and about how law is 'to be found in the

connections or intra-actions between humans and non-humans' (71). When I ask about this point Davies acknowledges this awareness of interconnection as being the key shift in perspective:

> It isn't necessarily about changing everything about theory but it is about stepping to one side and having a different focal point. What I've been trying to do is just to shift perspective a little bit, to understand that we're not separate from the world but that we're in it. It's a small shift but an incredibly important one.

While the task the book sets itself is to unlimit *law*, a general aversion to limitations, boundaries, and categorisations is evident throughout Davies' conversation.

> As soon as you get a category you start thinking, what's wrong with the category? So the boundaries of the category are always open to critique. It's not that you can do without [categories] but you can certainly suspend them at crucial moments, and you can suspend them as much as possible in your thinking… The critical impulse is to work out where things don't work, where they don't line up, or where the margins are.

Davies is similarly reluctant to categorise the book as either a work of socio-legal theory or critical theory, observing that, to her, the distinction had never been a terribly solid one and that she has 'always found it difficult to maintain a clear sense of distinct intellectual traditions' (ix). Talking about society as a 'governing concept', she notes that everything existent in philosophy is necessarily about the social context, and that it is thus impossible to exclude the social from consideration. It is also clear that she does not see any utility in such an endeavour: 'There's no point in being critical unless you're critical of the social'.

While she is critical of many ideas throughout this text, Davies takes particular aim at the reified and singular law of the nation-state, existing in imagined isolation and allegedly closed, coherent, and vertical. This 'methodological statism' (27; 109ff) and its corollary of legal centralism (39) are two of the most overt *limitations* of (Western) legal theory, and as such are subject to concerted challenge throughout the text. These challenges are levelled on the various bases of space, scale, perspective, and subject, and for Davies these are interrelated and interwoven, as this passage exemplifies:

> The proper scale and perspective relating to legal knowledge is a closed circle: the legal expert is by education, experience, and even legislative fiat an expert in *state* law and, knowing essentially only state law, s/he not only devalues but actively excludes or forecloses both non-state law and non-expert perspectives on state law from the understanding of law. Throughout the twentieth century the methodological statism and monovocal perspective of legal theory narrowed meaningful debate about the concept of law' (110).

The pluralism of Davies' approach is, as she says, therefore more an ethos or an attitude of perception rather than a fixed theoretical stance (5). She regards the contribution of what she terms 'critical legal pluralism' (33) as being the pluralism of pluralism, which is to say the manner in which such an approach can serve to debunk the idea that there is either an objective or a true version of legal pluralism. More than just a variety of legal pluralism, therefore, *critical legal pluralism* is 'a variety of legal theory or critical theory' (34). This idea is key to the book's understanding of law as open-ended, dynamic, and contextual, and it is through this notion of pluralising legal theory that the majority of heavy lifting in terms of *unlimiting law* seems to be being done.

Another obvious challenge posed by the book is to the restrictive Western character of many of our legal theoretical traditions. Davies' past work has also challenged parochial and Anglocentric origins and conceptions of law,[i] so I was keen to ask about the extent to which Indigenous and Aboriginal legal theorising had influenced her in writing this text. Very much, was the answer, although she remains conscious of the dangers of cultural appropriation:

> [Indigenous or Aboriginal theorising] by its very existence is a critique of Western theorising, because it provides a kind of distance between itself and our own tradition and history. What I've tried to do myself is to use that critical distance as a way of opening up my approach with Western theory … as a critical kind of tool to open up Western theorising.

In the book Davies clearly acknowledges her inspiration by Indigenous Australian and other First Nation thinkers (xii), drawing on their critical socio-legal theoretical insights into, specifically, ecology and embodiment. She frequently employs the metaphor of ecology, notably in terms of human society's ecological connectedness and materiality, and regarding both spatial issues and Indigenous approaches. I would have liked to learn more about Davies' thoughts on the distributed nature of being in this regard, although this was arguably not emphasised as a core strand of inquiry. And to my loaded question as to whether this theoretical approach could perhaps be regarded as 'post-Western', I received a now-familiar reply:

> I think I'm just too embedded in the Western mindset. It's not that I'm committed to it, but I think I have to own where I came from… it's essentially Western. I also have a slight uneasiness with the idea of the *post,* the concept of the post. I think it might be a stage we're going through to categorise things as post, and maybe this limits us in a way as well.

Law Unlimited has an intuitive structure, with the chapters mainly coming in pairs that address, first, ideas of theoretical limits, the materiality of law, scale and perspective, and finally, metaphors and meaning. A standalone chapter in the middle of the book employs Kafka's *The Trial* as a means of exploring psychospatial and geographical legal dynamics: an interesting study in itself but one that, for me, felt mildly distracting from the more central inquiries, and which through its focus on space perhaps served to emphasise an omission of *time* from the book's consideration. Feeling extremely pernickety, I mentioned this to the author, who acknowledged time as something that she would have liked to have included, alongside more on embodiment, ecology, and also the mind-body distinction:

> 'There's a lot more I would have liked to write in the book. And actually, a year after it was published I thought, yes, I could have written so much more but it was like, where do you draw the line? It was almost as though I was doing a PhD again – I hadn't grappled in such an engaged sense with big ideas and difficult ideas so much… But I'm also, right now, having this kind-of postdoctoral moment about all of the things that went half-developed or unsaid or that needed to be elaborated…'

There is something both reassuring and inspirational in hearing familiar struggles articulated by a scholar who has written such a wide-ranging, thought-provoking, and yet accessible book. Indeed, on reading *Law Unlimited* again I was struck by how clearly written it is, especially in light of its complex subject matter, and how potentially useful it could be for teaching. I am not the first to make this

observation about the clarity of Davies' work: in her 1997 review of *Delimiting the Law* Nicola Lacey observed that Davies has 'something approaching a genius for recasting complex, abstract ideas so as to simplify and render them accessible to a wide audience' (*Adelaide Law Review* 19 (1997) 143-147: 143). Interested in whether there was in fact an underlying pedagogic agenda in this regard, I asked the author about writing accessibly, and the extent to which it was deliberate:

> It would be easier to write it in an obscure fashion but it is more difficult to write it in a clear fashion. I wanted it to be clear because it's important for people to read it and to enjoy reading it, and when you write in an obscure fashion that doesn't happen. It took a lot of work to make it clear…it doesn't come naturally. My primary concern was to write work that was a contribution to the intellectual debates, and an opening up of those intellectual debates, but I'm really pleased if it has that pedagogic potential as well.

Not only do I believe this book in fact has that potential but, in its pulling together of many of the main contemporary strands in critical socio-legal theorising, it performs a valuable service for researchers in this and connected research fields. Moreover in its core premise, its articulation, and its commitment to contributing to conceptual change, *Law Unlimited* is an important, optimistic, and forward-looking piece of work.

JENNIFER HENDRY
School of Law, University of Leeds, Liberty Building, Leeds LS2 9JT, West Yorkshire
j.hendry@leeds.ac.uk

[i] Notably the title *Property: Meanings, Histories, Theories* (2007 GlassHouse, Routledge Cavendish), which rejected the view that property rights are 'universal, ideal, and extricable from the social, communal and historic' (A. Ardil (2009) 18(1) Griffith L. Rev. 202).