

PREFACE

Entanglement may appear a strange term for an inquiry in law. Many will think it does not have anything to do with law at all, but rather with threads, nets or wire. Some may think it has to do with relationships – especially complicated ones – but not the kinds of relationships that help us to make sense of legal structures. Both views have a point, and paradoxically pursuing legal entanglements is attractive in part because they have a point. What we try to do with this volume is to take us away from the familiar, to break with some traditional frames, and thus to pave the way for thinking afresh about law, especially law beyond the confines of the state.

In this endeavour, ‘entanglement’ helps not only to unsettle but also to reconstruct. By pointing us towards relationships, it helps to shift our gaze to the ways in which legal norms and legal systems are not self-standing entities but are instead tied up in relationships with others (other norms and legal systems) that often are crucial to understanding the identity of each part as well as the character of the whole. In many contexts of legal practice, litigants draw on norms from a wide variety of origins – domestic and international, sub-state and transnational, public and private – to persuade courts of their cases. Law, whether in finance, environment, human rights, trade, sports or corporate accountability, is not one law but is pieced together out of a great many layers by skilled attorneys, civil society actors, business representatives and government lawyers. In the end, law is the product of the ways in which the relationships of its different parts are construed.

Using the notion of entanglement is a way of highlighting the interwoven character of much of law, and it urges us to understand better on which terms such an entanglement takes place. This is what the present volume hopes to achieve. Bringing together a stellar group of scholars – from law, political science, sociology, anthropology and history – it shows us how actors entangle and disentangle law in a variety of contexts, and how this forces us to change the way we should think about law

and legal order more broadly. It takes into view a highly diverse set of issues – ranging from family law disputes in Bangladesh to the Chinese Belt and Road Initiative and the making of global standards by the Financial Stability Board – and it uses insights about legal practices in these contexts to advance our theorization of law. In all of this, law appears neither as one nor as many, but as somewhere in-between. Entanglement points to this in-between character and highlights the challenge we face when trying to square such practices into the frame of unitary, well-ordered legal systems we are accustomed to as a result of the legal theories of the twentieth century.

The volume has been a long time in the making. The idea of entanglements was born in the discussions Francesco Corradini, Lucy Lu Reimers and I had on our ‘Interface Law’ project – a project that was itself part of a broader, interdisciplinary research group in which we were trying to understand ‘Overlapping Spheres of Authority and Interface Conflicts in the Global Order’ (OSAIC, because everything these days needs an acronym). In our project, we were trying to reconstruct the norms actors use to structure the relations between different legal orders, but we soon realized that we could not capture much of what we were seeing with the typical vocabulary of conflict and reception norms. We thus needed to look elsewhere and began to draw more widely from legal anthropology and sociology, from historical studies and from legal theories long outside the mainstream. Students of legal pluralism, of postmodern interlegalities or of historical legal entanglements had begun to describe aspects of the phenomenon we were interested in, and we built on their findings in order to generate a broader account of how law was shaped by interactions between norms from different contexts beyond the typical frame of legal systems.

In the spring of 2018, we gathered a group of colleagues in Geneva for a workshop exploring further the entanglements we began to see. Many of these colleagues, and a few new members of the group, have taken our discussions further and contributed to this volume. We presented some of our work collectively at the Hong Kong annual conference of the International Society of Public Law, and also at a conference on ‘Multiple Legalities: Conflict and Entanglement in the Global Legal Order’, which I convened with Hannah Birkenkötter from Humboldt University of Berlin as part of the OSAIC group. I am grateful to the participants in these different events for their intense engagement with our ideas and papers.

Entangled Legalities is the product of many minds and hands – most obviously the minds and hands of the contributors to whom I owe much gratitude. My special thanks go to our Interface Law team – Lucy and Francesco from the beginning, and later also Tomáš Morochovič, who not only moved us forward in substance but also handled many of the practical aspects of editing the volume with great professionalism and efficiency. The Graduate Institute of International and Development Studies, and especially Camila Morais Silva, provided excellent practical and logistical support throughout. And all this was rendered possible by generous funding from the Swiss National Science Foundation through project grant 100011E-170996, as well as the Deutsche Forschungsgemeinschaft which supported the overall OSAIC research group with project grant no. 277531170.

We hope the volume will inspire many to new explorations of law – and help them to look at the law in a different way. We believe that many of our insights are true not only for today's globalized world but reflect relatively common features of law throughout history – perhaps with the (limited) exception of the twentieth-century modern state. That law is characterized by multiplicity, and by interconnections between its multiple parts, is neither good nor bad; it is just normal. Focusing on this normality, and tracing how law is created out of entanglement, should open up many fruitful avenues for future work. With this volume we have tried to make a beginning.