Received: 15 May 2020 | Revised: 3 December 2020 | Accepted: 21 December 2020

DOI: 10.1111/area.12700

AREA Royal Geographical Society with IBG
WILEY

SPECIAL SECTION

Practising legal geography

Trespassing on the Law: Critical legal engineering as a strategy for action research

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Funding information
Narodowe Centrum Nauki [Grant agreement no. 2019/35/D/HS6/03880].

Abstract

This paper proposes critical legal engineering (CLE) as a new methodology for legal-geographic action research. While legal geography is on the rise, geographers rarely participate in legal or judicial process, and when they do – for example, as court expert witnesses – they merely respond to the pre-established agendas of the legal system. I argue that legal geographers' knowledge on the nature of law and its relations with society is a source of power that could allow them to set legal agendas and pluralise legal discussions. CLE assumes that legal geographers can put forward technical legal arguments, thus using law's own tools to implement normative agendas implied in critical research. However, CLE demands a dialectical attitude that preserves the contradiction between political ends and legal technology – while pursuing both of them at the same time. As I show, CLE can realise critical agendas in three ways. First, it co-opts the legitimacy provided by the legal system, lending it to the agendas that are otherwise perceived as "too radical." Second, elevated by the law these radical agendas may gain greater power to influence political-economic realities even before the legal outcomes are decided. Finally, CLE draws out of "technical" legal discussions into the heat of the public debate, thus politicising the law. Having developed this methodological proposition in the course of my research on urban movements, I illustrate it with the strategy of Berlin's campaign Deutsche Wohnen & Co. Enteignen (DWE), which has crafted a legal argumentation based on Article 15 of the German Constitution to pursue re-municipalisation (or de-privatisation) of housing.

KEYWORDS

action research, Berlin, housing, legal geography, re-municipalisation, scholar-activism

1 | INTRODUCTION

Legal geography is on the rise. Critical geographers' increased scrutiny towards legal frameworks stems not only from their general interest in law, but also from the discipline's deep engagement with neoliberalism (e.g., Knuth & Potts, 2016; Teresa, 2016). Beginning with David Harvey's pathbreaking works in the 1970s, critical geography has ceaselessly documented the central role of space in the neoliberal political economy. Urban real estate – including people's homes – is a firmly entrenched instrument of capital (Rolnik, 2019). And capital – as wealth, a pool of assets, and a social relationship – rules by law (Pistor, 2019).

Yet, the unquestionable growth of critical legal geography has not yet fulfilled the hopes of agency placed in it by its pioneers. In a closing paper to what was possibly the first special issue of a geography journal devoted to law, W. Wesley Pue foresaw a "geojurisprudential practice of insurgency," or even a "full-fledged insurrection:"

> A thousand points of light will shine as geographers confront legislators and judges with aggressively put demands that spatiality be heeded in areas as diverse as gun-control, water law, local government law, zoning, federalism and economic union, gender equality, racism, and so on. (Pue, 1990, p. 578)

It might be that Pue, a legal scholar rather than a geographer, was projecting his discipline's own assertiveness onto geography. While law is "an immensely self-confident field" (Blomley, 2003, p. 21), legal geography still worries that it remains "on the sidelines of events, analysing but unable to intervene in the world" (Bennett & Layard, 2015, p. 407). Indeed, the relationship between critical geography and legal thought reveals a characteristic power imbalance: while geography readily engages with legal theory, law (both as an academic discipline and as an everyday practice) largely ignores the arguments made by geographers. While there have been some excellent analyses about geographers appearing as expert witnesses (Clark, 1991), geography as a discipline has not developed a strategy for gaining courtroom influence – unlike, for example, economics (Chassonnery-Zaïgouche, 2019). So, far from insurrection, legal geography shares the political condition that Schafran diagnoses for critical urban studies: it is "smart, correct and weak" (2014, p. 322).

This paper joins in efforts to develop new forms of practice of legal geography. To this end, it urges geographers actively to trespass on the law rather than to wait for the legal system to acknowledge socio-spatial critique. While there is clearly a power imbalance between geography and law – as lawyers enjoy a more direct influence on social reality and a relatively higher status as public experts – legal geographers have left unexplored the many ways we have to make use of the power that we *do* have as academic knowledge workers.

Geographers have long used their power to push ahead critical social agendas through various forms of scholar-activism, action research, and policy-oriented research (e.g., Derickson & Routledge, 2015). However, legal geography as a specific subdiscipline still lacks both theoretical considerations on practice-oriented research and specific methodologies adequate for real-world engagement with the law.

Engaging jointly with the theoretical and methodological aspects of practising legal geography, I propose a new methodological tool for legal-geographic action research: critical legal engineering (CLE). CLE assumes that skilled non-lawyers can put forward technical legal arguments that strategically support socially progressive (or even radical) agendas, thus trespassing on the expertise usually reserved for lawyers. As a *strategic* measure for both political action and scholarly action-research, CLE neither replaces nor invalidates a broader scholarly critique of law as a hegemonic tool of neoliberal capitalism. Instead, it deliberately combines anti-systemic political struggle with intra-systemic legal struggle, acknowledging that neoliberalism has put us into the paradoxical position of "having to struggle both for deep social transformation and for the status quo" (de Sousa Santos, 2002, p. 470).

I have developed the concept of CLE through observing (in both participatory and non-participatory ways) how various urban movements harness legal technicalities for political struggles. To elaborate how CLE might look in practice, I draw from my research on the Berlin grassroots initiative Deutsche Wohnen & Co. Enteignen ["Expropriate Deutsche Wohnen," DWE]. Launched in 2017 and active at the moment of writing this paper, DWE seeks to leverage Article 15 of the German Constitution to socialise (or de-privatise) 250,000 apartments owned by large-scale corporate landlords.

Importantly though, this paper does *not* analyse the role of scholar-activists in DWE, even if the Berlin tenant movement provides inspiring examples of how to occupy a "third space" (Routledge, 1996) between activism and research (e.g., Bernt et al., 2013; Hamann & Türkmen, 2020). Rather than ask what academics have done, or could do, for movements like DWE, I ask what legal geographers can *learn* from grassroots initiatives that harness the law to pursue socially progressive agendas.

While I propose CLE as a methodological concept, I believe it opens an important route for legal geographers to "make themselves useful" (Taylor, 2014) to the social agendas normatively implied in critical scholarship. If social inequalities

are upheld by legal scaffoldings, legal geographers' capacity to work with legal text provides excellent ground for engaging with these scaffoldings more directly.

The paper is divided in three parts. The first assesses the potential and limits of harnessing law for socially progressive agendas, analysing how critical knowledge might be used to impact the performance of law in social struggles. The second part analyses the strategy of DWE, and how the campaign's skills in combining political with legal struggle have evolved from Berlin's longer history of tenant struggles. While the ultimate political and legal consequences of the DWE campaign are yet to unfold, the third part brings together the movement's results to date, tracking them both within and outside of the legal system. Finally, in the conclusion I develop methodological guidelines for using CLE in legal-geographic action-research.

2 | CRITICAL KNOWLEDGE AS POWER: HOW TO IMPACT THE LAW'S IMPACT?

It's not enough to say that knowledge is power: the power effects of knowledge depend on the vector with which it is enacted. Just as understanding neoliberalism does not automatically propel change in the political economy, analysing the entanglements of law and space does not challenge the impact of law on space. Of course, by writing papers, critical scholars *do* enact their power – regardless of the depth of critique, however, the power of an academic paper mostly plays out in disciplinary discussions. The latter are important, for ideas may carry agency. Yet if, as legal geographers, we also have ambitions to turn critical legal geography into practice – that is occasionally to shape the way in which law impacts the world – we must use our academic skills in a way that is responsive both to the nature of the legal system and to the political-economic context of our intervention.

Compared to critical scholars, lawyers (both practitioners of law and legal scholars) seem pragmatic and straightforward in performing their knowledge-as-power. Legal discourse is strategically crafted to influence a particular case, and/or the legal system as a whole. What law does not see – or not sufficiently care about – are the side effects created by legal argumentation outside of the legal system, in social reality itself. The following argument is a pivotal one for all critical scholarship of law, including legal geography: that law operates through strategic simplifications that are a-contextual and a-spatial, thus radically distorting reality outside the courtroom (Pue, 1990). By documenting these distortions, critical scholars have been able to understand the technology of legal engineering, i.e., the tools with which lawyers transmogrify real-life conflicts into legal technicalities to achieve their desired results (Kusiak, 2019). This is a powerful knowledge, which is likely one of the reasons why lawyers protect their expert status through exclusive language.

While law purposefully alienates itself from the social context (Teubner, 1993), social-political actors are in principle able to employ legal technologies to dis-alienate themselves from the law. This has been done by social movements and activist lawyers – and, whenever spatial relations are at stake, legal geographers could offer important contributions. Legal geography's capacity to understand both the internal logic of the legal system and its relations with an outside opens the way for socio-legal action-research. Yet what are the risks of using the law's own tools to perform socio-spatial critique?

To tackle this question in a way that is neither naïve nor defeatist, we have to consider the ontology of law, and its relationship with capitalism. Only by considering the assumptions inherent in the legal system can we be realistic about both the potential and limits of employing law for social change (Adams, 2020).

First, although law causally precedes capitalism, it has a constitutive role in the functions that capitalism presupposes, such as free-market exchange. Capitalism's foundational legal fiction is the idea of people as "free" and "equal" subjects, which performatively masks – as Marx showed – the structural inequality between capital and labour. Under capitalism, law keeps reproducing this fiction even in its seemingly most progressive outcomes (Adams, 2020). The overthrow of capitalism (a systemic revolution) is therefore extremely unlikely to occur by means of law.

Second, capitalism itself is mired in internal contradictions. That law sustains appearances of freedom and equality, and ensures minimal conditions for the social reproduction of labour, is a structural necessity of capitalism. This structural necessity provides an opening for turning the law into an instrument of social change. It is thus possible, in principle, to reverse or limit through law some of capitalism's neoliberal excesses – but it is never easy. Indeed, since neoliberalism has become a dominant force in shaping law (which occurred globally after the demise of both state socialisms and Western-European/Fordist welfare states), many legal mechanisms for social change have been actively dismantled. To sustain the possibility of emancipation by means of law in current conditions, we need more than just pure law: we need "a dual management of legal and political tools under the aegis of the latter" (de Sousa Santos, 2002, p. 467). In other words, we need the capacity to think both inside and outside of the legal system at the same time.

Third, and more specifically, holding together legal and political tools demands a particular dialectical attitude that preserves the contradiction between political ends and legal technology – while pursuing *both* of them at the same time.

This is because law is a self-reproducing (autopoietic) and self-referential system that only admits external influences on its own terms (Teubner, 1993). To give socially progressive agendas agency within the legal system, one needs to strategically distort these agendas to make them speak to legal frameworks that may at first appear irrelevant – while subsuming the process of distortion under political goals.

For geographers who have criticised the law for distorting reality and creating fictions, CLE implies taking a turn actively to co-produce such fictions. And crafting legal fictions comes with the burden of making ethically charged practical decisions, all the while using tools that are hegemonic in their nature. For a critical social scientist this might sound fraudulent, for we have "become deskilled in understanding normativity" (Olson & Sayer, 2009, p. 181). Yet normativity has always been present in our work, though it is usually concealed in theoretical assumptions. With the exception of action research, scholars are rarely confronted with the practical consequences of these normative assumptions.

Action research that engages with law demands that scholars strategically embrace both the normativity and power of law. CLE proposes to do it in a somewhat Machiavellian way, in line with Althusser's reading of "The Prince:" "To be a New Prince is at one and the same time to know how to fashion these instruments of state power ... and to utilize them to realize a popular politics" (Althusser, 2011, p. 82).

Seen from this perspective, decontextualisation is not a fault but only a technique of law. Decontextualisation thus has to be contextually evaluated, that is referred to the "human flourishing" (Olson & Sayer, 2009) it helps to achieve. In fact, in some cases legal decontextualisation might indeed produce socially better results than do attitudes that are context-sensitive (Bennett & Layard, 2015, p. 418). To productively contextualise law for social flourishing we should not, paradoxically, strive to remove all its distortions, but instead strive to strategically craft and rhetorically support some distortions against others. In other words, we should develop the capacity to hold critical/political knowledge and legal tools together.

3 | HOLDING POLITICAL AND LEGAL TOOLS TOGETHER: DEUTSCHE WOHNEN & CO. ENTEIGNEN

According to de Sousa Santos, a "non-hegemonic use of hegemonic legal tools is premised upon the possibility of integrating them in broader political mobilizations" (2002, p. 467). Because the judiciary has the ability to "steal" social conflicts (Kusiak, 2019), the only chance there is to set the terms for the law's engagement with a social issue is to politicise its social and legal aspects *before* they are considered in the courtroom. This type of awareness has already facilitated the quite significant impact of the DWE campaign, but it is an awareness that has evolved gradually, against the backdrop of Berlin tenant struggles.

3.1 | Berlin's Housing Struggles: From a reactive to a proactive use of law

Berlin tenants have always been a significant political force – approx. 85% of Berlin's housing stock is rental. But tenant protests have also visibly intensified in the last decade, fuelled by the impact of austerity policies in the early 2000s. Following the logic of privatisation and financialisation, Berlin sold off its two largest municipal housing companies, GEHAG (in 1998) and GSW (in 2003) (Holm et al., 2016) to hedge funds. Their combined stock of over 100,000 apartments was later resold to Deutsche Wohnen, currently the largest joint-stock housing corporation in Berlin.

Together with other corporations such as Vonovia or Akelius, Deutsche Wohnen represents a new type of landlord, one whose primary "clients" are not tenants but shareholders who expect a return from their investments. Structurally, then, financial performance must be prioritised over caring for tenant needs. Corporate landlords have thus been introducing ever new "measures with rent-increasing potential" (Deutsche Wohnen, 2018). These "measures," designed by the corporations' own well-funded legal departments, often exploit loopholes in tenant protection laws. But corporate landlords also leverage their scale. Rent increases in Berlin are typically justified in relation to the *Mietspiegel* ("rent mirror"), a benchmark based on yearly average rent in a neighbourhood unit. If a corporation like Deutsche Wohnen owns several hundred units in one neighbourhood, by increasing rents in its own stock it drives up the whole "rent mirror" – and thus perpetuates further increases.

In response to this corporate push for rental increases, tenants have been mobilising their own legal defences. Compared with tenants in most other cities, an average tenant in Berlin has an impressive knowledge of legal terminology concerning tenant protection laws. The correct implementation of these laws is continuously supervised, and renegotiated on a case-by-case basis, by tenant unions such as the Berliner Mieterverein and the Berliner Mietergemeinschaft.

These unions encourage tenants to ask landlords for a legal justification for proposed rent increases, and to have the matter heard in court if the justification is questionable. In such cases, the unions provide a professional attorney service and legal insurance for tenants that covers all court costs, even when they lose the case. Thus, unionised tenants face no financial risk when seeking justice in the courts.

While the first tenant protection laws in Berlin date back to the Kingdom of Prussia, they have also significantly evolved under democracy through grassroot struggles. Thus, when corporate landlords upped the game of rising rents, tenants increased their organising efforts, in particular by building alliances within and across corporate-owned buildings. The most prominent initiative of this kind is Kotti & Co., a culturally and ethnically diverse alliance of social housing tenants founded in 2011. While their creative, intersectional approach to protesting has given Kotti & Co. significant visibility, political protests alone were not sufficient to counter rent increases. So the movement went city-wide, activating legal procedures for direct democracy (Hamann & Türkmen, 2020).

In 2015, several tenant initiatives launched a joint campaign for a city-wide referendum (*Mietenvolksentscheid*), proposing a new law on rents and the equitable provision of housing. As a political effort, the campaign was successful, with 50,000 signatures collected. But the referendum never took place. On the one hand, the activists came to realise that the bill they were putting forward would not get through the courts, since they had made several legal-technical errors when drafting it (Hoffrogge, 2019). On the other hand, the Berlin government yielded to the pressure, inviting the activists to co-write an alternative law, which came into force in 2016. The new law (*Wohnraumversorgungsgesetz*) capped the rents of social housing tenants in private and public housing stock at 30% of their income, enforced a regime of participatory governance for municipal housing companies and introduced a new subsidy for municipal housing tenants.

Yet the *Mietenvolksentscheid* and the ensuing law were directed at public housing companies that can be regulated by Berlin as a city-state. Back then, there seemed to be no legal leverage for Berlin activists to confront the private housing sector, also because tenant protection laws are generally decided on at federal level. At the same time, the legal expertise acquired in the struggle has made activists aware that even if they managed to make positive changes within tenant protection law, corporate landlords will always be able to keep them on the defensive. They believed that problems brought about by financialisation must be tackled at their legal root: property. But expropriating corporate landlords such as Deutsche Wohnen seemed politically unattainable. Until someone mentioned Article 15.

Article 15 of the Basic Law (as Germany calls its constitution) allows the state to turn land, natural resources, and means of production into collective ownership "for the purposes of socialization" (*Vergesellschaftung*). Within the constitution of a capitalist country, Article 15 feels like an opening into a different political dimension. The Basic Law was written in 1949, when both left-leaning and conservative legislators shared stories of political persecution. Critical of German industry's role in supporting the Nazis, legislators believed that economic monopolies could be dangerous for democracy. They designed Article 15 as a tool to combat the "misuse of economic power against society" (Abendroth et al., 1977). Yet, in the post-war welfare state, Article 15 has been forgotten. No government has ever used it for legislation.

Almost 70 years later, Article 15 has inflamed the legal imagination of some housing activists. They felt empowered to see the idea social ownership written into the letter of the law: "It's much harder to dismiss an idea as too radical after you see that the Federal constitution supports it" (Interview 1, Activist 1, Co-founder of DWE, Berlin, October 2019). To the disbelief of many fellow activists, who thought expropriation too radical a means for mobilising a broad mass of people, a small group decided to design a legal-political strategy based on Article 15.

3.2 | The political functions of legal engineering

Deutsche Wohnen & Co. Enteignen's legal arguments, which included more than just the idea of property transfer, were crafted for over a year before the official campaign launch in mid-2018. From early on, the activists had explored legal notions entailed by any potential decision on compensation payments to corporate landlords, as well as by the legal forms and political procedures that would allow Berlin's urban community to manage socialised housing in an equitable way.

The political function of such detailed legal research was threefold. First, it safeguarded the campaign from any easy dismissal by professional lawyers. While some of DWE's arguments remain controversial – especially due to the lack of legal precedents – all of them are formally sound, and so they can be argued over, but not dismissed.

Second, working out the precise legal details made it possible to clarify the political vision, and so to avoid future conflicts within the movement. In this way, the necessity of having a sound legal strategy facilitated a comprehensive and explicit political platform at an early stage. Although the campaign has later significantly grown in numbers, its

co-founders attribute the relative lack of internal conflicts to this clarity of the legal-political agenda, which set the terms for people to join later (Interview 2, Activist 2, Co-founder of DWE, Berlin, October 2019).

Finally, the campaign maintains a productive tension between legal precision and the semantic openness necessary for political mobilisation. This is most visible in the combined use of two terms: "expropriation" (*Enteignung*), which is the campaign's main political slogan, and "socialization" (*Vergesellschaftung*), which is the proper legal term for what DWE is canvassing. From the legal point of view, this is a gross imprecision: "expropriation" is a standalone legal term used for various legal purposes and refers to a different constitutional clause. But DWE recognised that expropriation makes for a catchier political slogan. By using both – one in political discourse, the other in legal debates – the movement has managed to promote a positive political vision of a new system (a new "socialized" regime of housing governance), while enjoying the typically greater mobilising power of a negative campaign ("expropriate" corporate landlords).

3.3 | Co-opting the power of law: The campaign's results to date

Deutsche Wohnen & Co. Enteignen's campaign consciously interweaves three elements: (1) technical legal argumentation organised around Article 15; (2) direct democracy and referendum as a means of political mobilisation; and (3) the classical repertoire of political protest, including tenant teach-ins, public demonstrations, media happenings, etc. All the above elements are designed to amplify one another.

While the referendum is the political engine of the whole campaign, the initiative waited sixth months after its official start to begin collecting signatures. During this time, activists focused on leveraging the symbolic power of the German constitution to enter the mainstream political debate and build popular support. At the same time, dedicated working groups liaised with the tenants of corporately privatised buildings, offering tailored workshops on organising a neighbourhood assembly or talking to the media.

Having prepared a comprehensive legal strategy, DWE's spokespeople presented the media with detailed and coherent legal argumentation for how socialisation might work, referring to Article 15 and the history of the German constitution. Importantly, the activists did not repeat the mistake of the 2015 referendum on rents (*Mietenvolksentscheid*). They did not present this detailed legal outline of how socialisation might work in the form of a draft bill, but only as a set of legal guidelines for legislation that – if the referendum worked – would then be drawn up by the government. This has allowed the DWE to enter the legal debate at the more general level of abstract principle (i.e., on what is legally possible), thus avoiding the possibility that their proposal gets dismissed through technical error.

Media attention led to the effective "outsourcing" of the costs of externally verifying DWE's arguments. Once media interest in the campaign reached a certain threshold, journalists, political parties, and even the Berlin Senate commissioned independent expert opinions. The vast majority of them confirmed that the socialisation of housing is legally possible, but provided differing assessments of the financial costs. As a side effect (from a legal geographer's perspective, an undoubtedly positive one), the differences between those legal opinions has led to increased public discussion on the political status of law and legal expertise, thus re-politicising the law.

Before DWE even started collecting signatures for the referendum – the campaign's political backbone – the public debate on the legal possibility of socialisation brought palpable political results. Importantly, linking the debates on expropriation with the themes of law and constitution decreased the perceived radicalness of this solution. In January 2019 – three months after the campaign began – a survey commissioned by the newspaper Tagesspiegel (2019) showed that roughly 55% of Berliners think that the socialisation initiative is "reasonable."

While the DWE campaign received an official declaration of support from one of the three coalition partners in Berlin's ruling coalition, Die Linke (The Left Party) – the other two, the SPD (social democrats) and Die Grünen (the Greens), withheld their support due to internal party splits on this issue. Nevertheless, the growing support for socialisation of housing has prompted defensive reactions from financial institutions. In March 2019, the international ratings agency Moody threatened to downgrade Berlin's rating if the city proceeded with expropriation.

Between April and early June 2019, DWE collected 77,000 signatures – vastly more than the 20,000 officially needed in the first stage of seeking a referendum. A few days before the activists submitted the signatures, the Berlin Senate announced it would introduce a five-year freeze on Berlin rents. In a research interview, one of the lawyers who had been advising the government on the legal form of the rent freeze (*Mietendeckel*) told me that she saw this law as a direct political result of the DWE campaign (Interview 3, Expert lawyer, Berlin, September 2019). On the day the rental freeze was announced, Deutsche Wohnen stocks fell by 8.7%.

At the moment of finalising this paper, the DWE referendum campaign is preparing for the second phase, in which activists have to collect a total of 175,000 signatures. This second phase could only become possible after the Berlin Senate officially confirmed the legal validity of the referendum proposal. The Senate has been delaying this procedural step for almost a year, allegedly in order to take the steam out of the campaign. However, the activists countered this political freeze with legal tools. After having filed a lawsuit against the court inaction, in September 2020 they followed with an urgent appeal (*Eilantrag*) to prevent delays caused by the lawsuit itself. Indeed, after DWE's urgent appeal the court has refused to give the Senate any further deadline extensions. Thus, in September 2020 the Senate – to avoid entering into an actual litigation with the activists – has declared the referendum proposal legally valid.

4 | CONCLUSION: THE USES OF CRITICAL LEGAL ENGINEERING

While the final legal outcomes of the DWE campaign are yet to unfold, its political impact is already visible. In this sense, the campaign's technical-legal argumentation has made a political difference, even if the referendum never takes place. This, I argue, is an important lesson for critical scholarship on law. For while there is a lot of research criticising the hegemonic power of law, relatively less attention has been paid to the possibilities of co-opting this power for progressive social purposes. Similarly, we know more about the ways in which the law depoliticises social conflicts than about the possibilities of politicising the law.

The methodology of CLE is modelled on the practices emerging from grassroots political struggles. Indeed, the localised political necessity allows grassroot activists to feel more urgency than scholars to trespass on the protected areas of expertise such as law. Yet while non-lawyers have always engaged with the law, by proposing CLE as a methodological tool I specifically encourage critical scholars to employ their knowledge-as-power, outside of the scholarly domain, directly at the interface between the legal and political systems. As most urban struggles currently relate to neoliberalism – a regime that is both spatialised and upheld by legal scaffoldings – legal geographers have a great opportunity to "make themselves useful" (Taylor, 2014) in supporting progressive agendas at the interface of politics and law. This is because legal geographers have the capacity to understand both the internal logic of the legal system and its relations with the outside environment, while at the same time maintaining socio-spatial sensitivity and a critical edge. Thus, as a method for legal-geographic action research, CLE could become one of the "geojurisprudential practices of insurgency" envisioned 30 years ago by Pue (1990). Yet rather than calling for legal geographers to lead "a full-fledged insurrection" (1990, p. 578), I prefer to think of it as yet another way of "excavating the possible" (Gibson-Graham, 2008, p. 623) from our legal systems.

As I showed in this paper, CLE influences the relations between law and politics in several ways. First, it co-opts the legitimacy provided by the legal system, lending it to agendas that are otherwise perceived as "too radical." Second, elevated by the law these radical agendas may gain greater power to influence political-economic realities even *before* the legal outcomes are decided. Finally, employing technical legal arguments as Trojan horses through which highly politicised topics enter the sphere of law, CLE then drags supposedly "technical" legal discussions into the heat of public debate. All of these moves pluralise legal debate by expanding the range of actors who provide impetus for new legal interpretations, even if the final decision on these interpretations remains in the hands of judges and lawyers.

Undoubtedly, CLE is a riskier strategy for a legal geographer than an external critique. Even if such action research is guided by a deep knowledge of law and the ethics of human flourishing, in law – as in politics – ideological purity is never guaranteed. As Choinard points out, "there are rarely unambiguous 'victories' in legal change, but rather complex processes of appropriating law for diverse purposes and agendas" (1994, p. 434). At the same time, the evaluation of CLE's results cannot be limited to the immediate legal outcomes. According to Clark (1991, p. 17), scholars engaging with the law directly can, at a minimum, hope for pedagogical benefits – the educating of oneself, the court, and the public on the socially progressive potential of law. I argue that engaging in CLE would also afford scholars new analytical insights. For, according to Kurt Lewin, who first coined the term "action-research," "you cannot understand a system until you try to change it" (quoted in Schein, 1996, p. 34).

ACKNOWLEDGEMENTS

I am grateful to Zoe Adams, Ralf Hoffrogge, and three anonymous reviewers for their valuable comments on the first draft of this paper. I would also like to thank the editors of this special issue for their kindness and patience, for the tumultuous year 2020 has seriously delayed my submission.

DATA AVAILABILITY STATEMENT

The data that support the findings of this study are available from the corresponding author on reasonable request.

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How to cite this article: Kusiak J. Trespassing on the Law: Critical legal engineering as a strategy for action research. *Area*. 2021;53:603–610. https://doi.org/10.1111/area.12700