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STATE, LAW AND INSTITUTIONS: A STUDY ON JURIDIFICATION[1]

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Abstract

The paper aims to analyse the current process of juridification that is altering the relation between the political and the legal realms. In the first part of the article, I discuss the existing literature on the theme: the dominant view — which finds in Habermas its precursor — reduce the increasing use of law to a process of bureaucratization, reification and depoliticization of the social field which transforms law into an instrument at the service of neoliberal governance. However, a mapping of the phenomenon reveals also an increasing use of legal remedies "from below", to wit, by social actors who seek to reach out to courts and avail themselves of legal remedies in order to have social and political claims satisfied. I argue that this kind of juridical practices show new forms of negotiation between social actors and the state that are certainly political, even if they are played in spaces not traditionally appointed to political struggles. I claim that this "politics of juridification" require a radical re-thinking of both law as a medium and law as an institution. In order to do this, I call into question Tarde, Deleuze and Guattari and Latour, who help to redefine the juridical functioning in terms of semiotic machine, linkages and networks.

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Keywords
Juridification – Institution – Depoliticization – Habermas – Latour.

Resumen
El artículo pretende analizar el actual proceso de juridificación que está alterando la relación entre los ámbitos político y jurídico. En la primera parte del artículo, discuto la literatura existente sobre el tema: la visión dominante -que encuentra en Habermas a su precursor- reduce el creciente uso del derecho a un proceso de burocratización, cosificación y despolitización del campo social que transforma el derecho en un instrumento al servicio de la gobernanza neoliberal. Sin embargo, un mapeo del fenómeno revela también un creciente uso de los recursos legales "desde abajo", es decir, por parte de los actores sociales que buscan llegar a los tribunales y hacer uso de los recursos legales para que se satisfagan las demandas sociales y políticas. Sostengo que este tipo de prácticas jurídicas muestran nuevas formas de negociación entre los actores sociales y el Estado que son ciertamente políticas, aunque se desarrollen en espacios no destinados tradicionalmente a las luchas políticas. Afirmo que esta "política de juridificación" requiere un replanteamiento radical tanto del derecho como medio como del derecho como institución. Para ello, pongo en tela de juicio a Tarde, Deleuze y Guattari y Latour, que contribuyen a redefinir el funcionamiento jurídico en términos de máquina semiótica, vínculos y redes.

Palabras clave
Juridificación - Institución - Despolitización - Habermas - Latour.

Introduction

The current political-philosophical debate seems split into two very different positions: on one side, many authors announce the definitive crisis of modern sovereignty and the end of liberal democratic State; on the other side, thesis about a strong return of State authority are emerging, especially after the pandemic. Within this varied panorama, it is possible to identify at least a common element: symptoms of State transformations are diagnosed through a test of the relations between State and Law. Political and legal scholars argue that State governments, handling the pandemic, are becoming a new apparatus of capture able to penetrate through the very interstices of social space; moreover, this transformation seems to be mainly operated through a massive, excessive, even violent and unnecessary, use of juridical tools. However, an instrumental use of law doesn't represent a novelty with respect to the critics of neoliberal state: also before the pandemic, a proliferation of legal tools — such as contracts and trades — was an important element of the increasing process of monetarization and regulation of social field.

Therefore, this expansion of law, which some scholars call *juridification*, represents an element of continuity between the discussions about the end of politics and the positions that announce a return of political and State authority in a conservative and reactionary way. For this reason, the article intends to study the category of juridification as litmus test for understanding the current relations between State and Law. The thesis argued in the paper is that juridification doesn't stand for a process of depoliticization; it shows instead a new kind of politics that matches neither with the traditional representative politics nor with a conservative shift by state governments. An analysis of current processes of juridification allows thinking of law and institutions in an innovative way which goes beyond the borders of modern concept of politics and, at the same time, which doesn't spell the end of (even State) politics. In order to achieve this goal, law will be interpreted as a medium for different practices of subjectivation, instead of an instrument for subjection.

Juridification and depoliticization

In order to probe effectively the category of juridification, it's helpful to begin with its contextualisation in the philosophical debate. The word translates the German term *Verrechtlichung* used for the first time by Otto Kirchheimer to define the

gradual neutralization of class struggles during the Weimar Republic. This operation was made by an increasing legal institutionalisation and contractualisation of labour relations. Then, the concept of *juridification* became popular in contemporary debate through the work of Jürgen Habermas, who used the term in the second volume of *The Theory of Communicative Action*. In that book, Habermas presented juridification as an exemplum of the internal colonization of the "lifeworld" operated by the "system". For the purpose of the article, it's not necessary to explore the whole Habermas' theory; rather, it is important to consider his understanding of juridification. For the German philosopher, an expansion of law has characterized the entire Modern age. From the origin of Modern State during the absolutism to the development of constitutional and democratic states in the XIV century, legal field of intervention constantly increased and expanded its boundaries. However, we are witnessing today a new phase of juridification that started from the development of welfare state and which is identified by an increasing "density" of legal ties. Law expands but with a different aim than in the past: not to conquer new spaces of intervention, but to return over and over again to terrains already regulated and normed. What is at stake here is an intensive and recursive use of law that intervenes to put its stamp on every kind of relations (social, political, economic) progressively increasing its level of specialization. The category of juridification refers precisely to this phenomenon of "densification" and specialization of juridical tissues, which — following Habermas — has disruptive consequences on social and political field.

> The more the welfare state goes beyond pacifying the class conflict lodged in the sphere of production and spreads a net of client relationships over private spheres of life, the stronger are the anticipated pathological side effects of a juridification that entails both a bureaucratization and a monetarization of core areas of the lifeworld (Habermas, 2006, p. 364).

Juridification implies a bureaucratization and a monetarization of social bonds. For this reason, it presents "a dilemmatic structure": even if welfare state politics promised to protect and integrate social actors, its use of legal instrument turned out into something completely different. Law became a tool for abstraction and formalization that breaks and fragments social relation so that power, on one side, and money, on the other, can be the privileged mediators for their reconstruction. Therefore, juridification is for Habermas synonymous of depoliticization: a process that empties social bonds

from their political character so that they could be thrown naked into the arms of the bureaucratic and capitalist machine.

A definition of juridification as a process of bureaucratization, reification and depoliticization of the social field, is shared by other scholars who criticize the phenomenon, arguing that it represents an irreversible transformation for the relation between law and politics. A strong imbalance in favour of law is emerging, with the risk that the traditional representative politics will be replaced by legal authority and by the increasing power of legal actors, to wit, judges of national and supranational courts. For this reason, juridification is described as "a paradoxical phenomenon" (Loick, 2014) of *depoliticisation* (Jessop, 2014), *legalisation* and *judicialisation* (Hirschl, 2008; Robertson, 2010; Shapiro & Sweet, 2002), "a turning to the courts as a substitute for traditional methods of politics" (Davis, 2010, p. 91) that strengthen neoliberal governance (Benbow, 2018). Judges, tribunals and courts seems to replace traditional politics and the effect is a kind of "legal pollution" (Erlich, 1976) where law becomes a soothing drug that neutralizes democratic processes.

Law as a medium and law as an institution

Before declaring for certain the identity between juridification and depoliticization, we can take a step back. A neutralization of political conflicts and an increase of legal actors' authority are visible and evident effects of juridification processes, but they don't contain the whole phenomenon. They can't describe its entire nature because they are only some of its consequences — not all of them. The main characteristic of juridification — as Habermas underlined in his book — is the increasing of density of legal relations: this means that the bonds binding us to other social actors in our everyday life acquire stability only if they enter a "clot" of legal rules and regulations. Following Habermas, this "densification" of legal relations is the result of law acting exclusively as a *medium* and, precisely, as a steering medium. The German philosopher makes indeed an interesting distinction between law as a medium and law as an institution[2].

2. It should be noticed that Habermas revoked the distinction between law as a medium and law as an institution in his later books, in particular in *Between Facts and Norms* (1992). For this reason, we use this distinction as a useful intuition in order to study the process of juridification, instead of a critical point of Habermas' theory.

> As long as the law functions as a complex *medium* bound up with money and power, it extends to formally organized domains of action that, as such, are directly constituted in the forms of bourgeois formal law. By contrast, *legal institutions* have no constitutive power, but only a regulative function. They are embedded in a broader political, cultural, and social context; they stand in a continuum with moral norms and are superimposed on communicatively structured areas of action. They give to these informally constituted domains of action a binding form backed by state sanction. From this standpoint we can distinguish processes of juridification according to whether they are linked to antecedent institutions of the lifeworld and juridically superimposed on socially integrated areas of action, or whether they merely increase the density of legal relationships that are constitutive of systemically integrated areas of action (Habermas, 2006, p. 366).

Following Habermas, law as a medium and law as an institution are like two sides of a rope: pulling to one side means necessarily losing ground on the other. In the process of juridification, law as a medium prevails at the expense of legal institutions. In this way, law becomes responsible for operations of abstraction which freeze the vital and political nature of social relations. The reason why this happens is attributable to the mainly procedural character of law as a medium. A procedure legitimizes itself on the bases of the accuracy of the execution and the effectiveness of the results: it doesn't need to dialogue with the social components of the lifeworld in order to obtain a legitimation. On the contrary, legal institutions — which have "no constitutive power, but only a regulative function" — are obliged to maintain a connection with the communicative structures of the lifeworld because they need an external legitimation.

I claim that this distinction between medium and institution is useful to clarify the separation among the expansion of legal field that characterized the whole Modern Age and the densification of legal tissue which belongs to our present. The movement of expansion identifies a quantitative growth of legal institutions; the "coagulation" of juridical tissue "indicates an increased recourse to the medium of law" (Habermas, 2006, p. 366). This latter consists in the prevailing of a pure instrumental logic: law becomes a tool for the organizational needs of the system, and therefore it is completely indifferent to the demands for freedom coming from the lifeworld. "Law no longer works here as an 'institution' wherein the claims of the lifeworld are made manifest and thus substantively legitimate, but, rather, as 'medium', that is, as pure instrument for the organization by the system" (Loick, 2014 pp. 760-761).

The German sociologist Gunther Teubner — who agrees with Habermas' analysis of juridification — noticed that this process is changing the nature and the role of law. Returning to Max Weber's distinction between "formal and material qualities of modern law" (Weber, 1978, p. 644), Teubner claims that juridification coincides with a *materialization* and *proceduralization*[3] of law. Material and procedural aspects of legal actions are precisely what the system use in order to organize and regulate social spheres. "Juridification does not merely mean proliferation of law; it signifies a process in which the interventionist social state produces a new type of law, regulatory law" (Teubner, 1987, p. 18). In other words, law becomes an instrument at the service of neoliberal governance.

Legalism from below

Moving beyond Habermas' and Teubner's negative evaluation of juridification, it is important to keep in mind two relevant elements of their analysis, which are absolutely essential for a correct understanding of the phenomenon also for those who try developing a different approach. The first point is that juridification doesn't consist in a simple proliferation of norms and rules; however large this proliferation is, it's not the quantitative aspect that matters for a correct use of the category. On the contrary, juridification refers to the creation of "legal clots", a kind of "juridical assemblages" which are held together by law. The second point is that law in this process works as a medium, that is, a technical and material tool which represents a reservoir of practices and procedures.

Keeping in mind these two elements, we can try to move on the other side of juridification: to wit, taking the point of view of social actors who increasingly recourse to the courts in order to seek satisfaction for their social and political demands. It deals with looking at the phenomenon of juridification neither from a macro-perspective (like the one of neoliberal power or the market) nor uniquely from the point of view of legal actors (that is, judges of national and supranational Court), but rather from the standpoint of *law-users*. A mapping of juridification process (Blichner & Molander, 2008) revealed that some social actors in some local context choose to use legal remedies as a privileged tool in order to solve controversies, conflicts, discriminations and fractures of the social tissue they inhabit.

3. This term refers in particular to Wiethölter, 1965.

An important example is the one offered by the anthropologist Julia Eckert, who showed how widespread is the practice to reach out to the court and avail themselves of legal remedies in urban India. In particular, social actors who suffer discrimination and abuse of power (for example, who gets arrested without proper procedures) are increasingly "engaged in a protest that uses legal terms against the transgressions of law by state agents and other bodies of governmental authority" (Eckert, 2006, p.45). The intention of starting a lawsuit doesn't consist in this case with a request for the recognition of their rights. It deals rather with an attempt to *negotiate* in court the interpretation of those norms that have been previously used in order to perpetuate abuses and discriminations. "Particularly those who have to face transgressions of state legal norms by state agencies on an everyday basis increasingly make use of the law to *negotiate* their rights" (p.46). The increasing recourse to legal remedies has also an interesting effect that can already be seen in urban India: social actors — especially who found more often in the situation of struggling against the abuse of power and for example getting out of jail — are accumulating expertise and knowledge in legal field. For this reason, they become mediators for other people who want to start lawsuits or use legal tools. "People, rather than rebelling outright, enter into the rules of the game and hold these rules against those who officially represent them, resistance using channels of law with increasing frequency" (Eckert, 2006, p.71). Here, juridification turns to what Eckert calls a "legalism from below" where law, instead of a steering medium, serve as "a weapon of the weak".

This approach doesn't eliminate the "paradox" of legal recognition underlined by many authors, such as Wendy Brown (2000). Social actors who suffer discrimination appeal to the law, but at the same time denounce its influence; moreover, they ask for a legal recognition of their singularities and they gain instead abstract rights which "normalize" and level out any difference. However, the map of current process of juridification reveals a law's twist because legal remedies are used to solve emerging conflicts that undermine the social and institutional balance rather than to demand legal recognition. A new functioning of law is here at stake: juridical practices serve as a tool to *remedy* and *repair* social fractures. In this way, juridification is not only synonymous for an implementation of social regulation and an increase of judges' authority. The phenomenon could also be defined as "a process whereby conflicts increasingly are being solved by or with reference to law" so that "people increasingly tend to think of themselves and others as legal subjects" (Blichner & Molander, 2008, p. 39).

The emphasis on the remedial and reparative nature of law is absolutely central in order to move from a "technical" interpretation of law's function to a political one. Nevertheless, there is here a growing risk to fall into a trap: to wit, assigning law the function to repair politics' shortcomings. In this case, law should intervene *ex post* and act like a medicine able to make up for the lack of legislators. This reading of the remedial nature of law creates a vicious cycle because it confirms what the supporters of the imminent crisis of politics and State already said, that is, political and democratic dynamics are gradually being replaced by law. Juridification process that come from below would be themselves part of a broader phenomenon of depoliticization. On the contrary, in order to avoid this vicious cycle:

> the ability of the courts to restrain executive action should not be regarded as an encroachment on the democratic process, nor as a poor substitute for alternative forms of direct participation. Rather it should be seen as an alternative avenue through which governmental decisions may be challenged and, as such, an essential and defensible component of our parliamentary democracy (Masterman, 2009, p. 551).

As Masterman points out, juridification is a component of the democratic mechanism and not its substitute. Getting out from the impasse that reduces juridification to a depoliticizing phenomenon means rethinking the remedial and reparative nature of law so that jurisprudence could be seen as an instrument for "creative negotiation" (Marchetti & Renna, 2016, p. 23) between the field of general and abstract rules and the specific and concrete situation that is involved in each legal case.

Law as a semiotic machine

In an attempt to break the identification between juridification and depoliticization, it seems necessary a theoretical engagement in the definition of law's remedial nature alongside a mapping of the current process of "legalism from below". This kind of theoretical operation has rarely been attempted in the literature that studies the phenomenon of juridification; nevertheless, it appears crucial in order both to understand the relationship between politics and law, and to focus on those material, technical and procedural aspects of law that Habermas identified as the main responsible for the

detachment between legal field and social spheres. Changing the way of thinking about law as a *medium* implies also a transformation of the concept of legal institution, as well as an approach on the separation between law as a medium and law as an institution different from that of Habermas.

In the space of this article, I can only indicate a possible path — not the only one[4] — that leads to a reconsideration of both material and institutional nature of law in an innovative way. This path calls into question some authors who usually don't be immediately recognized for their work on law and legal practice, such as Gabriel Tarde, Gilles Deleuze and Félix Guattari, and Bruno Latour. These authors share a *processual view of society*[5]: the social is never static, but a dynamic process of composition. Social actors move in every direction creating bonds, networks, assemblages so that the primary social element is "relational" rather than a solid and atomistic one. This particular morphology of the social help to rethink political and legal practices in a dynamic and innovative way: social actors are engaged in relational flows — which are always in becoming, rather than in crystallized groups that constantly repeat the same standard. For this reason, it needs an instrument of regulation of the social which is both flexible in reflecting the changing of social flows and able to partially contain the contingency and the precariousness of every established connection.

In order to understand if law could be this kind of instrument, we start with the analysis of Bruno Latour's *Note brève sur l'écologie du droit saisie comme énonciation* (Latour, 2004) — an article published soon after the release in France of *The Making of Law* (2002). In the text, Latour appears inadvertently to reproduce the distinction between law as a medium and law as an institution, but in different terms. The French philosopher talks about the difference between *le droit comme institution* (law as an institution) and *le droit comme régime d'énonciation* (law as a regime of enunciation). In the comment of Latour's text, Kyle McGee noticed that this distinction is developed from a simple question: "What does the law do?". The answer sounds equally simple: "It says things". However, this means that "the whole process of enunciation rather than

4. Another possibility would be, for example, to call into question the authors who belong to *legal institutionalism*. This latter is not a unit school of thought, but the work of jurists such as Maurice Hauriou and Santi Romano, combined with Karl Llewellyn's reflection on legal institutions, could represent an interesting point of departure in order to rethink both procedural and institutional functions of law. For a reading of these authors who goes in the direction we suggest, see: Chignola, 2020; Croce, 2021; Salvatore, 2019.

5. In the space of this article, I can reconstruct neither the complex "morphology" of the social field that these authors developed in their work nor the numerous connections among their perspectives. See: Tarde, 1903; Tarde, 1999; Deleuze & Guattari, 1987 (in particular pp. 219-221 where there is an homage to Tarde); Latour, 2005 (where Tarde is presented as a precursor of Actor-Network Theory).

solely the utterance itself composes the beating heart, systole-diastole, of legality" (McGee, 2012, p. 6). A legal action is always a speech act: a statement or an utterance, but with a particular quality. Legal words aren't meant to communicate, dialogue or transmit a message; they intend to *order*. This is precisely the reason why Latour talks about "a regime of enunciation": the expression comes from Deleuze and Guattari's reflection on language as a pragmatic system. Following the authors of *A Thousand Plateaus*, every statement has always a performative function, to wit, it works as an order-word.

> The elementary unit of language – the statement – is the order-word. Rather than common sense, a faculty for the centralization of information, we must define an abominable faculty consisting in emitting, receiving, and transmitting order-words. Language is made not to be believed but to be obeyed, and to compel obedience." (Deleuze & Guattari, 1987, p. 76).

The performance of a statement produces effects at two different levels: on one side, it has resonance effects on other speech acts, creating what Deleuze and Guattari call "regimes of signs" or "semiotic chains". On the other side, it produces cutting, selecting and distributing effects on the materiality of the bodies to which the legal word is addressed[6]. Then, enunciating means ordering, but in the sense that a composition and an organization of both statements and bodies is produced; the result is a hybrid assemblage "of actors, both 'material' and 'semiotic', bodily and linguistic, corporeal and incorporeal" (McGee, 2012, p. 7). An order-word works precisely because it is passing some flows instead of others: it selects, distributes, cuts, folds. For this reason, Deleuze and Guattari write in their book on Kafka that: "the statement (*enoncé*) may be one of submission, or of protestation, or of revolt, and so on; but it is always part of the machine. The statement is always *juridical*" (Deleuze & Guattari, 1986, p. 82). No matter what the purpose of the statement is, it has always pragmatic and performative effects: this ability to affect both the material and the semiotic field is exactly what distinguishes the juridical speech. Law's words order, organize, regulate, compose or decompose, and they always produce material and semiotic effects on the way we live and relate to our social bonds.

6. For a reconstruction of Deleuze and Guattari's work on pragmatic language and its connection with law and jurisprudence, see Rametta, 2020. Here I cannot but leave aside the analysis of Deleuze's reflection on law; on this topic, see: Braidotti & Colebrook & Hanafin, 2009; De Sutter & McGee, 2012.

Linkages and networks

Reading the instrumental, procedural and technical nature of law as a semiotic function in the sense suggested by Deleuze and Guattari, could help understand the political scope of juridification process coming from below. Social actors don't use legal remedies in order to ask a legal recognition, that is, a granting of abstract and liberal rights. Instead, they recourse to law so that its semiotic machine could intervene to untie the conflictual relations that jeopardize the endurance of the social field, or to compose and tie those social interactions which need some kind of stability. In that sense, the process of juridification that are increasing in urban India could be read as an attempt to cross the legal border in order to break the discriminating power relations that affect the social tissue. Other examples of juridification, such as the strategic litigation used by the LGBTQIA+ community, are attempts to provide stability and endurance to social relations through the medium of law (this is the case, for example, for non-conjugal families and same-sex couples[7]).

In both cases — whether used to untie or to compose social bonds — law becomes a semiotic medium able to transfer a certain interaction "from a condition of legal *unspeakability* to one of legal *speakability*" (Croce, 2018, p. 17). As Mariano Croce points out:

> This recognition model uses juridification — viz., the increasing use of law as a political mean — as an effective instrument to bring out the multiple ways in which social actors self-organize and how this self-organization can be consolidated with recourse to a legal proxy. [...] The recognition mechanism changes significantly: it does not admit formerly excluded people based on legal schemes that are already in place but enable excluded networks to expand existing law through normative negotiations (Croce, 2020, p. 13-14).

In this case, law functions as a remedy that doesn't just neutralize or extinguish social conflicts. On the contrary, it offers procedures, techniques and knowledge to social actors so that they can negotiate the way to pin down the network relations in which they are tied. It deals with a process of social organization in which the agency is distributed among all the actors, and in which the bargain is produced following a *jurisprudential logic*, to wit, case by case. Law as a semiotic medium is no more an instrument that

7. On this topic, see: Croce, 2018; Palazzo, 2021.

empties social spheres of their political nature; as Latour points out, law as a regime of enunciation works as a linkage (*enchaînement*): it plays the role of mediator "permettant de relier, retracer, tenir ensemble, rattacher, suturer, recoudre" (Latour, 2004, p. 2). The remedial nature of law is here transformed in an operation of continuous mediation, where the prefix *re-* stands for the repetition of juridical intervention because of the impossibility to achieve a definitive contractualisation of social relations. These latter constantly change, and their contingency has to be both reduced and preserved by law: reduced because social actors use juridical practice especially to obtain stable effects of composition or resolution of their social bonds; preserved because these effects have to maintain a degree of flexibility. Stable doesn't mean permanent, otherwise legal categories risk to become chains rather than linkages.

Thus, following Latour and Deleuze and Guattari, the procedural and instrumental aspect of law is translated in a semiotic function that creates linkages. This implies also a different approach to the institutional nature of law: for Habermas legal institutions are the results of an expansion of the legal field that contributes to the colonization of the lifeworld operated by the system. Law as an institution is instead defined by Latour as a network (*reseau*): "institutions don't exist under the mode of the sphere, the domain or the region, but under the mode of the network – *à la* Tarde" (Latour, 2004, p. 6, my translation). Legal institutions are the container of all the process of negotiation that social actors make through the juridical tools; it reflects the contingency and the becoming of social flows, and it can't be therefore the expression of a permanent and static order.

For this reason, Latour uses Tarde's concept of network (and more generally its micro-sociological approach) in order to think the institutions as assemblages, "clots" of juridical relations which are kept together by the repetition and imitation of certain practices and standards, and which remains at the same time open to a re-negotiation of those practices and standards when fractures come to tear the connective tissue. Institutions are networks: not the static result of a rigid social organization, but a negotiation process. The effect of this kind of institutional phenomena is an increased density of social bonds, but this means here a growing engagement of social actors in the creation of new bodies of regulation, rather than a loss of political agency.

Concluding remarks

The analysis of the current process of juridification was meant to understand the alterations in the relationship between political and legal field. Our concluding remarks

highlights three different points which comes out from our analysis. Firstly, a mapping of juridification underlines the ambiguous and heterogeneous nature of the phenomenon. On one side, it produces effects of depoliticization and neutralization of democratic process that couldn't be underestimated; on the other side, there is also a recourse to law from below, operated by social actors, which appears to have a positive impact on the composition and organization of the social field. Secondly, both the definition of juridification as a "densification" of legal relations and the distinction between law as a medium and law as an institution, have to be reconsidered in order to recognize the positive effects of the increasing use of juridical remedies. In particular, the procedural and technical aspects of law could be traced to its semiotic function that allows social actors to negotiate the forms and the stability of their bonds. In this way, law as a medium is conceived as a regime of enunciation that works as a linkage, and law as an institution becomes a creative process that produces networks and assemblages. Thirdly, the densification of the juridical field — instead of a way to crystallize social spheres and neutralize their political potential — is a phenomenon that shows a new kind of politics.

By using law as a medium to define their position in relation to other social actors, many law-users are developing new institutional processes of negotiation, mediation and organization of the social field. These processes appear political actions rather than forms of depoliticization, even if they are played in spaces not appointed to political struggles. In this sense, juridification could help to rethink politics beyond its traditional borders: instead of announcing an imminent end of the State or its conservative turn, the phenomenon of juridification reveals new negotiation practices between social groups and the state in which social actors are directly involved — through the medium of law — in the creation of forms of regulation of the social body. This opens the door for a legal and institutional pluralism that could be a weapon against reactionary tendencies in state politics.

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