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Critical Legal Practices: Approaches to Law in Contemporary Anti-racist Social Justice Struggles in Sweden

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ABSTRACT *Based on interviews with legal practitioners working with or within anti-racist social justice movements in Sweden, we explore some dilemmas and paradoxes that appear when social movements pursue struggles for anti-racist social justice through the legal arena. How do the interviewees understand and critically relate to legal practices in contemporary anti-racist social justice struggles? What are the conditions of engagement of these organisations in the legal arena and how do they impact social justice struggles in Sweden? What are the stakes in the legal practices of these movements? Rather than a strategically chosen tool for social justice, legal practice could be understood as a kind of self-defence, as resorting to law is often a response to an unjust legal system, oppressive treatment by the state or disadvantage and deprivation. The interviewees' reflections on their legal practices are informed by a fundamental ambivalence between the ideological commitment in the critique of law and their position from which it is impossible to ignore the legal arena. Instead of taking a clear stance for or against the law as a tool for social justice struggles, we have attempted to understand what are the methods and the effects of legal practice that grow from this ambivalence. The accounts of our interviewees indicate that both practical strategies and ways of accounting for these aim at subverting and challenging the law while at the same time using it. Throughout the analysis we have conceptualised these strategies as* decentring*,* re-politicising *and* redistribution*.*

KEYWORDS social justice struggles; activism; critical legal practices; legal arena; Sweden; movement lawyering

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Introduction

> Movement lawyering is a practice of law with an engagement in society, a tool for social justice… The interest in movement lawyering is growing in Sweden. More movement lawyers are getting educated and engaged with civil society in issues such as anti-discrimination, human rights and the individual's access to justice. This happens in a political era characterised by growing inequality and social polarising. (*Akademin för Rörelsejuridik* [Academy for Movement Lawyering], n.d.)[1]

Over the last decade, an engagement at the crossroads of legal practice and social justice activism has been growing in Sweden. In this article, we take a starting point in interviews with legal practitioners and activists who represent this trend. Among them are networks around the Academy for Movement Lawyering, quoted above, an initiative bringing together lawyers and law students aiming to work for social justice in Sweden. The analysis explores some of the dilemmas and paradoxes that appear when social movements and activists pursue struggles for anti-racist social justice through the legal arena.

The inclusion of legal practices in social movements is in itself not a new development in Sweden – legal aspects have been central to the work of trade unions, tenants' interest organisations, consumer organisations and other organisations that stem from the 20th-century workers' movement and social democracy. The growing engagement that the research participants represent here is, however, a new development in Sweden in terms of the kinds of social movements, activism and social issues that increasingly have been addressed through legal practices. Our specific focus in this article is on legal practices in relation to issues of racism and anti-racism.[2] The legal practitioners who participated in the study are part of contemporary social justice movements in Sweden that we broadly understand as anti-racist.

The questions guiding the analysis are: How do the interviewees understand and critically relate to legal practices in contemporary anti-racist social justice struggles? What are the conditions of engagement of these organisations in the legal arena and how do they impact social justice struggles in Sweden? What are the stakes in the legal practices of these movements?

We formulated these questions partly in response to the ways in which the interviewees express that their legal practices are filled with tension and ambivalence. In the interviews, the interviewees are trying to navigate and make sense of their own practices, while situating themselves in relation to different forms of critique of and doubts about law. They have not chosen to

[1] Throughout the paper translations from Swedish to English have been provided by the authors.
[2] These interviews were conducted within the broader research project "The Court as an Emerging Arena for Struggles Against and About Racism," which explores the possibilities and limitations of pursuing anti-racist activism through legal routes and practices.

turn away from the institutions and discourses of the law, yet many of them find it important to underscore that their legal practice is hesitant. Explicit acknowledgement of the limitations of legal strategies for social change is at the centre of their reflections on their practice. We are particularly interested in how they explain and make sense of their legal practice despite – or in relation to – the ambivalence they express.

In the following, we begin with a short methodological note presenting the sampling strategies and the material on which this study is based. Here we also explain what we mean by contemporary anti-racist movements. Then we situate the interviewees' discussions about law and activism in the context of juridification in Sweden. Finally, we analyse – in dialogue with previous research on social movements and law and inspired by critical feminist and anti-racist theoretical explorations of law (Butler, 1997; Davis, 2005; Delgado, 1993; Smart, 1989; Williams, 1991) – the interviewees' legal practices as well as their reflections about the potential and the limitations of the legal arena.

Situating the Fieldwork and the Material

The article is based on interviews with people who engage with legal practices as a part of their commitment to anti-racist social justice issues.[3] *Legal practices* are here understood as different forms of engagement with law (McCann, 1998, p. 81), from setting up legal advice points, to popular education on legal matters, to strategic litigation. Within this broad definition of legal practices, we additionally differentiate *legal strategies* – more strategic actions aimed at achieving some political effects beyond the specific case at hand (cf. Mathiesen, 2005, as cited in Gustafsson & Vinthagen, 2010, p. 641). This narrower category of legal practices would most typically be exemplified by strategic litigation.[4] Our material shows that legal strategies are usually combined with other forms of practices and integrated in the movements' work for change.

We started our fieldwork by identifying central networks and organisations working with anti-racism through legal practices in Sweden today. We selected organisations, networks and activists of interest for this study through a combination of snowballing and strategic sampling informed by the literature on juridification and contemporary social movements (e.g., Brännström, 2017) and anti-racism in Sweden (e.g., Groglopo et al., 2015; Jämte, 2013; Malmsten, 2007). Our sample was delimited by three main

[3] We conducted 18 interviews with 20 lawyers and activists (two of the interviews were conducted with two people working together). For the sake of anonymity, we have delinked quotes from particular interviewees.

[4] "Strategic litigation" is a term used to define a legal action that "aims to bring about broad societal changes beyond the scope of the individual case at hand. It aims to use legal means to tackle injustices that have not been adequately addressed in law or politics" (ECCHR, n.d.).

criteria: engagement in *legal practices* of an *anti-racist* nature and with links to *social movements*. In addition, we focused on *contemporary* anti-racist social movements that use legal practices in Sweden. These could be inscribed in broader social movements that sometimes are identified as a fourth wave in the social movements literature (Peterson et al., 2018, p. 378).

Our definition of anti-racism, while rooted in the literature, was additionally shaped by our intersectional approach and the knowledge generated during the fieldwork about networking structures of the organisations.[5] Historically, there have been three sites around which anti-racist movements gravitated in Sweden (Jämte, 2013; Peterson et al., 2018). One is international solidarity dating back to the global anti-apartheid and anti-colonial movements. Another has been asylum and migration issues that gained increased centrality since the 1980s, as a result of Sweden restricting its policies in these areas and of growing racism towards immigrants and racialised people in Sweden. The third site has been specific mobilisations against neo-Nazi and neo-fascist organisations and activism. While these sites have remained important for mobilisation in the last decade or, as in the case of asylum and migration, even expanded, we also observe significant transformations. The most important one is growth of urban justice mobilisations in socioeconomically disadvantaged areas whose inhabitants are subject to racialisation (sometimes called "urban youth activism," cf. Rosales & Ålund, 2017). Another transformation has had to do with the increasingly intersectional character of solidarities across different mobilisations, with intersectional feminist, LGBTQ and trans movements articulating anti-racist and intersectional power analyses. These considerations, derived both from the literature and the field, allowed us to identify the following anti-racist social justice struggles in Sweden today as relevant for our study: migration rights and "no border" networks; urban justice movements located in socioeconomically disadvantaged areas; indigenous and national minority movements; and intersectional feminist, LGBTQ and trans movements.[6]

In terms of the ways of engaging with legal issues, our sample included people involved in a variety of organisations: some are mainly law-centred and have legal activities at their core; for others, legal practices are just one form of mobilisation around a specific issue; still others operate as networks

[5] In many respects, our definition has also been reflected in the emerging literature of this new wave of anti-racism (Groglopo et al., 2015) or social movements more generally (Peterson et al., 2018) that have been active in Sweden in the last decade. However, there are still only a few studies that have analysed recent development in the movement. Previous studies often cover time up to the first decade of 2000 (Jämte, 2013; Malmsten, 2007).

[6] This research project has also grown out of our participation in some of these movements. One of the authors, Sager, has been engaged in migration rights movements for many years. One of the tensions experienced in this work has been between the identification of the legal regulation of mobility as the very source of exclusion from rights, safety and autonomy, and the everyday practices and short-term goals focusing on "making it through" these very regulations (see e.g., Nordling et. al., 2017; Sager, 2018).

bringing together activist lawyers working for and with social movements. Most of the interviewees are lawyers or law students; two have no legal education but have dealt with legal issues and legal advice as activists. Many of these practitioners have themselves written about their approach to legal practices as well as the significance of the turn towards movement lawyering for struggles for social justice in Sweden (e.g., Al-Khamisi, 2015; Al-Khamisi & Kakaee, 2019; Osman & Herskovits, 2018). In this sense, their approach to legal practice is often politically vocal.

The Process of Juridification in the Swedish Context

> One can say that movement lawyering becomes necessary as a result of the lack of a kind of real grounded presence of welfare institutions and state authorities that actually show their role for disadvantaged groups. (Interview transcript)

In Sweden, an ongoing transformation of the conditions within which new social movements engage in the legal arena has been observed (Taxén, 2017). This transformation has been identified as a process of "juridification" and described as a gradual shift towards a legal discourse in the arenas that previously had been dominated by other discourses, such as political or ideological discourses (cf. Brännström, 2009, 2017). Up to the 1970s, the role of the courts was mainly defined as implementing and interpreting legislation established through the parliamentary process. Thereafter, the role of the courts and the law in general started to change, and this change accelerated after Sweden's accession to the European Union in the 1990s (Brännström, 2017, p. 61; 2019, p. 7). As a result, the role of the courts has shifted slightly towards that of monitoring and regulating the political arena and its compliance with legal regulations. Issues that before would have been debated in political, ideological, economic, social or cultural terms started to be guided and dominated by legal language, arguments and rationale (Brännström, 2019, p. 9).

The juridification coincides and in some ways correlates with the ongoing, gradual dismantling of the Swedish welfare state. This development, described as "the end of Swedish exceptionalism" (Schierup & Ålund, 2011, p. 56), has taken place in the last few decades, when Sweden transitioned from "*the* exemplary welfare state" towards "a deepening inequality [that] has been produced through market-driven politics of deregulation, privatisation and changes in the taxation regime favouring the well off and skinning the already disadvantaged on the margins of the social welfare system" producing "precarisation of work, citizenship and livelihoods" (Schierup, Ålund & Neergaard, 2017, pp. 12-13). Our interviewees understand activists' and social movements' turn to the law as being a result of these transformations:

> When the welfare state withdraws, then the result is that one instead has to take singular issues to court as individual cases and appeal to authorities … Then one has to use the rights legislation that exists, like claiming 'I have a right to this' and make a trial instead of just having these things provided [by the welfare system] as it used to be in Sweden before. (Interview transcript)

In this context, the appeal to the law and the court as an arena for justice struggles can be understood as a result of both the lack of the social security network that traditionally has been provided by the welfare state in Sweden and an individualisation of justice claims, which is sometimes described as characteristic of an expansion of rights-based mobilisation of justice struggles (Brännström, 2017, pp. 66-73), as expressed in one of the interviews:

> Now, every person is the architect of their own fortune; neoliberalism has individualised everything anyway. So then maybe it feels more reasonable to go to court than to organise collectively? (Interview transcript)

At the same time, while disadvantaged communities are particularly affected by the withdrawal of the welfare state, they might even in the past have been subjected to a lack of substantial access to social rights and to policing and state repression. For these communities, the state has rarely at any point meant safety and justice. Disadvantaged urban neighbourhoods are one example of this, with the experience of racist stigmatisation, and social and economic marginalisation (Rosales & Ålund, 2017, p. 353). Many of the interviewees have roots in these communities. Another example is that of asylum-seekers and irregular migrants who are entangled between the constant necessity of proving deservingness of belonging and the vulnerability inherent to the condition of deportability (e.g., Sager et al., 2016; Söderman, 2019). Yet another example is that of Roma, Sami and trans communities, all of them with different histories of state violence.[7] For these communities, the welfare state has represented an ambiguity: on the one hand, a promise of inclusion into the structures of social safety; on the other hand, a history of control, surveillance and stigmatisation.

Thus, our interviewees are drawing on experiences of social movements whose relations with the state have been characterised by much more ambivalence and less history of cooperation with the welfare state than what has been characteristic of traditional Swedish labour movements or the mainstream feminist movement. For these activists the lack of equal access is about a *continuous* lack – rather than a recent *withdrawal* of equal access to welfare state functions.

[7] For the indigenous Sami population, this is the history of centuries of settler colonialism (see Lundmark, 2008). For Roma and Traveller groups, it is a history of policies shifting between exclusion and forced assimilation (see Svanberg & Tydén, 2005). For trans people, the acknowledgement by the state has meant a recognition that is strongly conditioned by medical terms (see Alm, 2000; Bremer, 2011).

For social movements, the process of juridification has had a range of effects with varying phases and aspects (Gustafsson & Vinthagen, 2010, p. 645). Its impact on the ways in which social movements work towards transformation has been discussed in Sweden since the 1970s, initially in what was called "legal strategy debate" (in Swedish: *legalstrategidebatten*) in which Marxist activists warned about the risks that the process of legal interpretation would overshadow the ideological core of the political conflict and eliminate its other – cultural, moral, political or economic – aspects. This kind of pessimist approach to law (Mathiesen, 2005) has been challenged by postmodern understandings of state and law and the Foucauldian definitions of power, which opened up more heterogeneous, complex and nuanced approaches to the practice of law by social movements (Gustafsson & Vinthagen, 2010, pp. 648-649).

Although our research participants' approaches to the potential and risks of the process of juridification vary, there seems to be a consensus about the prevalence of a legal turn and its perceptible effects on social justice struggles. Recurring is also the caution with which juridification is approached. Such doubts are also prevalent in debates among activists and in social and political movements (e.g., Kakaee, 2018; Katzin, 2018), something that is also present in our material:

> I believe that juridification is dangerous, because it becomes very elitist and also it creates strong feelings of powerlessness… [It] might be the biggest ideological scourge of our times, exactly because it shifts ideological issues to seem like a question of interpretation, or like a kind of object for objective assessment – like that 'it is like this or like that.' And that in this way underlying conflicts of interest or conflicts of power are concealed. (Interview transcript)

The issue of social movements engaging in legal strategies tends to be phrased as an either/or question, both by the movements themselves (one example of this is the above-mentioned legal strategy debate in Sweden) and in the literature on social movements and the law (see Smart, 1989, for a feminist sceptical approach): is it most strategic to turn to legal practices in a social justice struggle – or not? In this article, we are inspired by the legal mobilisation perspective (McCann, 2006, in the US, and Gustafsson & Vinthagen, 2010, in Sweden) and take our point of departure in the realisation that legal practices constitute an important part of social movements' work. Instead of exploring the potential and risks for social movements engaging in legal practices, our focus is on conditions, strategies, (subversive) uses and reflections in relation to law. As a consequence, the article tries to decentre the law, by showing how legal practices need to be understood as *one* among a range of strategies, often subordinated to others, and always specific to the context. At the same time, we attempt to show that law is an important frame that conditions the subjectivities, existence and struggles for justice (cf. McCann's discussion on how law is not external to citizens, based on Thompson, 1975). We build here on feminist understandings of subjects,

subjectivities and resistance as emerging always in relation to frames that constitute, restrain and condition them (e.g., Butler, 1997).

Turning to Legal Practices – Conditions and Ambivalences

In the following, we present some examples of legal practices with which our research participants engage. The main aim is to illustrate the complexity of strategic routes and choices involved in social movements' engagements with law. The examples encapsulate the sometimes messy conditions under which activists and organisations feel compelled or forced to resort to the law. An important point is that it is difficult to separate the aims of the long-term mobilisation at the core of these movements from the situations of immediate urgency they respond to – the immediacy of situations often seems to require acute legal interventions that might even stand in tension with the overarching aims.

The first example comes from two interviewees who are engaged in an organisation that offers legal support to social movements and to individuals fighting structural inequalities, and concerns their work against an eviction of a camp set up by Eastern European Roma people.

> It was a camp that was located on the outskirts of the city centre; around 150 people lived there. There were lots of complaints to the Environmental Department [ED] by angry people, so the ED worked hard to get rid of the camp. (Interview transcript)

The interviewee recounts the different legal ways the city's Environmental Department (ED) tried to enable an eviction, and their organisation's role in advising how to halt the process.

> The ED… tried to evict the camp by saying that it was an environmental hazard… and then we appealed that decision… [In the appeal], we tried to write a lot about human rights and the Roma question and how Roma people have been subjected to forced displacement over the years. But, in the end, we won based on formalities. We won because the decision to evict the camp was not sufficiently well communicated to the inhabitants in the camp. So that was a bit of a shame. It would have been better to win based on something else. But, at least, the camp still remained. (Interview transcript)

The story of the struggle for the Roma camp is one of many stories involving appeals to courts or other legal interventions with different state agencies. It is typical to our material in how the issues placed at the centre by the activists (here, Roma rights and state violence against Roma) have little place in legal practice and tend to be replaced by formal issues (here, the formalities of how decisions were communicated to the camp-dwellers). It is also typical in that legal practice is accompanied by other types of activism. The mobilisation

against the eviction was developing among the people who lived in the camp, in cooperation with some local allied activist groups, at the same time as the lawyers were struggling to stop or postpone the eviction. Eventually – after months of occupation, protests, demonstrations and appeals – the struggle failed and the camp was evicted (Persdotter, 2019).

The appeal against the eviction decision illustrates a basic position from which many of the interviewees work: one in which the law becomes a response to events understood as state violence. The legal practices are a sort of self-defence against oppressive and unjust state treatment. Such self-defence can take different forms: direct responses, as in the case above, or legal advice to disadvantaged groups, as in the next example. An interviewee working with LGBTQ asylum-seekers describes his practice as follows:

> I give legal advice to newly arrived LGBTQ migrants, mostly asylum-seekers… There can be quite a lot of different issues, but most of it is about the asylum process, like how it works. It might be someone whose asylum application has been refused, or someone who needs support to prepare for the asylum investigation at the Migration Agency, or wants to prepare before appearing in the Migration Court of Appeal… A very common question is that the person who seeks advice has just applied for asylum, maybe a couple of months before, and wonders what is going to happen. They might feel, already after maybe three months, that the waiting time is very long. They feel anxious about what it is they will have to go through… They might think like 'My sexuality or my gender identity is not really something I can present evidence of'… So I try to say that of course there is no hard evidence, but the only thing that you have is your own story. I encourage them to structure the story as clearly as possible in their own head, so that they have it prepared when they come to the Migration Agency. (Interview transcript)

The interviewee tries to prepare LGBTQ asylum-seekers for a process in which the very fundamental recognition of a particular aspect of one's identity as an LGBTQ asylum-seeker is dependent on the capacity to narrate one's self in the language and frames imposed by the authorities and the law. Legal advice is conditioned by these interpretations of the law by the Migration Agency:

> My advice is normally to arrange the story about one's experiences in a chronological way, because that is the structure that the Migration Agency wants… I think that the Migration Agency's way of handling LGBTQ cases in general is very dissatisfactory, and far too grounded in stereotypical ideas about gender identities... There is a very narrow idea about what an LGBTQ person should have experienced. It is difficult for many case workers to accept that a person has not felt shame or guilt when realising… one's sexuality or gender identity. So that is something that the investigator often really goes for then, like 'Aha, but how could you not have felt shame? That is remarkable since the society you come from condemns this identity so much!'… It is clear that the investigators expect this kind of very specific process: that one has to have felt a little bit different than other kids, then at some point one should have started to

> identify why one has felt different, and connected this to one's sexuality or gender identity and then also started to question it, felt confused for a period of time, maybe felt guilt or shame, and then finally arrived at a kind of acceptance. And then, one is expected to be able to reflect and describe this whole process. (Interview transcript)

While staking a claim through legal processes always entails submission to a particular kind of framing (cf. Smart, 1989), for asylum-seekers it actually means living up to the Migration Agency's understandings of credibility (Wikström, 2014; Wikström & Johansson, 2013). This kind of legal practice is conditioned by another type of vulnerability with regard to the law: for pending or refused asylum-seekers the legal process could be described as the only possible route for being granted legal subject position in the first place. To be admitted to the community of subjects, the condition is to succeed in this process and within its tightly regulated framework of interpretations.

Another example of legal practice is an action for damages in a case that started with journalists uncovering the fact that a police district in southern Sweden had kept a secret register of Roma people. While this type of practice is not conditioned in the same way by a situation of emergency as the two above examples, it can still be considered to be an immediate response to oppressive state practices.

> When it was revealed in 2013, we had already been working with Roma issues and Roma rights. And we had identified this as a minority group exposed to human rights abuses. We had established contacts within the Roma community. So when this was exposed… members of the Roma community were very upset and we immediately started having a dialogue with Roma representatives. And they also contacted us in regards to this. And we discussed how we should approach it: 'What is the right way to proceed?' And together we took the decision to wait and see how the already established system would approach the issue. Because official investigations were initiated right away… And then these different investigations presented their decisions and none of them could establish that the register had been based on ethnicity… The police were criticised and damages of 5,000 SEK were awarded to all of those who had been registered. But at the same time it was concluded that, despite the fact that basically there were only Roma people on the register, the register was not compiled on ethnic grounds. (Interview transcript)

In this case, the decision to undertake a legal action was a reaction to the state's failure to recognise and remedy its own oppressive practice. This failure was identified both by the Roma community and by the organisation that supported them as a lack of recognition of a specific character of the register – that is, the ethnic grounds for the register. In this sense, the legal practice is a response to the failure of the state to be able to grant recognition in a situation where a minority group theoretically holds rights.

These three cases instantiate different legal practices: from appeals to decisions by authorities, through legal advice, to civil action against the

police. Moreover, they illustrate positions from which people represented by these activists resort to legal practices: that of their extreme disadvantage in front of the state and the law. Our understanding of such engagements with the law has a point of departure in one main tension: between a critical approach to the law and the judiciary as a space for social justice struggles and the above-described positions that are already defined by the law and from which the law cannot be ignored.[8]

Critical Practices and Rearticulations of Law

> We try to show that the politics… that the law is political… and that sometimes maybe we should not use the law. (Interview transcript)

Feminist scholars have questioned the centrality of law to the regulation of social relations and its potential for changing these (Lacey, 1998, p. 8). Similarly, Carol Smart does not limit her critique to problems internal to the law and judicial logics, but claims that the role legal knowledge has been given even in critical discussions is itself problematic. She writes that "part of the power that law can exercise resides in the authority we accord it" (Smart, 1989, p. 25). This is reflected in our material when interviewees express concerns with centring the law and the court as the main arenas on which social justice struggles should take place. Interviewees underline, for instance, that legal work is just *one strategy among many* and that the practice in itself can have many other results than the strictly legal ones:

> The legal work is just a strategy. There [in the neighbourhood in which the interviewee has organised socially disadvantaged youth during a period of conflicts with the police] we worked with culture, we worked with popular education, we worked with study support, we organised demonstrations, we worked with the language, with media; we wanted to be our own voice for what was going on and give another image of the events. So, of course, that became a much broader work which could mobilise more people… The legal work is just one more dimension in that work. The danger is when one overestimates the capacity of law to change these issues around unemployment or vulnerability or… 'Well, yes, now this court has said it is not allowed to beg in the streets, so then we can't do anything about that.' (Interview transcript)

[8] We are not addressing here more specific discussions about alternative dispute resolution that in many contexts has been increasingly used as a way of shifting from the court as a main arena in the search for justice. This is partly because these were not mentioned by our participants, and partly because of the traditional central role of administrative arenas in the Swedish welfare state (Reichel, 2011). It is, however, important to stress that many of these methods, such as ombuds, mediation or arbitration, have traditionally been very important for movements such as trade unions or tenants' interest organisations. For more discussion on alternative dispute resolution in Sweden, see Lindblom (2008).

We understand the interviewee's account of his legal practice as a way to *decentre* law. Another informant describes vividly how her legal advice point, in another neighbourhood in a large city, has become in itself an example of how legal practice might evolve as being productive in unexpected ways:

> I regularly set up my own legal advice point in a library in a socioeconomically disadvantaged neighbourhood… I thought it would be purely legal issues… But it is just as much a meeting point. People come and say 'I have a legal issue,' but… they just want to hang out… So that really confirms my idea that the law is much more than paragraphs… We talk about police violence, about the privatisation of public housing, about gentrification, exclusion – even children's education, that I don't know anything about!… It has become a meeting point. (Interview transcript)

Here, the impact of the practice is not limited to its legal effects; instead, its other aspects are stressed. This experience and articulation of legal practice can be understood as another way of decentring law: the meeting space that this lawyer's practice has established is having consequences and effects in people's lives, regardless of what happens with the legal case that took them there.

The interviewees who define their engagement in terms of movement lawyering are most explicit with placing legal practice on the margin in relation to other tools in social justice struggles. In this approach, lawyers are treated instrumentally and their work is understood as subordinated to the movement and communities that have the priority to define problems at stake. One lawyer argues:

> I believe that one needs to be very humble as a lawyer and not believe that 'I am the one who knows best because I know the law'… In this case, we chose to take the point of departure from the movements and the communities and these people's wishes and to see what is legally possible to do… and I believe that, when it comes to these kinds of questions, those who have been subjected [to the oppressive practice] should be the ones who own the problem. (Interview transcript)

Critical Reflections on Neutrality and Objectivity of the Judicial Arena

Another central issue that emerges when social justice struggles take place in the judicial arena has to do with the inherent tendency to depoliticise conflicts when approaching them as matters of objective and ideologically neutral interpretations. This has been analysed in the Swedish context by Moa Bladini (2016) and Hanna Wikström (2014), who discuss problems with the positivist ideal of objectivity on the epistemological level. They show how the feminist contributions to discussions about knowledge-as-situated (Haraway, 1988) are particularly pertinent to law. Bladini suggests a form of

situated knowledge as an ideal practice of lawyers and judges within which the *ideal* of objectivity can be kept at the centre while the approach to actually *achieving* it is more pragmatic. Wikström (2014) offers a critical insight into how practices of belief, interpretation and knowledge production are central to power structures produced in and through the legal arena – she applies Miranda Fricker's (2007) concept of *epistemic injustice* to understand what is at stake in the clash between asylum-seekers' own accounts of their experiences and the judgements made by the migration authorities.

Many of the interviewees are engaged in pursuing justice for people who are excluded by invisible structures by the state's negligence, or by the law *itself*: undocumented migrants, indigenous people, marginalised EU citizens, and trans people, are groups whose life situations and access to rights have been defined by judicial regulations and by legal categorisations. The experiences of these features of the law – its ability to withdraw, informally but also formally, and its sometimes violent effects of producing vulnerability – are a source of scepticism for several interviewees. This makes them question the dominant picture of the Swedish judicial system as characterised by a particularly strong tradition of objectivity, a picture that collides with their experiences of the law as deeply implicated in structural injustices. One of the interviewees interrogates law's neutrality with specific attention to racist structures:

> That has probably been the toughest thing for me to see during these years, when I feel like I have to bite my lip not to let it affect me emotionally: the times when it has become very clear to me that there is a racist undertone in all this. Or when I have noticed also that, damn it, we are not… equal before the law… It doesn't always have to be racism that makes us unequal, but often it is. So that means we are not equal before the law! The *one thing* that is supposed to be the same for everybody, and make us equals, if anything. (Interview transcript)

Several interviewees are also doubtful whether their critique can be articulated through the legal system at all. They do not lack examples of specific cases in which the law has been applied successfully to address issues of sexual violence, racism or discrimination. Still, the victories can sometimes be understood as contributing to granting legitimacy to problematic discourses and institutions of the law:

> The thing, or the problem, when people try to pursue social change through the law… is that they often choose cases that are perfect, like totally clean. Cases where the person who is the victim has done everything right, and the perpetrator has done everything wrong, and then they win that case, and the result becomes this feeling that 'yes, there is justice!' (Interview transcript)

This kind of critique of the law and the judicial arena is crucial for understanding the interviewees' cautiousness with carrying on social justice struggles in courts.

> I think one should work with those cases. I don't say one shouldn't. I don't say that organisations that do that are doing anything wrong; but if one does it, I think it is important to also problematise the court as an institution. To have a discussion about the role of the law and its function and how it operates – how it reinforces power structures and how it reinforces an image of these power structures, of itself really, as a guarantee for justice. (Interview transcript)

Yet, when describing the work around court cases, one of the interviewees shows that, since the effective practice of law for social justice is dependent on broad mobilisation and activities in other arenas than the judiciary, legal cases can also have effects beyond the court's decision. In this sense, legal practices consist in *re-politicising* the issues at stake, by making visible how individual instances of injustice are symptomatic of broader structural problems and by placing them in a political and social context. Such re-politicisation is often an effect of a coordinated work on different arenas: the judicial one, the political one and in the media:

> I think there was a need to illustrate [the problem] in some way to the public, in order for it to become an important social issue. And it is very effective to use a trial, as it gives dramaturgy that the media easily buys. This is just how it works. And it brings matters to the fore. (Interview transcript)

Thus, court cases might be used strategically to open up a political debate about certain forgotten or marginalised issues. Thanks to the rhythm of legal proceedings, it becomes possible to keep them alive by creating a kind of media spectacle around them:

> This was a strategic litigation, in a way: that the case in the end was not about obtaining redress for those we represented, but to reach the bigger question. To make the discrimination visible, but also to obtain redress for all of those who were affected… Things happen [during a trial in national courts]. We come with an indictment, the state responds, there is a trial in court, an appeal, another trial in the court of appeal, etc. So, all the time there are things happening, and because of this we feel that we can keep up the debate and discuss these serious questions. (Interview transcript)

This kind of legal intervention is consciously used as a strategy that, in order to be effective, needs to be constantly placed in the broader political and social context. What is criticised as a problem with the judicial approach – the focus on an individual victim (Brown, 1995; Spade, 2015) or individual perpetrator (Blee, 2007; Freeman, 1995) – might be strategically turned into an advantage, when a particular political and social problem is effectively illustrated with individual cases. Thereby, structural problems are translated into stories with faces and names. Critical legal practices work here in two directions: on the one hand, they translate and lift up individual cases to make broader social justice struggles more concrete for the public; on the other, they attempt to contextualise concrete legal cases, showing how these need to

be understood as parts of a larger social or political problem, like in the following reflection:

> In my opinion, judges in court are people who pick up on the general political debate, so I believe that the media attention we got influenced the result of the case. This is why we worked hard so that there would be multidirectional action there… and there were demonstrations and campaign films on YouTube… It was a huge work, this too. (Interview transcript)

Another way of engaging with entanglements between politics and the law is to disclose the political nature of the judiciary and legal practice and to question the actual neutrality of the legal system or of some laws. One central contribution of the movement lawyering is this kind of work for re-politicising the legal, as expressed in a report written by one of the founders of the network:

> This is a critical account of the law and the text is grounded in the politics of law as it does not draw a clear distinction between the law and politics… The point of departure of this report is an understanding of the law as highly politicized, in how it is created, applied and how it influences all of us. (Al-Khamisi, 2015)

Law as a Resource

> I want to make law accessible. You know, it drives me crazy that it is so… that it belongs to an elite! (Interview transcript)

Moving outside of the inherent tensions within the legal arena, there is another set of concerns present throughout our material. It is an understanding of the law as a *resource* that is unequally distributed in society and the judiciary as a centre of power that is dominated by an elite. These concerns represent a more materialist approach that treats law similarly to other material resources. Interviewees address this inequality with demands or practices that we will describe as a *redistribution* of access to the legal arena.

Several interviewees identify the unequally distributed knowledge of law as a central problem in terms of access to justice, equal treatment and more generally in terms of an individual's or a community's relationship to the state. Hence, many legal practices consist of education and advice for different groups. The most obvious example is legal advice for asylum-seekers. But educational activities organised by the interviewees are also directed to people from disadvantaged communities, who despite their formal rights often lack actual access to justice.

> The case in point is that the law works like this: these are our rights, but these are not equal for all. So, even though the law should formally apply to all the citizens, that is not the case, because your personal capacity to make use of your rights is

> almost crucial for whether you will be able to do it or not. And some people live in very difficult situations, where they often really urgently need to be able to use their rights, but they are also often the ones lacking in legal support, while the upper or affluent class of society often has access to very good lawyers. […] This is in a way a painful entry-point to the law. It is something that one can make use of in order to achieve some kind of political change. (Interview transcript)

Moreover, the idea of redistribution of the law goes beyond the notions of access to justice or equality before the law and includes practices of extending the application and interpretation of existing laws. According to such an approach, it is not enough to pass laws that are aimed at eliminating different forms of injustice, like anti-discrimination legislation; case law also needs to be developed for these laws to be effective and not misused:

> It really is a challenge to create an impact for the legislation that we already have, for example the legislation on discrimination. Then someone is needed to work with these cases, and who is going to do that? Civil society cannot do it. The discrimination Ombudsman says that they mainly work on strategic cases… And then, of course, it will be the most vulnerable who won't have the capacity. (Interview transcript)

This approach to law as a resource that needs to be redistributed has often grown from interviewees' own situated routes towards the practice of law. The interviewees who underscored their backgrounds in disadvantaged or racialised communities as decisive in their choice to become lawyers pointed out that the maldistribution of the law is already visible in law schools:

> As soon as I entered the classroom at the law school it was very striking how homogenous it was. In my cohort I think I was one of three black people in a class of 300 people. And that is not exactly representative of what society looks like. And I think that is a problem that continues into work life, like who sits in the courts and passes the judgements, et cetera. And I felt that there was a certain language in the law studies programme and an expectation about who we would be as students, expectations of certain shared references… Like when a lecturer says: 'When you are going to inherit' [laughing], and I am very conscious of the fact that I will not inherit anything. And maybe it is reasonable that it happens, since a certain group is overrepresented in the classroom; but during the first two years I was feeling: what am I doing here? (Interview transcript)

Thus, the issue of redistribution is about who owns the judicial field, who is overrepresented in it and who is excluded from it. This brings us back to the ways in which the interviewees are embedded in new social justice movements in Sweden and to the importance of the relation between redistribution and representation for their struggles.

Concluding Discussion: Decentring, Re-politicising and Redistribution

In this article, we have traced the interviewees' conceptualisations of what they "are doing" when they act in the legal arena. Our point of departure has been that resorting to law is often a response to subjection to an unjust legal system, to an oppressive treatment by the state or to the situation of disadvantage and deprivation. Thus, rather than a strategically chosen tool for social justice, legal practice could be understood as a kind of self-defence. While there is a variation among the interviewees in their views on law and in their commitment to it, all of them engage in a critique of law as a tool for social justice struggles. Their reflections on their own legal practices are thus informed by this very fundamental ambivalence between the ideological commitment to the critique of law and the position from which they act, in which it is not possible to ignore the legal arena.

Rather than taking a stance for or against the law as a tool for social justice struggles, we have attempted to understand the methods and the effects of legal practices that grow from this kind of tension. We have done this by analysing not only practices themselves, but also the ways in which those who engage in them make sense of them as a part of their commitment to broader political issues. While we cannot analyse *actual* transformative effects of the critical legal practice based on our material only, the accounts of our interviewees indeed indicate that both practical strategies and ways of accounting for these aim at subverting and challenging the law while at the same time using it. Throughout the analysis we have conceptualised these strategies for critically engaging with law as *decentring*, *re-politicising* and *redistribution*.

Decentring takes place when both methods and effects of the legal practice go beyond the legal arena. In this way the interviewees resist centring the law, something that has been identified as one of the core risks for social movements when engaging in the legal arena. Such decentring is achieved when legal practices are subordinated to other elements of social struggles through an instrumentalisation of the law whereby it is treated as just one tool among others or as a "necessary evil." Decentred legal practices serve as responses to the needs that appear in activities that are more central to social struggles – such as political debate, protests, and other forms of mobilisation and resistance.

Re-politicisation has to do with reintroducing the political to the legal arena, which is often criticised as creating a semblance of neutrality and objectivity. It can take the form of a more general critique through which the law and its institutions are treated as reflective of society and inherent power relations. But it also happens when the justice claims made in the legal arena are staked in a way that goes beyond the individual case and make structural injustices visible.

Finally, everyday practices of legal advice and education are often grounded in an understanding of the law as a resource that is unevenly

distributed in society, and thereby contributes – similarly to other forms of maldistribution – to sustain specific power relations. Seen in this way, these legal practices are not only about access to justice, but also about redistribution of resources and power in society.

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