The European Union and critical legal cartography: Old geopolitics, worn geopoetry and the return of geopower

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Abstract

The European Union (EU) arose, in purpose, to undo the legacy of European geopolitics. Over decades, the EU has attempted to disrupt, or ambitiously transform, how its constituent communities "imagine" the space and boundaries of the Union's geography. Yet, some 30 years since the Maastricht Treaty, old geopolitics manifests a distinct inertia over the mental maps of EU policy-makers and EU legal scholarship generally. For instance, should one query the EU's cartography, it is likely an old geopolitical grammar conditions how policy-makers and scholars "map" and see the Union's boundaries: 27 members, spanning 4,233,255 km^2, and comprising a population of 447 million. Obscured is how the EU has generated a transnational and performative geography, with novel boundaries of rule that operate differently in quality and scale. In a nutshell, cartographic perceptions in EU policy-making and scholarship have rarely ventured beyond the terms of statist geography, or the worn geopoetry of "shared" or "pooled" sovereignty between Member States. This state of cartographic perception is curious, since the EU has been a geo-institutional project created to disrupt the traditional mentality of geopolitics and, further still, expand horizons of imagined social spaces, boundaries, and belonging(s).

Keywords: critical geography; European Union; geopower

Floris de Witte's introduction flags the remarkable inattention given to spatial and temporal perspectives in European Union (EU) studies. My contribution seeks to raise that concern an octave further, since the genesis of the European Coal and Steel Community was, in fact, driven by the aim to re-visualise Europe's (economic) geography in transnational terms. Or, put more bluntly, the EU arose purposely to undo the legacy and geography of European geopolitics.[1]

Over decades, the EU has attempted to disrupt, or ambitiously transform, how its constituent communities 'imagine' the space and boundaries of the Union's geography. Yet, some 30 years since the Maastricht Treaty, old geopolitics manifests a distinct inertia over the mental maps of EU policy-makers and EU legal scholars generally. There lingers a hegemonic cartography that conditions – ever so quietly – the way that Europeans visualise their lived political, economic and social experiences. The affect resembles what one would encounter should pupils work throughout their schooling with only gridded-paper notebooks. Thereafter, the pupils will intuitively expect, or consciously demand, the gridded form and aesthetic when making notes about everyday 'reality'.

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[1]Robert Schuman, *The Schuman Declaration*, 9 May 1950, see <https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration_en>.

Correspondingly, should one query the EU's cartography, it is likely that an old geopolitical grid conditions how policy-makers and scholars 'map' and see the Union's boundaries: 27 members, spanning 4,233,255 km², and comprising a population of 447 million.[2] The EU has generated an obscured transnational and performative geography, with novel boundaries of rule that operate differently in quality and scale.[3] Thus, the invisible elephant retains its effervescence: a statist geopolitical model continues to edit legal cartographies of the EU's present.

In fact, cartographic perceptions in EU policy-making and scholarship have rarely ventured beyond the terms of statist geography, or the worn geopoetry of 'shared' or 'pooled' sovereignty between Member States.[4] This state of cartographic perception is curious, since the EU has been a geo-institutional project created to disrupt the traditional mentality of geopolitics and, further, to expand the horizons of imagined social spaces, boundaries and belonging(s). Yet the old mindset remains persistent, even among those policy-makers and scholars committed to the EU's historical purpose of geopolitical change.

The case for *curiosity* is particularly striking when one considers the geo-visual revolution taking place both within and outside the EU. For more than a decade already, statist cartography has been confronted by the rise of – what disciplinary geographers have termed – 'people's cartography'.[5] As Christine Leunenberger and Izhak Schell explain, the growth of map-making technologies and the widespread collection of 'spatial data' have shifted the focus of cartographic representation away from the long-time visual monopoly held by statist mapping:

> Web-based software, ranging from collaborative mapping projects to open-source mapping applications to Google Map Maker, allows users to make their own maps, gather data, and integrate them into different cartographic layers so as to disseminate 'alternative mappings' and circulate 'counter-mapping and counter-knowledges'. Such unprecedented access to map-making technologies provides new forums for political action and for shaping geopolitical visions.[6]

Accordingly, today's geographic world is awash with new types and methods of earth mapping, with foci that frequently confront the axioms of statist geography. For instance, mappings of global weather patterns, carbon emissions, regional watersheds and transborder ecosystems have all gained prominence, owing to the transborder nature and urgency of climate change, as well as decarbonisation strategies. Even recent election mappings (ie, Canada, France, Germany and the United States), once presumed to confirm state-centric geography, in fact reveal political persuasions aligning transnationally into urban versus rural geographies of belief and belonging.

More significantly, cartographic practice has migrated largely from the boundedness of paper – which modern states monopolised for centuries – to digital mapping platforms that have empowered a host of non-state actors, multinationals, interest groups and activists via the rise of geographic information systems, mapping software and/or mobile phone apps.[7] These visual developments have enabled contemporary map-making practices to increasingly expose the visual silences, omissions and violence that have occurred historically, with the imposition of a state-centric worldview over the many diversities of social and geological earth. Notably, such

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[2]European Union, *The European Union: What it is and What it Does* (Publications Office of the European Union 2018) 10–11.

[3]See, for instance, Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press 2020).

[4]Bradford, *The Brussels Effect*.

[5]Jeremy Crampton and John Krygier, 'An Introduction to Critical Cartography' 4 (1) (2006) ACME: An International Journal for Critical Geographies 12.

[6]Christine Leunenberger and Izhak Schnell, *The Politics of Maps: Cartographic Constructions of Israel/Palestine* (Oxford University Press 2020) 2.

[7]Crampton and Krygier, *The Politics of Maps*, 12.

deconstructions have challenged traditional geopolitical assumptions on the given and bounded nature of statist mapping, and have brought attention to the constructed, constantly evolving and contested origins of all spatial configurations of authority.[8]

Yet the case for *no curiosity* remains strong, in large measure because it cleverly concedes much to novel cartographic approaches and ways of viewing geo-institutional spaces. Where the contrary view differs, pivotally, is on whether this prolific geo-visual revolution has unseated the notion of territory as a hegemonic grammar for how earth space is visually and, thus, institutionally translated. In other words, traditional geopolitical perception persists because it is tied to long-held territorial understandings and, crucially, geo-institutionalisations, which continue to exert enormous influence over how policy-makers and scholars see and think of earth space.[9] As Stuart Elden helpfully summarises: 'even as the state becomes less the focus of attention, territory remains of paramount attention'.[10]

Hence, geo-visual revolution or not, centuries of mapped adherence to 'territorial' earth has instilled, what Paasi has called, a historical process of 'spatial socialisation' – and hierarchisation – sterilising all social and geological phenomena into the master notion of (state-centric) territoriality.[11] This brings us to an interesting juncture and question: are most lawyers, including EU lawyers, in effect normative and spatial guardians of a constructed, but no less entrenched, modern state system? If yes, where might this leave the EU's original purpose of undoing European geopolitics? Is it credible that the EU still claims to disrupt, or alter, the incumbent geopolitical worldview, while its tools of visualisation remain beholden to the legal cartography of state-centrism?

The potential answer to these difficult questions may reside in a notion that EU policy-makers and scholars are very familiar with but have not applied vis-à-vis territoriality: institutional bargains. The notion of 'bargain' refers to how fundamental regimes and institutions behind the modern state system (eg, statist geography, general international law, traditional geopolitics, the United Nations, have always relied on *essentialised* assumptions about norms and rules that govern international practices.[12] The master norm of territoriality is no different, with its visual doctrine that carves up the earth into 200-odd territorial states. Notably, territoriality rests on the modern presumption of anthropocentric dominance over the planet – which was always a vulnerable premise.[13] The geo-institutional result has been a tapestry of territorial units serving as *the* inherent puzzle-pieces of earth space, thus externalising or effacing prospects that the earth may possess geo-subjectivity, agency and power on its own. Put more bluntly, the traditional geopolitical worldview has rested upon this core denial within territoriality, which defines the foundational bargain of an earth substituted by the iconic World Map of States.[14]

However, the denial of earth's geo-subjectivity, agency and power has become a struggling fiction. For instance, stark geophysical transformations, such as climate change and vanishing Arctic ice, have propelled – in open view – geologic forces that mark the earth's actual supremacy over human activities and existence. Moreover, an elite sobriety has emerged acknowledging how

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[8]Jeremy Crampton, 'Cartography: Maps 2.0' 33 (1) (2006) Progress in Human Geography 91.

[9]Alexander B Murphy, 'The History and Persistence of Territory', in David Storey (ed), *A Research Agenda for Territory and Territoriality* (Edward Elgar 2020) 25–42.

[10]Stuart Elden, 'Missing the Point: Globalization, Deterritorialization and the Space of the World' 30 (1) (2005) Transactions of the Institute of British Geographers 9.

[11]Anssi Paasi, 'Bounded Spaces in a "Borderless World": Border Studies, Power and the Anatomy of Territory' 2 (2) (2009) Journal of Power 226.

[12]Ian Clark, Sebastian Kaempf, Christian Reus-Smit and Emily Tannock, 'Crisis in the Laws of War? Beyond Compliance and Effectiveness' 24 (2017) European Journal of International Relations 319–32.

[13]See Nikolas M Rajkovic, 'From Extraterritoriality to Eco-Territoriality? How Legal Ecology Confronts the Science of Sovereignty's Inscription' 42 (2020) Houston Journal of International Law 283.

[14]See Angela Last, 'We Are the World? Anthropocene Cultural Production between Geopoetics and Geopolitics' 34 (2/3) (2017) Theory, Culture and Society 147–68.

our biopolitical past, present and future has always been 'governed through and by geophysics'.[15] As stated aptly by Kathryn Yusoff, 'much of the earth's geohistory has [never] supported life at all'.[16] This means that the earth's geo-subjectivity, agency and power is difficult to still deny and marginalise doctrinally, which, in turn, suggests the anthropocentric 'bargain' underlying statist geography and traditional geopolitical grammar faces crisis. The modern presumption of biopolitical (human) sovereignty and government standing at the root of geo-institutional ordering, confronts what critical geographers have referred to as the ultimate return of geopower – which then stimulates seemingly geopolitical reactions.

For EU legal scholarship, such geo-visual crumbling prompts the renowned observation of Naomi Klein: never waste a good crisis.[17] The rise of geopower not only shocks the geo-institutional bargain of statist geography, it challenges profoundly how contemporary policy-makers and scholars grasp the immateriality and materiality of boundaries beyond territorial hegemony. The monopoly of statist geography, upon which much of law has rested heavily, seems to be losing visual traction and domination. The earth, inhuman materialities, and geopower all remind us of how all social worlds (ie, a world of states) are an effect of and affect the planet.[18]

This implies a mutating geo-institutional bargain, which potentially accommodates geo-subjectivity, agency and power. This is where EU law's heterogeneous and pluralist appreciation of boundaries provides a normative means for undoing anthropocentric and geopolitical mapping. Yet, for this to happen, policy-makers and scholars should be less fearful of the EU's shadow (ie, the novel geo-institutional map that the EU has in fact materialised). To make visible how the EU's evolving of boundaries and mutations of territoriality extend a different geographical and juridical approach that statist geography and traditional geopolitics have denied. In short, the EU needs critical legal cartography to un-map *the globe as earth* that Europe created, and thus undo the deepest legacy of European geopolitics.[19]

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[15]Kathryn Yusoff, 'The Anthropocene and Geographies of Geopower' in Mat Coleman and John Agnew (eds), *Handbook on the Geographies of Power* (Edward Elgar 2018) 205.

[16]Yusoff, 'The Anthropocene and Geographies of Geopower', 204.

[17]Naomi Klein, *The Shock Doctrine: The Rise of Disaster Capitalism* (Knopf Canada 2007).

[18]Yusoff, 'The Anthropocene and Geographies of Geopower', 205.

[19]Bruno Latour, '*Onus Orbis Terrarum*: About a Possible Shift in the Definition of Sovereignty' 44 (2016) Millennium Journal of International Studies 305, 307–9.