

# Bourdieu's 'The Force of Law'

## Interview with Richard Terdiman

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### Abstract

Bourdieu's outline of a sociology of the juridical field was published as 'The Force of Law: Toward a Sociology of the Juridical Field' in *Hastings Law Journal* in 1987. It was translated by Richard Terdiman, who also wrote the 'Translator's Introduction' to 'The Force of Law' in the special issue of the journal. Almost 35 years later, we interviewed Terdiman about the background of the translation, the work and challenges with the translation, the choice of *Hastings Law Journal* for the publication, the impact of the work and his meeting and collaboration with Bourdieu. One implicit narrative in the interview is how coincidences can have impact on science and its dissemination. Moreover, the interview illustrates that the challenges of the translation were not as much about linguistics, syntax or differences between legal fields, but more about Bourdieu's specific terminology.

### Keywords

'Force of law', Terdiman, Bourdieu, legal field, translation, law journals

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We had the great pleasure of talking to Richard Terdiman, the translator of Bourdieu's famous article 'The Force of Law: Toward a Sociology of the Juridical Field' (Bourdieu 1987), about the background of the translation, the work with the translation, the impact of the work and his meeting with Bourdieu. Terdiman also wrote the introduction to 'The Force of Law' in the special issue of *Hastings Law Journal* (Terdiman 1987). In the introduction, Terdiman introduces Bourdieu, his sociological tools and 'The Force of Law' to an American legal audience.

Terdiman (born 1941) is Professor at the University of California, Santa Cruz, with a research focus on 19th- and 20th-century French and European literature and culture, literary and cultural theory, contemporary critical theory and cultural globalization. He has written numerous books including the important *Discourse/Counter-Discourse* (Terdiman

1985), which became one of the entrances to Bourdieu. Terdiman took part in introducing Bourdieu to an American audience in his own work and through the translation.

Bourdieu's article has been downloaded frequently, and a Web of Science Core Collection count shows that 'The Force of Law' has been cited 759 times and it has been downloaded from the journal's webpage almost 2000 times since March 2018.<sup>1</sup> 'The Force of Law' was originally published in French in *Actes de la Recherche en Sciences Sociales* in 1986 (Bourdieu 1986) and was translated into Danish in 2013 (Bourdieu 2013).

In 'The Force of Law', Bourdieu – through a concise reading of contemporary parts of the socio-legal literature – reconsiders the juridical field based on his general sociological tools, such as field, capital, habitus and practice (or 'juridical sense' (Bourdieu 1987: 820)) in order to extrapolate a research program of the sociology of law (Olesen and Hammerslev 2020). As Terdiman (1987: 805) notes in the introduction to 'The Force of Law', the aim of the article was to explore the hidden structures of 'the world of law'; i.e. how the field is structured with professionals converting ordinary conflicts into juridical confrontations and how this is dependent on the actors' forms of capital, habitual dispositions and the field's general structures. However, it was in other texts (see e.g., Bourdieu 2005a, 2005b, 2010, 2012) that Bourdieu expanded his analysis about how legal actors performed key roles in the development of modern western societies (Lenoir 2006, Dezalay and Madsen 2012, Hammerslev and Madsen 2006, Arnholtz and Hammerslev 2013).

The interview follows an implicit narrative about coincidence. Opportune situations and skills led Terdiman to become the translator of 'The Force of Law' and to publish it in the rather doctrinal and atheoretical *Hastings Law Journal*. He thereby made Bourdieu's most important text within the sociology of law accessible to an international English-reading audience. Adopting a Bourdieusian view on the series of Terdiman's experienced coincidences sheds light on how different forms of capital – produced in interplay between habitus and field – foster possible coincidences (see e.g. Bourdieu 1977, 1990). Whereas Terdiman's engagement with (Bourdieuian) sociology of law was momentarily, his introduction to the translation and the translation are now canonized readings within socio-legal studies.

The interview was conducted via Teams on 25 March 2021. The transcription has been edited in a manner that maintains the informal style of the conversation. References to work mentioned during the interview or suggestions of further reading have been added in collaboration with Terdiman.

*Q: Thank you for taking your time explaining the background of the translation. We have been wondering how you came to translating Bourdieu's article on law, when you came from literature and cultural studies. And moreover, as socio-legal scholars we have always wondered why it was published in Hastings Law Journal. But let's start from the beginning: Can you tell us a little more about your background, your relation to Bourdieu and how you came to translate 'The Force of Law'?*

RT: I had to go back and reread my archive because it's more than thirty years ago I worked on that material, including my exchanges with Bourdieu concerning the translation,

explaining to him certain things that I thought had to be slightly modified in going from French into not only English, but also into an English that would be appropriate for a law journal. Because the law journal is a field of its own, to use his kind of terminology. Just as a funny example: The editors of the journal required that I provided, for the translation, exact citations to all the authors that Bourdieu mentions. But I didn't know certain of the figures that he mentions, so I had to write to him and ask him, as if I was a student, in order to provide his documentation! But he did it very generously.

*Q: What was your own background and how did you end up translating the article?*

RT: I went to Yale University for my PhD at a time when the French Department there was distinctly anti-theory. In a very understandable reaction, my cohort of graduate students and I got very interested in theory as it was coming out of France at the time. We entered in 1963. There was already a strong interest in structuralism, which at the time mutated into the reaction in France against structuralism; Derrida published *Grammatology* in 1967.<sup>2</sup> I was in France at the time when it came out. And then I got jobs in various universities, a sequence of universities. That's probably not so interesting, but at one point in the 1980s I got a job at the University of California, San Diego campus, where a number of people of great importance were teaching, including Fredric Jameson and Louis Marin who was among Bourdieu's colleagues at the *École des Hautes-Études*. And UCSD had a program of bringing visitors and they had funds. It was at a time when universities had money, and a number of important figures came to San Diego and taught for a quarter or two quarters. Bourdieu never came. He didn't like to travel very much, although he did travel a lot. So I got interested in Bourdieu because I started researching for a book that I published in 1985 called *Discourse/Counter-Discourse*. There's a fairly substantial section in the book about Bourdieu's work. Because I was working on that tendency in culture for a segment of any population to react strongly against what I and a number of other people called – and Bourdieu calls – the dominant discourse. So, for every dominant discourse there are a number of counter discourses advocated by people who are trying to undermine the dominant discourse. You can see where that converges with what Bourdieu was studying in the various fields or registers of culture, intellectual culture, the religious culture and the academic culture and so on in the series of books that he published, starting in the 1960s and going on through the 80s. So I became part of a group of American scholars who took it as our counter-discursive vocation to try to bring French theory into the United States. And that's a whole complicated story. There are now many articles about it.<sup>3</sup> When I published *Discourse/Counter-Discourse*, I sent a copy of the book to Bourdieu. I had never met him. We had had no contact prior to my sending the book and I was simply trying to say it was a kind of tribute, letting him know his work was very important to me. I said something like this to him: 'I would be very interested if you had a chance to look at it. And your reaction to it.' And then in a kind of self-interested way, I guess, I said 'I'll be in Paris. And if there would be any possibility of our meeting, I would really be very, very grateful.' And very typical of Bourdieu he replied. I knew him as a very, very generous man, who never forgot his origins in a poor family. And that generosity was really an important part of his

character. So this unknown figure from the United States – me – from as far away as California writes to him, and he writes back and he says, ‘yeah, sure, let’s get together’. And so we did. And out of that came a number of things. First of all, I got an invitation to become a visiting professor for a semester at Hautes-Études which I accepted in, I think, the spring of 1988. So that’s one track. The other track is that my girlfriend at the time was a law student at Hastings and she became the articles editor of their law journal. You know that in the United States at most law schools the law journals have an unusual role. All the other academic journals in philosophy, psychology, history or literature are run by established scholars. But law journals are run by the students in the law school. So my girlfriend became the editor of the *Hastings Law Journal* and one day she asked me, ‘why don’t you do something for the journal?’ I mean, it was a kind of an inside job and I’m a little embarrassed about it. But anyhow, I had been reading Bourdieu’s work and I was aware of the fact that he had written the ‘La force du droit’ in 1986. I wrote to him and asked him if he would permit a translation. And again, with the generosity that I’ve mentioned, he was quite agreeable to that. And then I did the translation. I wrote the introduction (Terdiman 1987) and then we had some exchanges about details of the translation. It was pretty easy to translate it into English. Much easier than e.g. Derrida or perhaps even Foucault. Bourdieu writes in a complicated way, but in a way that comes over into English. I told him in a letter when we were collaborating that I found it necessary to break up some of his long sentences for clarity. The Anglo-Saxon academic habit is for what we call ‘plain style’, i.e. simple sentences. And of course, the French habit is exactly the opposite. I wrote my dissertation on Marcel Proust, and God knows there’s nobody who has more complex sentences than Proust; but the French theoreticians were writing in a style that was somewhat inaccessible to most English speakers, and it took some time before what we call French theory passed over. It was a kind of a coterie activity where some of us who were really interested became relatively skilled at understanding what the hell they were talking about. But many people found it a black pudding and there was a lot of resistance. So, I asked Bourdieu if it was OK to break up some of his sentences. But in fact the biggest difficulty was that he uses, as you’re well aware, his own terminology. The introduction to my translation (Terdiman 1987) tried to explain what those concepts meant. I told him that, at certain points in the translation, I would insert a little phrase that simply glossed the term that he was using to try to explain it to people who were encountering the term for the first time or not familiar with the term. And of course, he was agreeable with all of that. It was actually a fairly easy translation to do. However, the translation took a while because it’s a long article, but it was relatively straightforward, and it came out in the *Journal* in July of 87.

*Q: That’s fascinating. In the introduction, you write about these stylistic differences between English and French. What were your considerations about your audience in the United States for this article, and also in relation to the fact that you published it in a law journal?*

RT: As I was saying, and you know very well, law journals have their own habitus. I submitted the first draft of the translation to them and I sent it to Bourdieu. The editors came

back and told me what seemed unclear and should be explained better. Then we did an edit, as one always does. Almost always that kind of work improves the translation or any kind of expository writing. In that sense I think it was an unusual kind of collaboration for a French author; in France when somebody with some reputation submits a manuscript, it doesn't get edited very much. In the United States, on the contrary, there's a read of the draft by a skilled copy editor and often substantial suggestions are made for the modification and improvement of clarity, of consistency and so on. And the journal editors did that for the translation.

*Q: What were your concerns about how to translate the very French work based on French empirical studies into another field with different hierarchies. How much did you rely on the already translated work of Bourdieu?*

RT: First of all, Bourdieu does consider the American system. On a kind of recurring basis in the article he was aware of the differences. Particularly I used the term Anglo-Saxon, that's what the French call it. They encapsulate the US and the UK into this imaginary construction called the Anglo-Saxon world, though we don't really know Saxon very much anymore. In any case, I concentrated on translating the French aspects of the article for the English speaking world, because otherwise it would not have been very easy to read and because Bourdieu doesn't, in the article, use the terminology of the French legal system. But because he doesn't even refer to that terminology, I didn't have a problem translating it into English. Basically, I translated what he wrote with very, very occasional glosses to explain what his terminology meant, but I think it was much more about the Bourdieu terminology than about the legal terminology. I mean it is a sociological article basically about the French legal system and the French legal hierarchy.

*Q: Did you rely on the other English translations of his work at the time?*

RT: Actually not at all. I was reading Bourdieu in French and I wasn't very aware of the translations. In the introduction I list them, but simply for the purposes of making it possible for readers who had an interest in Bourdieu's work. It wasn't so much that I was trying to use those translations as a model for what I was doing.

*Q: How well did you know the field of socio-legal studies, and how much did you engage with the socio-legal field?*

RT: I can't really say that I knew it. As you undoubtedly know, law schools are very conservative and I don't think that the law faculty was very interested. You know, you do constitutional law and torts and so on, but I don't think that there was very much theoretical work on the law, at least at Hastings. Just again as an aside, in Northern California there are different law schools that belong to the University of California. For instance, there's Davis, which is near Sacramento. There's obviously Berkeley. And then there's Hastings, and of the three Hastings was the most conservative in its curriculum. Berkeley and Davis

are both much more theoretically oriented than Hastings. And, sociology of law doesn't help a doctrinal reading, it doesn't help you in practice, I don't know what it helps you with. That's just an aside, but it is interesting, actually, because we talked about, why the article was published in *Hastings Law Journal*, but it makes sense. It was by accident. I think that the law journal staff – the law students who ran the journal – was pushing back in a kind of, to use my term, counter-discursive way against the conservatism of Hasting Law School by publishing this particular issue, which was a special issue of the journal. The idea of the issue was to be less practically oriented and somewhat more theoretically oriented. As I remember it, this issue was an attempt by the students on the *Law Journal* to demarcate the law journal with its focus against the anti-theoretical orientation of Hastings at the time. And I realize now for the first time, that what I said much earlier about my reaction as a doctoral student at Yale, which was a conservative institution at the time within the humanities and French almost exactly parallels what I just said about the students at Hastings reacting against the anti-theorism of their faculty. I never heard anything about what the faculty thought about this issue of the journal, but I suspect that there were grumblings. What was the reception of the article then in the journal? I think that as an issue of the journal it was noticed. People noticed that it took an angle on legal scholarship that was not the dominant perspective. It was a relatively modest perspective: it wasn't a manifesto. It was a gentle prodding of the legal profession to get lawyers interested in this material, which had virtually no practical relevance for the practice of lawyers, but had interest for people like you or like me, who had an interest in Bourdieu and different fields. I'm trying to understand social political phenomena at a level beyond how lawyers in their offices fill out papers for a lawsuit against some company that injured some party. It was an attempt to be a little bit more generalizing.

*Q: The students commenting on your translation must have been quite skilled and brave if they could and would engage in comprehensive editing especially since most of Bourdieu's work was not translated yet?*

RT: Well, I think what they did was in the spirit of copyediting. Simply saying, this sentence is not clear. How does this relate to what you say over here? They were not really engaging with the theoretical content of the article, and it really wasn't their role. Well, I don't want to sound like I'm taking a lot of credit for this because, as I've already told you, the way in which this translation came about was serendipitous. So it was kind of a piece of luck that this all happened.

*Q: It seems to us that you were surprised to learn that a great number of socio-legal scholars, who use Bourdieu in their studies, rely on your translation of Bourdieu's 'The Force of Law' article and that the translation had great impact in academia?*

RT: At least I noticed by going to the journal's website that it's been downloaded about 2000 times [since March 2018], which really surprised me. Because, comparing it to my own scholarship, when you publish your book in the United States concerning French

literature, which most of my scholarship has been about, you are lucky if you sell 1000 copies, obviously, and the number is declining, unfortunately, like everything else in the academic world, at least in the humanities and social sciences. So 2000 downloads surprised me. But I'm glad to know that it had some good effect. You never know. Of course, you publish something and it is like the famous dropping a bottle in the ocean with a note inside it. Where will it go? Who will ever see it? You just have no way to know. And by the way, this conversation that we're having, absolutely came as a complete surprise. So much time has passed. I had pretty much forgotten that I had done the work, and pretty much forgotten the article.

*Q: Did the article have any influence on your career afterwards?*

RT: I wish it had. But because of my disciplinary affiliation in literary studies, writing something scholarly on the juridical system was almost irrelevant. People in literature had no or very little interest. They were interested in Bourdieu and they perhaps noticed the translation. But in the University we have periodic personnel reviews where your record gets examined by a committee and you get promoted or you don't get promoted; it was probably considered a good thing that I published this translation, but I don't suspect anybody in my University read it. It was rather read in a different world than the world of my discipline. So in that sense it was what we would call 'a one off', you know, just a kind of a separate thing over here on the side, and not a central thing. On the other hand, I would say that a lot of people noticed what I wrote about Bourdieu in *Discourse/Counter-Discourse*. That did lead to a lot of discussions. Of my books, it's the one that has probably gotten the most attention, even though it goes back to 1985. Because it was the most polemical, perhaps – polemic always gets more attention. You know, speaking louder gets more attention than speaking softly. At least in the immediate.

*Q: The first international Law and Society meeting was held in Amsterdam in 1991 and Bourdieu participated and presented his work at this meeting, not 'The Force of Law', but something else. Did you have conversations with Bourdieu after the translation about his contribution and your contribution to the social legal field?*

RT: We talked a lot about the status of the law in France when I was in Paris in 1988. And you know, Bourdieu was the busiest person in Paris. It was almost impossible to have a sit-down conversation with him. But we did. He was very generous, as I said, and we used to go out to a cafe and have a coffee together and we talked a lot about the legal situation in France, in part because it was just after, if I've got the chronology right, François Mitterrand's second term election. So there was a lot of interest in reforming the legal system, which was as sclerotic as these things ever get. In France, despite being a revolutionary country and perhaps in reaction against the revolutionary tendency in their history, the institutions and professions are very conservative. The legal system was very conservative. In its assumptions, Bourdieu's article was in a significant way a reaction against this and an attempt to explain the conservatism of the legal system. A lot of the theoretical work

that Bourdieu does in 'The Force of Law' is about that. When I was rereading the translation, reading the article, I noticed how often the implication of his analysis, particularly concerning the linguistic aspect of the legal field, points to something inherently conservative about the legal profession. The very specialized terminology that is utilized within the profession doesn't carry the meanings that are common in the language of ordinary citizens. In general professions are very, very conservative in their terminology. I have an example which I used to use when I was teaching this stuff. I would talk about the Latin word hospital. 'Hospitale' has developed a double meaning over time: In the medical profession, it's *hospital*. And in more general terms, it's *hotel*. They both come from the same word, but the medical profession being conservative in its terminology, almost exactly kept the Latin. Just brought it over into French from *hospitale*. Conversely, it evolved considerably in the more general language to *hotel* where all of us stay, but we hope we're not sick.

*Q: Did you discuss with Bourdieu if he wanted to develop the article further? Because it is, as he wrote in the article, an outline to understand the law, and then he didn't write much about law anymore besides the work on the state in different articles. Somehow this was a program of law and then he left the field again.*

RT: Well he did that with most of the fields that he examined. As I write in the first footnote in my introduction, he examined the academic field, intellectual field, religious field, the market in symbolic goods and so on. He settled in a particular area, did his research, did his writing, and then he moved on to a different area. I don't think he circled back very much. Where you might find that tendency of circling back is where he is asked by various interlocutors to consider his past work, and he gives further thoughts and precisions and reflections about his past work. But I think he moved on to try to cover the entirety of the social fields. And that meant breaking it up as it's broken up in common understanding of a number of different disciplines or areas. And once he covered that area, he moved on to the next field. As in primitive agriculture. You know, the tribe works a field until it's exhausted and then it moves. The tribe moves to a new location and start with fresh land.

*Q: What we meant was that he didn't make any empirical studies on the law like he did with the Rules of Art<sup>4</sup> and Social Structures of the Economy<sup>5</sup> and other fields, but not the law.*

RT: Yes, that's interesting. What he did was never conventional, but you are right, he didn't conduct empirical study of the legal institutions in France. In fact, I don't know why. He presided over a pretty vast enterprise and he had a number of collaborators.

*Q: Can we ask you this last question here about your own introduction? You mentioned earlier that you wanted to introduce Bourdieu's key concepts. But what were your concerns as to how long it could be? What were your considerations about explaining the legal field? And maybe all the fields and their relations and their homologies?*



RT: Well, the terminology that he uses in 'The Force of Law' is the same terminology that Bourdieu uses in a number of other places in general, and that's what I was trying to explain. And I suspect that if somebody had been moved to go beyond reading 'The Force of Law' to reading Bourdieu's work on academia or *Distinction*, etc. they, in the translations, would find much the same terminology. He developed the terminology fairly early, and he was pretty consistent in using it, don't you think? I think that if you encounter Bourdieu's work in whatever field of social life, you can move to a different field and find the same theoretical conceptual apparatus active within that field even though the field itself is quite distinct and has generally different assumptions and works in a different area. I don't know for sure if that's true, but I think the terminology doesn't change very much, even though the area of the specific field is different. One other point: I always found working with Bourdieu productive. He was the kind of person when you talked with him, he would make what seemed like a very modest suggestion. And you would realize, 'oh, that's my next article, that's what I have to write about'. And he would just sort of casually throw these things out. 'Well, have you considered this?' and you would say, 'Oh my God, I have to consider that and I will work on that for the next two years'. And, I think, he was that way with his collaborators at the European Sociology Center.

*Q: Thank you very much for taking your time explaining the background and impact of the translation, which have meant a lot to our professional careers.*

RT: This has been a pleasure. As I was saying I never would have thought that this would happen because I wasn't thinking about it at all. It was so long ago that this work was done. So to find that it has had a bit of an afterlife is very pleasing.

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## Notes

<sup>1</sup> A Web of Science query conducted 29/6-21. This number is similar to a google scholar search conducted by Dezalay and Madsen (2012). The journal webpage [https://repository.uchastings.edu/hastings\\_law\\_journal/vol38/iss5/3/](https://repository.uchastings.edu/hastings_law_journal/vol38/iss5/3/) was visited 30/6-2021.

<sup>2</sup> Derrida (1967).

<sup>3</sup> On the reception of Bourdieu in the USA, see e.g. Sallaz and Zavisca (2007), Lamont (2012), Lizardo (2012).

<sup>4</sup> (Bourdieu 1996).

<sup>5</sup> (Bourdieu 2005).

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