INTRODUCTION

Expanding the Spaces of Law

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LEGAL GEOGRAPHY: A DYNAMIC DEFINITION

Legal geography is a stream of scholarship that makes the interconnections between law and spatiality, and especially their reciprocal construction, into core objects of inquiry. Legal geographers contend that in the world of lived social relations and experience, aspects of the social that are analytically identified as either legal or spatial are conjoined and co-constituted. Legal geographers note that nearly every aspect of law is located, takes place, is in motion, or has some spatial frame of reference. In other words, law is always "worlded" in some way. Likewise, social spaces, lived places, and landscapes are inscribed with legal significance. Distinctively legal forms of meaning are projected onto every segment of the physical world. These meanings are open to interpretation and may become caught up in a range of legal practices. Such fragments of a socially segmented world—the *where* of law—are not simply the inert sites of law but are inextricably implicated in *how* law happens.

Legal geography is not a subdiscipline of human geography, nor does it name an area of specialized legal scholarship. Rather, it refers to a truly interdisciplinary intellectual project. It is less a "field" than braided lines of inquiry that have emerged out of the confluence of various intellectual interests. The now scores of articles, books, collections, special issues, workshops, conference papers, and courses that constitute this project evince a fairly wide range of topics and theoretical approaches. Some practitioners, such as the editors of this volume, may identify themselves as legal geographers, but the majority are more casual or itinerant participants whose primary intellectual concerns are elsewhere. We therefore identify the lines of inquiry that constitute legal geography more with the content of the work produced than with the self-declared identity of the scholar.

Legal geography shares important conceptual similarities with other interdisciplinary and subdisciplinary endeavors, such as historical geography, law and society, legal anthropology, and legal history. Whereas in law and society

scholarship, interactions between the "legal" and the "social" are foregrounded, and in legal history time serves as the major organizing concept, in legal geography space is foregrounded and serves as an organizing principle. Unlike either of these traditions, however, legal geography occupies little institutional presence: it has no specialized journals, graduate programs, or professional associations, and it is rarely taught in law schools or geography departments. This is the result, in part, of the relative novelty of this project as well as the inertia in processes of academic institutionalization.

Our introduction identifies and elaborates on three modes of legal geography research. The first mode of legal geography includes disciplinary work in law or in geography that is modeled on the conventional image of import and export. The second is an interdisciplinary pursuit in which scholars in law and geography draw on the work of one another and seek to contribute to the development of a common project. The third mode moves beyond the interdisciplinary to transdisciplinary, or perhaps even postdisciplinary, modes of scholarship. Although these three modes exist concurrently, the general trajectory over time has been from disciplinary to interdisciplinary and, finally, to postdisciplinary orientations. This triadic classification helps organize the rich yet eclectic legal geography scholarship that has evolved over the past thirty years or so. It is, however, also limited for two reasons. First, explorations of the relationship between law and space occurred even before the starting point of our review in the 1980s. Second, the linear depiction of these modes as progressing in time—namely, of subsequent modes that supersede what preceded them—is not fully accurate. As discussed here, antecedents of postdisciplinary work were discernible already in the 1980s, and much excellent and necessary discipline-specific work continues to be done today.

While this volume contains elements of each mode, it also urges interested scholars to move legal geography beyond the disciplinary boundaries into the horizons of a post–legal geography. Ironically, then, the ultimate success of legal geography will be in its ability to transcend the bidisciplinary focus that has characterized so much of its scholarship up to this point. The following account, while intended to provide a rich flavor of the legal geography enterprise, is by no means exhaustive.

The First Mode of Legal Geography: Cross-Disciplinary Encounters

In the 1980s and early 1990s, scholars such as Gerald Neuman, John Calmore, and Gerald Frug found space without having found geography, in a disciplinary sense. For example, Neuman (1987) attended to social space in the form of territoriality. This attention explicated dimensions of discrimination—and so, instances of

violations of equal protection rights—that had previously escaped notice. Likewise, Calmore (1995) undertook a sophisticated and sustained legal analysis of the spatial underpinnings of anti-black racism. Finally, the work of Gerald Frug (1996) and Richard Briffault (1990a, 1990b) on the spatial dimensions of community, the ideologies of localism and regionalism, and the effects of the city-suburb distinction enriched the appreciation of the placedness of law. However, these legal scholars were rarely interested in a full engagement with the problematic, complex, and fluid nature of social space; nor were they usually interested in the range of unconventional intellectual resources for thinking through the spatialities that critical human geographers were developing at the same time.

One prominent exception to this generalization in sociolegal studies was Boaventura Santos's 1987 article "Law: A Map of Misreading—Toward a Postmodern Conception of Law." In the midst of the disciplinary mode of pre–legal geography, this article portended a postdisciplinary ethos. Specifically, Santos opened up unconventional ways of understanding spatialities in the service of initiating "a new [postmodern] legal common sense" (279). The article brought the work of theoretical cartographers such as Marc Monmonier to bear on questions of representation and truth in law. "There are," Santos wrote, "many unresolved problems in the sociological study of the law that may be solved by comparing law with other ways of imagining the real. Maps are one such way" (286). Santos deployed cartographic notions of scale, projection, and symbolization to look at legal phenomena in new and startling ways. Especially prescient was his conception of interlegality, which sought to capture the ways in which "different legal spaces [are] superimposed, interpenetrated and mixed in our minds as much as in our actions, in occasions of qualitative leaps or sweeping crises in our life trajectories as well as in the dull routine of eventless everyday life" (297). "Interlegality," wrote Santos, "is a highly dynamic process because the different legal spaces are non-synchronic and thus result in uneven and unstable mixings of legal codes" (298). This exploration exploded conventional conceptions about the "where" of law and, in so doing, questioned the definition of law itself.

Alongside the inquiries into space by legal scholars, the first mode of legal geography may also be characterized by human geographers' independent concern with legal themes. Many of these human geographers have been informed by neo-Marxist and, increasingly, poststructuralist epistemological commitments, and are therefore concerned with unraveling how space is produced rather than merely assuming its existence. This line of scholarship has come to have a pronounced effect on how legal geographers formulate questions about law. Studies of redistricting in political geography and, more generally, studies of metropolitan governance

are examples of geography scholarship that concerns itself with law. Generally, however, these scholars understood law as a given and were not concerned with debates about law within legal scholarship.

More notable, in hindsight, is the neglect of spatial concerns by the established interdisciplinary field of sociolegal studies associated with the law and society movement, which was established in 1964 and gained momentum in the 1970s and 1980s. This vibrant international and interdisciplinary research community was founded on the premise that social science can contribute much to the understanding of law and that legal scholarship is crucial to the investigation of social processes and outcomes. The roots of this interaction can be tied back to the legal realist movement of the 1920s and 1930s and to the antecedent sociological jurisprudence of Roscoe Pound in the early twentieth century. Initially, the law and society community included sociologists, anthropologists, historians, political scientists, and even psychologists—but it did not include geographers. A local aspect of this story is conveyed by Hari Osofsky (2007), who argues that the US perception of academic geography as an intellectual backwater that emerged in the 1950s and 1960s has resulted in the dismantling of geography departments in many of the most elite universities in the country. This perception, Osofsky continues, has also precluded law scholars at Yale University, and presumably elsewhere, from availing themselves of geography's potentially useful resources, despite their concern with space.

The Second Mode of Legal Geography: Interdisciplinary Engagements

If the initial expressions of legal geography have been characterized by relatively narrow disciplinary concerns and a relative lack of cross-disciplinary engagement, the second mode of legal geography has been characterized by a strong and explicit commitment to interdisciplinary research and programmatic bridge building. This shift was triggered by the rise of the critical legal studies (CLS) movement in the 1980s and 1990s. The CLS movement challenged the functionalist social scientism of legal scholarship, dramatically expanded the range of resources available for asking questions about law, and took radical positions on questions of power. The CLS movement had a strong impact on legal geography: working within neo-Marxist and poststructuralist literatures, legal scholars and human geographers were suddenly reading the same theorists, asking similar questions, and taking account of one another's scholarship (Blomley and Bakan 1992).

The work of economic geographer Gordon Clark is central to the second mode of legal geography. In addition to his position as a geographer, Clark was also affiliated with Harvard University when Harvard Law School was at the center of

the CLS movement. Clark focused on models of local autonomy, bringing to the geography literature a novel perspective on why attending to law and new modes of legal theory would deliver important benefits to geographers, especially to those geographers who had critical political and ethical commitments. In various articles (1982, 1984, 1986a, 1986b) and in his book *Judges and the Cities* (1985), Clark demonstrated a familiarity and fluency with sophisticated legal philosophical resources. Among the more lasting contributions of this work is its sustained and nuanced attention to problems of interpretation and to jurisprudential strategies that wish those problems away.

During this period, critical geographer Nicholas Blomley also published a number of agenda-setting pieces. Blomley's 1994 book *Law, Space, and Geographies of Power* is arguably the founding treatise of the second mode of legal geography. This book was published both when the "interpretive turn" (namely, the heightened attention to the problematics of discourse or representation) was having an enormous impact in human geography and as CLS reached its high-water mark in law schools. This book and Blomley's subsequent scholarship over the following two decades are notable for their reflective allegiance to distinctively critical modes of scholarly practice, their sustained suspicion of power, and their normative commitment to a radical vision of social justice. Much of Blomley's work has sought to think through the geographies of property in land through empirically grounded studies of particular conflicts, such as inner-city gentrification, and has attempted to reveal (and critique) the presence of distinctively liberal spatialities.

In the 1990s, American geographer Don Mitchell began a long career that has brought a strong commitment to neo-Marxist political analysis to topics as diverse as labor law, public space, and public housing. Much of Mitchell's work takes seriously the legal dimensions of struggles over public space in American cities, particularly in relation to the plight of marginalized people, such as the homeless. In an influential article from 1997, Mitchell traced the growing reach of local legislation that targeted homeless people, arguing that its effect was to brutally "annihilate space by law" (303). In that article, Mitchell argued that the spatial logics of globalization and the desire to construct particular landscapes of accumulation are crucial causal mechanisms in the creation of a purified public space. In subsequent work, Mitchell (2003) argued for a spatialized right to the city.

Another contribution from the 1990s, David Delaney's (1998) *Race, Place, and the Law: 1836–1948* sought to bring a balance of critical legal, socio-spatial, and historical interpretation to the understanding of anti-black racism and racializations in the United States. Finally, Steve Herbert's (1997) ethnographic studies of the territorial strategies of policing and Benjamin Forest's (2001, 2004)

work on race and redistricting were also significant in broadening the reach of geographic analysis into legal questions.

Alongside the deep engagement by geography scholars with social and legal literature, legal scholars also began engaging with space. British legal scholar Davina Cooper's (1998) *Governing out of Order: Space, Law, and the Politics of Belonging* was notable for its spatiolegal sensitivity. Cooper focused on institutional excess and political transgression, as manifested in, and disciplined through, legal and spatial arrangements. Trained in law and anthropology, Eve Darian-Smith's (1999) *Bridging Divides: The Channel Tunnel and English Legal Identity in the New Europe* offered a related reading of the anxieties occasioned by the building of the Tunnel, which was caught up in particular representations of legal geography and identity. An emphasis on representations of place and law is evident in much of Darian-Smith's continued scholarship.

Still during legal geography's bridge-building era, Richard Ford (1994, 1999) published two significant law review articles that pointed to the crucial organizing work of jurisdiction in producing racialized spatial differences, work that enabled racial segregation to persist absent overtly racist law. This racist legal geography has escaped scrutiny, Ford argued, because of a widespread assumption that political boundaries are either neutral or prepolitical.

In 1996, a special issue of *Stanford Law Review*, "Surveying Law and Borders," provided a sustained critical engagement with space and spatiality. It featured articles by prominent legal scholars such as Gerald Frug, Keith Aoki, Gerald Neuman, and Rosemary Coombe. While their work was deeply situated within legal scholarship, these authors also drew heavily on the work of critical geographers. This issue included an afterword by the prominent critical geographer Edward Soja.

One notable feature of the trajectory of the legal geography work produced by scholars trained as geographers and by CLS-oriented legal scholars is that its orientation was, from the start, explicitly and normatively critical. This designation refers not only to avowed leftist or radical political commitments but also to a broad skepticism toward the state and the pieties of many rule-of-law claims, as well as a broad disinterest in reformist policy discussions. The radical normative commitment of many legal geographers has become a distinctive characteristic of this tradition in the bridge-building era. Hari Osofsky (2012) has pushed back against the tendency to yoke the terms *critical* and *theory* together, arguing for the value of "applied" scholarship. Similarly, British geographer Rachel Pain (2006) argues for the merits of applied research, contesting the stereotype of the policy researcher as an acquiescent tool of power. There are, however, undeniable challenges in such applied work, particularly in the legal context. Some worry,

for example, that arguments for "policy-relevant" research fail to acknowledge the ways in which ethical perspectives may become blunted or discredited (see, e.g., Beaumont, Loopmans, and Uitermark 2005).

Following the initial bridge-building period, the twenty-first century saw an escalation and stabilization of the legal geography tradition, manifested in numerous collaborations. In 2001, Nicholas Blomley, David Delaney, and Richard Ford edited *The Legal Geographies Reader*, and in 2002, the collection *Law and Geography*, edited by Jane Holder and Carolyn Harrison, was released. This was followed by Austin Sarat, Lawrence Douglas, and Martha Umphrey's (2003) *The Place of Law*. These collections brought together contributions by geographers, legal scholars, and others from Europe, North America, and Israel. The volumes signified a turn in legal geography scholarship: it had by then become a recognized project. The increased interest in legal geography also saw the publication of a number of special issues of journals, notably *Historical Geography: Geography, Law, and Legal Geographies* (2000); *Political and Legal Anthropology Review: Putting Law in Its Place in Native North America* (2002); *Society and Space: Displacements* (2004); *Law/Text/Culture: Legal Spaces* (2005); *Haifa Law Review: Law and Geography* (2005); *American Quarterly*: *Legal Borderlands* (2006); *International Journal of Legal Semiotics*: *The Spaces and Places of Law* (2006); *Santa Clara Journal of International Law* (2007); *Griffith Law Review* (2008); *Law, Culture, and the Humanities* (2010); and *Hagar, Studies in Culture, Polity and Identities: A Spatial Age: The Turn to Space in Law, the Social Sciences and the Humanities* (2010).

The impact of this now-sustained and still-expanding "spatial turn" in legal thought has been notable also in applied legal research. In international law, for example, scholars such as Jean Connolly Carmalt (2007), Bruce D'Arcus (2014), Carl Landauer (2010–11), Tayyab Mahmud (2010), Zoe Pearson (2008), and Kal Raustiala (2004–5) have shown the value of looking more closely at the spatial presuppositions that underpin the dominant narratives of international law and its doctrines. They have also revealed the ways in which these continue to inform both the scholarship of international law and humanitarian policies. In the words of Zoe Pearson (2008, 495–96), "These critiques provide us with an opportunity to see that spaces within the terrain of international law are not static, linear and ordered, but rather, complex, fluid and uncertain, evolving continuously along with the interactions of the different actors present, and emphasizing varying sites of legal and non-legal regulation." These international law scholars have emphasized that a contingent way of imagining space is foundational for international law as a discourse and that reimagining and investigating the difference that space makes may severely problematize the practices carried out under the auspices of the conventionally imagined "international community."

Another elaboration of legal spatiality in international law is Kal Raustiala's (2004–5) "The Geography of Justice," which attends to the territorial conditions of rights and the presence or absence of their protections. This work emphasizes the role that spatial assumptions play in rendering some forms of violence legitimate while withholding that honorific from other forms. Raustiala argues that inherited legal spatialities are superseded by the proliferation of extraterritorial legal operations, signaling a significant, but unheralded, respatialization of legal power. In his words, "The evolution of American law has been a process in which formalistic categories based on spatial location and geographic borders were rejected in favor of more supple, contextual concepts such as 'effects' and 'minimum contacts'" (2548).

The legal geography perspective has also contributed to other doctrinal investigations in law. In American constitutional law, Allan Erbsen (2011), Reginald Oh (2003–4), and Timothy Zick (2009b) have offered spatially informed rereadings of the US Constitution, its doctrines, and its case law to disclose otherwise obscure but highly significant contingencies and imaginative structures that, again, have important consequences. For example, in a series of articles, Zick (2006, 2009a, 2010) documents and critiques the ways in which political speech is increasingly circumscribed and suppressed through spatialized legal restrictions that go beyond traditional forms of state regulation. The danger, Zick (2006, 585) fears, is the creation of a "perfect geometry of control over just the sort of speech the First Amendment ought to protect." Such spatial tactics have withstood judicial scrutiny, he argues, because of an implicit view of space as inert and passive, as merely a background for speech rather than, as Zick insists, itself constitutive of expression. The work of legal scholar Lisa Pruitt also presents a sustained and subtle use of geographic scholarship. In a series of articles such as "Gender, Geography, and Rural Justice" (2008), "Geography of the Class Culture Wars" (2011), and "Justice Deserts: Spatial Inequality and Local Funding of Indigent Defense" (Pruitt and Colgan 2010), Pruitt has systematically exposed the unacknowledged "metronormative" urban bias not only in legal and geographical scholarship but also in the actual workings of the law in a wide range of contexts. She continues this project with her contribution to the present volume. Legal scholars have also drawn on and contributed to the legal geography project to uncover the workings of the legal with respect to race (Boddie 2010–11; Ford 1994), settler and colonial societies (Kedar 2003), and microspaces such as restrooms, courtrooms, and zoos (Braverman 2009a, 2012; Kogan 2009; Mulcahy 2010). Although some of these legal scholars have become thoroughly versed in the work of human geographers and social studies, most others continue to explore space, place, and landscape without the full benefit of the array of resources developed by geographers and others.

Increasingly, legal geography has become influential outside of North America. It has been especially vibrant in Israel and Australia, where its convergence with local conditions and scholarship has produced much powerful analysis. In Israel, legal geography has been useful for explicating and questioning "facts on the ground." For example, Israeli legal scholar Alexandre (Sandy) Kedar (1998, 2001, 2003), both alone and in collaboration with Oren Yiftachel, Geremy Forman, and others (Forman and Kedar 2003, 2004; Kedar and Yiftachel 2006; Yiftachel, Kedar, and Amara 2012), has produced a sustained legal geographic genealogy of land dispossession and occupation. Yiftachel (2005, 2006, 2009a, 2009b) has published several important works making critical use of legal geography insights, as has Forman (2006, 2009, 2011). Also, sociology scholar Ronen Shamir (1996) has analyzed Israel's attempts to control Bedouins and nomadic culture, and Irus Braverman (2009b, 2013a) has explored how political wars are legitimized through what are seen as natural materialities such as olive and pine landscapes and zoo animals. Other Israeli scholars who have been highly committed to legal geography explorations in this region include Yishai Blank and Issi Rosen-Zvi (Blank 2005; Blank and Rosen-Zvi 2010; Rosen-Zvi 2004).

Legal geography is also becoming increasingly visible in Australia (e.g., Chris Butler, Robyn Bartel, Kurt Iveson, Nicole Graham), where the Legal Geography Study Group of the Institute of Australian Geographers was recently formed; in the United Kingdom (e.g., Anne Griffiths, Davina Cooper, Sarah Blandy, Phil Hubbard, Antonia Layard, Jane Holder, Sarah Whatmore, Andreas Philippopoulos-Mihalopoulos); and in Europe (e.g., Franz von Benda-Beckmann, Keebet von Benda-Beckmann, Andrea Mubi Brighenti, Ken Olwig, Mats Widgren). Of special note is the 2009 volume *Géographie du droit: Épistémologie, développement et perspectives*, edited by Patrick Forest, which brought the work of Anglo-American, European, and Quebecois legal geographers to a Francophone audience. While this is encouraging, it is nonetheless important to recognize that, unfortunately, legal geography is still quite limited in its geographic range. As the editors of this collection, we believe that the legal geography project would be enriched by studies situated out of the usual ambit of the largely urban, Global Northwest. We also think that legal geography will prove a useful tool in marginalized contexts. Looking forward to what legal geography might still become, we hope that this gap will be addressed soon.

The Third Mode of Legal Geography: Postdisciplinary Scholarship

Beyond its significance for disciplinary projects and for bidisciplinary interactions, legal geography is also important for elucidating third-discipline interests.