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BENNETT, Luke <<http://orcid.org/0000-0001-6416-3755>> and LAYARD, Antonia

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# Legal Geography: Becoming Spatial Detectives

Luke Bennett<sup>1\*</sup> and Antonia Layard<sup>2\*\*</sup>

<sup>1</sup>Department of the Natural & Built Environment, Sheffield Hallam University

<sup>2</sup>Bristol Law School, University of Bristol

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## Abstract

Legal geography investigates the co-constitutive relationship of people, place and law. This essay provides an overview of how the law and geography cross-disciplinary project emerged from a context of mutual curiosity and explores how legal practice, in all its discretionary and rule-bound variety, co-produces places through an attentiveness to, and sometimes an apparent dismissal of, spatiality. The essay notes the formative importance of studies on power and inequality within urban governance in this predominantly critical field. However, it also considers how the cross-discipline is increasingly embracing legal geographic scholarship from within cultural, material and post-human geographies. Adopting the metaphor of the ‘spatial detective’, the essay situates legal geography as a way of examining law’s materialisation within space, considering the field’s methods, core concepts and the potential directions in which they may evolve.

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In this article, we outline the trajectory of the cross-disciplinary endeavour that has come to be known as legal geography. We suggest that there is much to learn by both legal scholars and geographers becoming ‘spatial detectives’ – of learning, Sherlock Holmes-like, to search out the presence and absence of spatialities in legal practice and of law’s traces and effects embedded within places. In doing so, our aim is to think broadly about legal geography and of the critical and other drivers of its detective work. By using the metaphor of becoming a detective, we aim to illustrate legal geography’s emphasis on law’s ‘worlding’ and on it, being both active and still, vocal and silent. To do this, we start at the scene of legal geography’s emergence, and of an apparent discovery by scholars, of something chilling within the body of the law.

### *At the Crime Scene – the Discovery of Law’s Fear of Space*

On 6 September 1884, three sailors arrived in Falmouth and reported to the local Customs House, presenting sworn statements there about their recent activities. One month later, these candid statements became evidence in their trial for murder held at the Devon & Cornwall Winter Assizes, in Exeter. This case, *R v Dudley & Stephens* (1884), proved to be one of the most contentious legal decisions in English legal history, for the courts ruled that the killing and eating of a cabin boy by these sailors was a crime under English Law. This was so, even though the sailors would have died had they not done so, as they drifted helplessly aboard a lifeboat in the South Atlantic, 1600 miles off the Cape of Good Hope.

In 1990, in an opening salvo of what was to become the legal geography project, Pue (a lawyer) singled out *R v Dudley & Stephens* as evidence of law’s spatial blindness. He critiqued the trial judge for ignoring the spatial setting, charging that – as a manifestation of law’s aspatiality – the case saw the law treating the extreme circumstances upon a raft in the high seas, no differently than it might a ‘premeditated murder in a private club in London’ (Pue 1990, 568). Happily admitting that legal worldviews are not uniform (although ‘the dominant vision is ever present’, at p. 568), he argued that ‘geography remains largely invisible

to lawyers', with (English) law here operating as though space (and location) simply did not matter. Pue suggested that law's abstract logic, expressed through 'juridical "common sense" [...] piles abstraction on abstraction', a move that, he said, was 'geographical nonsense – anti-geography' (Pue 1990, 568). In contrast, he figured geography as emancipatory because of its embrace of spatial specificity and its wrestling with abstraction. As he put it, '[g]eography empowers the "liegemen" of law by demanding that they be taken account of, heard; by insisting on a developed geography of the mundane' (Pue 1990, 578). This was a call to arms for those who believed that 'citizens, localities, and "place" win when specificity is victorious' (Pue 1990, 578).

This suggestion, that law is in some ways 'anti-geographic', has been widely taken up, particularly by critical geographers. Delaney, a geographer who teaches in a legal studies programme, for instance, has consistently suggested that this 'law and non-geography' is a phenomenon to be studied (Delaney 2000). Others who challenge law's apparent lack of spatial particularity, include Bartel et al. (2013, 349), who write '[t]hat law does not transcend place, but is dependent on it, is not a truth generally acknowledged by law's servants and scholars'. Similarly, Philippopoulos-Mihalopoulos (2007), a legal theorist, has portrayed law's fear of space (and of space's specificity) as a defensive systemic reaction aimed at limiting the effects of that specificity within legal processes. This fear, and defensiveness, preserves the purity and efficacy of law's generic approach to the solving of all tasks and questions referred to it.

This critique of legal practice's anti-geographical tendencies points to alleged differences between the two disciplines. It also raises many questions. Does law thrive on theory, order and in so doing deny the spatial any significance? Does geography sit on the sidelines of events, analysing but unable to intervene in the world? Clearly both views are caricatures, and proponents have long called for both spatial sensitivity in law as well as an attention to legal practice in geography (Blomley and Clark 1990; Pue 1990). Nevertheless, the history of the attempts to find common ground – to break down disciplinary barriers in order to see *and do* the world more clearly through legal geography – has struggled with the evident differences in law and geography's disciplinary outlooks, but also with the burden of simplistic caricatures of each other that exaggerate the differences.

In order to address these dilemmas, legal geography has, increasingly been driven by a goal of developing common conceptual frameworks that both lawyers and geographers can use, which connect meaningfully into the concerns and conventions of each discipline. Yet, so far, we suggest this has reflected the project's beginnings in critical geography, and these concepts may require re-thinking and expanding today. Two specific new lines of inquiry, which we suggest are gaining ground, are legal geography's engagement with time and historicity and with materialities and affect.

In order to uncover these new sites of scholarship, however, we need first to pick up the story of legal geography's development.

### *Critical Legal Geographers Investigate*

Starting their investigations, legal geographers, like all good cross-disciplinary scholars, began by noticing a gap: 'a deep-seated division of intellectual labour' (Blomley and Bakan 1992) between law and geography. Once systematically noted, the research gap between the two began to be programmatically addressed from the late 1980s onwards (Blacksell et al, 1986; Blomley 1994; Blomley and Bakan 1992; Blomley and Clark 1990; Chouinard 1994; Clark 1989). Scholars began to delve deeper, considering how law's 'impoverished understanding of space' (Butler 2009, 319) might be improved as well as how geographical scholars might explore the legal co-production of space.

Of course, this was not completely new work. Scholars have for generations studied how legal rules, practices and governance produce landscapes and places (Harvey 1973; Lefebvre 1991; McAuslan 1980; Perin 1977; Thompson 1975; Webb and Webb 1929). Similarly, comparative legal scholars have long explored how different landscapes and cultural factors have contributed to different legal provisions (Grossfeld 1983; Sand 1971; Wigmore 1929). Certainly, some of these explicitly legal analyses seem, when read through modern eyes, to engage in spatial and cultural essentialisms, attributing deterministic causality between spatial conditions and legal provisions (for example, that landscape determined water laws as in Grossfeld 1983, 1514). Particularly in comparative law, there was perhaps a ‘tendency ... to impose separations on law, space and society’ (Blomley 2007a, 156) when exploring how varied spatial conditions produced legal difference. Yet from the outset, these scholars were attentive to context, investigating the interrelationship between place and legal norms and practices.

What changed most strikingly from the 1980s onwards, however, was the way in which legal geographical research increasingly acknowledged the reflexivity involved in examining how space, law and society are related. This was particularly evident in Blomley’s (1994) work and its investigations of picketing, the American corporate town, worker safety and migratory movement, where he suggested that ‘when one turns to “local legal cultures” (and, on occasion, “formal” law itself), the normative appeal and institutional significance of place resurfaces’. As Blomley suggested, this leads to a need to ‘transcend the causality of the orthodoxy by arguing for the imbrication of the legal, the social and the spatial’ (Blomley 1994, 63 and 28). In short, law, people and places are intertwined – the impact of law is both felt and made (at least in part) locally.

This ‘co-constitutive’ approach became a leitmotif of legal geography. As Blomley et al. put it, ‘by reading the legal in terms of the spatial and the spatial in terms of the legal, our understanding of both “space” and “law” may be changed’ (Blomley et al. 2001, xvii). Similarly, Holder and Harrison thought that

a ‘Geography of Law’ approach suggests that law must make room for local conditions and Blacksell et al 1986 experience, and recognize the changing of laws to work in local contexts. The identification here is with ‘local legal universes’ or ‘legal localization’ – forms of regulation rooted in local conditions of existence. (Holder and Harrison 2003, 4)

In turn, [they continued,] ‘doing law’ in geography (‘Law in Geography’) helps our understanding of how law shapes physical conditions and legitimates spatiality, and makes clear that law has a physical presence, or even many presences. This has the capacity to release law from its (imposed and self-imposed) confinement as ‘word’ (interpretation, meaning, discourse). (Holder and Harrison 2003, 5)

Most recently, Braverman et al. (2014, 1) note that ‘the *where* of law’, the social spaces, lived places and landscapes which are inscribed with legal significance ‘are not simply the inert sites of law but are inextricably implicated in *how* law happens’.

As geographers know well, these understandings of co-constitution and reflexivity have a long trajectory. The influence of Lefebvre’s writings on the social production of space has left deep impressions. This is true for legal geography as well, with Butler explicitly noting Lefebvre’s relevance by allowing legal geographers ‘to chart a course between the pitfalls of spatial fetishism and instrumentalist understandings of law’s role in the production of space’ (Butler 2009, 436). Drawing their review of legal geography together, Blandy and Sibley confirm the centrality of Lefebvre’s thinking on the social production of space by concluding

as follows: '[t]hus law and space actively shape and constitute society, while being themselves continuously socially produced' (Blandy and Sibley 2010, 278). This is seen as such a central assumption that no citation is even needed. Similarly, there is a taken-for-grantedness that produced spaces are attendant on relationships, with a growing understanding of space (and place) as relational. As Massey has emphatically written, 'what is always at issue is the *content*, not the spatial form, of the *relations through which*, space is constructed' (Massey 2005, 101).

Let's return to our troubled sailors to illustrate this co-constitution. When they landed at Falmouth that fateful day in 1884, they stepped into the port – a part of that town that is both spatially and legally distinct from the rest of Falmouth. This is a place for the temporary gathering and direction of goods, personnel and ships as they continually arrive and depart England. People know how to behave in a port partly by custom and practice, but also because that purposeful place is formed – and reinforced – by localised laws, charters and specialised designations. Indeed, some locations within the port are focal points – they have – we might say – greater legal 'thickness'; they are local beacons of law's presence. The Custom's House has this character; it is the place from which the movement of goods is monitored and taxes and excise duties imposed under authority of law. This is why the sailors instinctively know that they must present themselves *there*, and that that place was the correct place to start telling their story. And every sailor and dockworker who has treated the Customs House as a focal point of the law and the state's authority in Falmouth has recursively reaffirmed and reinforced its identity as a local beacon of law. By such recognition and iteration, the spatial, the social and the legal are braided together to produce sites. The task then for legal geographers – for spatial detectives – is to identify each of the braids, to tease them apart and to attempt to identify what work law and spatiality are doing at any particular place and time.

But it is not just legal geographers who must work with these strands. The practice of law itself involves such spatial detective work. In *R v Dudley & Stephens*, the officials who assembled in the Custom House to hear the sailors' story also had their braiding to do. They had to decide how to apply law's abstract command to these specific events. That would give rise to many thorny questions. Did it matter that the boat was on the high seas? Or that the cabin boy was the youngest and without dependents? Or that the killing was apparently in line with established seafaring practices? The spatiality, social conventions and the formal declarations of law all had to be intertwined in order to decide that this death on the high seas, was indeed an instance of the crime of murder.

### *The Spatial Detective's Toolkit*

Having arrived at the legal geographical site then, how do we become spatial detectives? For the recognition that imbrication of space/spatiality and law/legality lies at legal geography's scholarly core begs the questions. Once we accept the co-constitution and reflexivity, how do we investigate how (where and why) legal or spatial practices, meanings or tactics are producing places or events? Can we (assuming that we want to), untangle the spatial, legal and/or social strands? Which tools, techniques and methods can we use to investigate this co-constitution of constellations of the legal, the spatial and the social?

#### CONCEPTUAL UNDERPINNINGS

The foundational conceptual device in legal geography is Blomley's concept of a 'splice' (Blomley 1994, 2003), which – reminiscent of our talk of 'braiding' above – shares similarities with Delaney's (2010) 'nomosphere', and with 'lawscapes' (Graham 2003, 2010; Philippopoulos-Mihalopoulos 2007). Splices (like nomospheres and lawscapes) identify

instances or moments where legally informed decisions and actions *take place* [in the sense both of the occurrence of a legal performative (an event) *and* of being spatially located and embodied]. They are locally enacted encodings, which weave together spatial and legal meanings.

Blomley has given the example of a refugee, as a splice that implies both a legal status and a spatial dislocation (Blomley 2003) or women sex workers in Vancouver who were murdered and prefigured as both legal and spatial 'outlaws'. Other splices might include a cemetery, as a splice 'of material, spatial moments' (Matthey et al. 2013, 435). Similarly, a legally designated public space (like a customs house or a court room) is a splice consisting of a geographic and a spatial set of meanings that are both legally and spatially distinguishable from other sites, particularly private property (also a splice) (Layard 2015). We might understand airports, forests, protest camps, mosques or military command centres as splices too. The boat on the high seas in *Dudley & Stephens* was also a splice: temporary, not permanent, and produced by legal norms, social hierarchies and apparent spatial isolation.

If then, splices, nomospheres and lawscapes are the core concepts for legal geographers, how do we investigate them? What are the means by which to examine the co-constitution of specific sites and their events legally, spatially and temporally, as well as discursively and materially? These neologisms are immensely conceptually useful, and point us towards modes of enquiry, as they urge us to adopt inherently wide angled lens for any ensuing investigation. These concepts encapsulate the imbrication and the constant work being done, the weaving and re-weaving of legal/social/spatial relations. They are also practical, reflecting legal geography's locating of itself in the field, of its commitment to social justice and – more recently – to the rising influence of pragmatist philosophy (e.g. via Delaney 2010). Consequently, in most legal geographic studies, investigation has been 'from the site up', focusing on explicating historical, social and spatial specificity. Emphasising the ocular (Braverman 2011), legal geography's spatial detectives ask where is this place/event/dispute located? What do we see? How do legal and spatial meanings combine here?

Spatiality is the state of existing within or having some relationship with space, and legal geographers seek to investigate spatiality by showing how legal provisions and practices relate to space. These investigations, tend to adopt one or more of three conceptual structures and points of concern, namely (1) *what is the spatiality of law itself?* – how do spatial settings affect legal implementation and drafting, and vice versa?; (2) *what is the role of law in constituting place?*; and (3) *how do lawyers and geographers engage with notions of jurisdiction and scale?* We now briefly highlight some studies that are illustrative of each of these types of spatial detective work.

Beginning with the *spatiality of law*, for example, Akinwumi's study of the litigious redress campaign by the South African social movement Khulumani Support Group against the South African Government is clearly concerned with the spatial distribution of the law. It asks how location framed legal interventions, considering the framing of the 'truth and reconciliation' process in South Africa by when claims for victims of apartheid-era human rights violations were brought in the United States drawing on the US Alien Tort Claims Act. This use of American legislation in a South African setting illustrated the legal geographic 'reach' of the litigation as a medium of legal mobilisation, albeit done at a distance. In this way, reach is positioned 'as an object of concerted strategic action and framed as a medium for legally oriented activism that redefines the spatial scope of legal mobilization' (2012, 38). A similar use of such geographical legal tactics is evident in the confirmation in Lord Chief Mansfield's decision in *Somerset v Stewart* (1772) that slavery was not legal in England, allowing an escaped slave to be discharged rather than returned to Jamaica as his master preferred (Gould 2003), a place where it was still legal. It is also evident in legal attempts to capture the multiple and dynamic nature of geographical space, particularly in respect of satellites in orbit (Collis 2009). In each of these

cases, legal practice is not fixed. There is some choice in legal strategy pursued, and in these examples, law's attributes and practices '... [are] spatially variable ... it modifies patterns of interaction ... structuring a distinctive field of action' (Akinwumi 2013, 28).

Even in a domestic repossession case, a repossession of an elite property may well play out very differently from the repossession of poorer quality accommodation, located in a part of town with frequent residential turnover. Legal practices often differ by location. This may relate to process and enforcement practices ('law in action' as opposed to 'law in books') as well as to substance. To quote a seminal English case in the law of tort (wrongs), for example, 'What would be a nuisance in Belgrave Square, would not necessarily be so in Bermondsey' [*Sturges v Bridgman* (1879), p 865]. Wealthier locations may have an expectation of a higher quality spatial setting, reflecting the *status quo* and explicitly relating legal provisions to their spatial and social setting. In these ways, laws, legal practices and cultures of legality are in relationships with spatial settings. By exploring these interactions, legal geography is investigating the *spatiality of law and legal practices*.

The second approach, to investigate *how law (and legality) can constitute places and spaces*, is perhaps the best known. For example, studies of apparently public spaces (Layard 2010; Mitchell 2003) illustrate time and again how place-making mechanisms – particularly the use of private property rubrics – but also hedges (Blomley 2007b), street architecture (Blomley 2007c) or tomb stones (Matthey et al, 2013) – are at least in part legally implemented. This is more than the 'impact' of law; again, there is co-constitution here. More centrally located sites – whether urban, rural or neighbourhood – are more suited, for example, to becoming public spaces, while geographically uneven enforcement practices, of stop and search, for example, or licensing laws, can depend upon locale, 'not just the mere address but the where of social life and environmental transformation' in Agnew's (2011, 23) words. The spatial informs the legal: place-making is a reflexive process. For example, one reason – if by no means the only one – Australia was able to take possession of 42% of Antarctica by the performance of law, exploration and representation was the geographic proximity between Australia and Antarctica (Collis 2004). Laws and places co-constitute each other, intertwining with the spatial, social, cultural and historical. The research work is in taking these braids apart to identify the legal provisions and moves to see how they are actively place-forming.

Lastly, legal geography can investigate relations with space through studies of *jurisdiction and scale*. Scale is both a legal artefact with effects on spaces and a spatial artefact, constructed both socially and through processes of reproduction and consumption (Marston 2000). Multiple scales can also implicate legal pluralism, as they vary also in their projection and symbolism (De Sousa Santos 1987), and when a variety of not necessarily synchronic scales, projections and symbolisations operate and inter-penetrate, we have a situation of legal pluralism (Pieraccini 2016). These understandings of scale do not sit neatly with conventional understandings of jurisdiction, where legal practices are themselves conventionally bounded, determinative and territorial. Of course, scale and jurisdiction are not the same. As Valverde (2009, 140) notes, 'the resources of jurisdiction go beyond scale', they involve a form of 'seeing' both in terms of specific authority (a school, a police force and the Security Council of the United Nations). Jurisdiction is also not exclusively a legal concept. It can refer to a sense of entitlement or power: 'as long as you live in my house, you will do as I say'.

These are then central – and productive – tensions within legal geography. Knowing which criminal jurisdiction a site is in is central to identifying the procedural and substantive rules that will be applied to any incident. In civil law, in cases of a dispute, the first question is invariably 'who is the landowner?' This is also a question about jurisdiction. Who has authority here? Certainly, any jurisdiction or authority may end at the property line, and it is mediated through rules of national governance, yet legally, the property owner has enormous decision-making

power to set the agenda for any site and to craft there a sense of place through the arrangement and manipulation of that space (Bennett 2011; Blomley 2004; Layard 2010). Understanding and interrogating the extent and limits of jurisdiction continues to be a hugely productive strand of legal geography. When jurisdiction is apparently absent – as it was on Antarctica – power relations, resources and spatiality are all much more able to play their part in determining decisions (Collis 2004).

Legal geographers, then, are still untangling jurisdiction and scale (let alone territory). For within the practice of law, spatial units are being used and something is being corralled into spatial layering. Whether or not this is just jurisdiction remains an open question. While the suitability of scalar approaches to analysis of spatiality may be doubted by some geographers like Thrift – for whom ‘there is no such thing as scale’ (Thrift 1995, 33) – in legal practice, clear spatial layering exists both as a determinant of legal authority within a jurisdiction (e.g. the boundary of a land holding or the municipal authority within a borough). Legal practice also commonly uses assumptions about scale as indicators of spatialised hierarchies of the relative power of different types of law; for example, local rules may be permitted only if they are in compliance with a national structure (otherwise, they are ‘ultra vires’) or, within the European Union, countries as Member States must bring national legislation into compliance with EU rules. Sometimes, there is evident ‘scale jumping’; for example, an individual (often the lowest actor in the scalar legal chain) can take a case to the European Court of Human Rights in Strasbourg, which can then uphold an individual’s claim, overruling a national decision. These are all sites of discovery for legal geographers working on this third approach, investigating understandings of *scale and jurisdiction*.

#### METHODOLOGICAL APPROACHES

If then we have our conceptual structures and directions of enquiry, what instruments does the spatial detective need for her work? What methods should she employ?

One obvious starting point is the analysis of particular legal cases, but rarely will that analysis be confined to a doctrinal analysis of the legal reasoning set out in the text of the case’s law report or judgement. Nor will it be confined to examining just the views of the judiciary who gave their determinative interpretation of law’s application to the facts and law entwined in the matter of that case. Legal geographers tend to take the analysis wider, considering a wider range of stakeholder and situational influences. This more legal geographically infused doctrinal method echoes the intellectual traditions of the interpretivist turn, which looked to discursive analyses of legal provisions and practice (Forest 2000). Even here though, as Clark noted early on, ‘pluralism is a way of life’ (Clark 1989, 217). For those doing legal geography by explicitly engaging in case analysis, it is crucial to engage with ‘different experience (therefore different realities), different ways of knowing the world (therefore contested facts) and, inevitably, different interpretations of inherited statutes and common law doctrine (conflict over the application of statute and law)’ (Clark 1989, 217). Engaging with the plural specificities of each site has resulted in critically inflected doctrinal and empirical studies of how law produces places and spaces (Blomley 2004; Cooper 1998; von Benda-Beckmann et al. 2013).

Delaney (2010), for example, suggests that when doing law, law makers, lawyers, regulators and judges should be viewed as ‘nomospheric technicians’ – for they are using legal and spatial concepts to construct workable situations – situations which often are physically embodied in places. Thus, to investigate this ‘world-making’, Delaney puts forward a method of contextual case analysis or ‘nomic collage’, in which legal decisions are subjected to an analysis that seeks to identify both the ‘legal moves’ and the ‘spatial imaginaries’ used by that technician.



This approach expands doctrinal legal analysis; to understand ‘space-talk’ or a lack of ‘space-talk’ in judgements is itself doing significant governance work (Layard 2015). For example, in a decision heard by the European Court of Human Rights, *Case of Mouvement Raélien Suisse -v- Switzerland* (2012), the majority of that judicial panel held that there was no restriction on the freedom of expressions on the rights of a Raelian group who were prohibited from displaying their posters about their belief in UFOs on municipal billboards. The majority judgements made no reference to the location of these billboards (in a public square, on a highway, etc.), while the minority were concerned with protecting freedom of speech in a ‘public forum’, analogous to one judge to the ‘open and public space’ of the seas (Layard 2015). Equally, it was the lack of space-talk in *R v Dudley & Stephens* that so infuriated Pue, that the court said nothing on the distinctiveness of the high seas from that which might properly pertain in a gentlemen’s club in London. ‘Space-talk’ then is evident both in its presence and in its absence.

Other methods are also available. Fieldwork is an intuitive and productive method in legal geography, particularly when it includes an understanding of how spaces and places are themselves co-produced – legally and politically as well as socially and spatially. Immersive, site level enquiry seeks to investigate precisely how (and why) sites are framed, managed or used in the way that they are. This spatial detective work emphasises the importance of materiality, asking how the spatio-legal is implicated in the making of place and how it plays out amidst the embeddedness of humans within a world of physical things and the resistances and affordances that they represent. Such investigation often has an ethnographic orientation. Braverman, for example, has advocated for ‘the special relevance of ethnography for legal geographers’, suggesting that

Because of our familiarity with administrative structures and bureaucratic reasoning, as well as our affiliation and heightened access to professional experts and government schemes, legal geographers may play an important role in what cultural anthropology has termed ‘studying up’, ‘multi-sited’, ‘engaged’, and ‘para’-ethnographies. We are familiar with legal language and therefore ‘insiders’ in the legal world. As a result, we are probably both better-situated and better-equipped than scholars in other disciplines to explore the intricacies of various administrative structures. (Braverman 2014, 120–121)

Braverman’s own research in this vein has investigated both tree planting in the Middle East and the keeping of captured animals in zoos. In both cases, ethnography has enabled her to investigate first the (legal) work done by the two dominant tree landscapes of pine forests and olive groves in Israel/Palestine (Braverman 2009) and then the practices of zoos in naturalising spaces of captivity, classifying animals while producing spectacular experiences for their human visitors (Braverman 2013). By such analysis, the role of law – working alongside other factors – is shown to be imbricated within place-making in both mundane settings and conflict-riven places, and the forming and maintaining there of spatially embedded normativities, some framed as law, others not.

#### LOCATIONS

So where to do this? Where is the scene of the investigation?

Rather than starting (as legal scholars might do) with the text, one recurring theme in legal geography has been an interest in mundane sites. Researchers have often focused on municipal law, usually linked to investigating the urban manifestations of spatial governance and marginalised identities, for example, in rules of the highway (Blomley 2011), taxi discs (Valverde 2012), the house rules of a pub (Bennett 2011) and venues for adult entertainment (Hubbard et al. 2008). These studies draw inspiration from their engagement with the

governance of the ‘everyday’ from both socio-legal studies (away from the unusual, elite events recorded in case-law; Ewick and Silbey 1998; Halliday and Morgan 2013) and the interest throughout the academy in the mundane (for example, de Certeau 1984). Increasingly, everyday spaces are understood not as neutral empty spaces upon which law is exercised – as a mere backdrop for law’s disembodied ordering of the totality of human affairs – but instead as places of active, localised meaning-making.

In addition, and increasingly, scholars have applied legal geographic techniques to high profile world events and geopolitical practices, such as extraordinary rendition and torture (d’Arcus 2014), drone strikes (Smith 2011), licit narcotic growing (Williams 2013) as well as the proclamation of Antarctica (Collis 2004) or the orbiting of a satellite (Collis 2009). Such studies invoke rules of international law – applicable either to people or states – that transcend national boundaries. Elsewhere, there has also been longstanding work in geographies of detention, policing and asylum that have explicitly (White 2002) or implicitly (Beckett and Herbert 2009; Herbert and Brown 2006) engaged themes of legal geography.

Nevertheless, for spatial detectives, identifying the locations, and locales, matters. It is important to pause here and to acknowledge that law does not always structure itself (and its concepts) spatially – the distinction between civil and criminal law, for example, does not generally have spatial dimensions. Criminal acts, for example, can take place anywhere even if punishment can be meted out spatially, for instances in prisons or through curfews, by limiting intersections of time and space. This is a point we return to in our conclusion below – should the location matter for criminal law? For legal geographers, this questioning of location (or identifying of an absence of location or ‘space-talk’ in judgements) is key.

This matters because a place can only be understood in relation to something: an event and a framework of meaning. The law – as a set of techniques for ordering the world and actions within it – helps us to show how some places are formed (or denied). Whether working upon the micro-level of the mundane legal geographies of everyday municipal life or the legal geographies of world-challenging geopolitical tensions, identifying the locations, and locales, at which spatio-legal splices are occurring is a reminder of law’s relationship to power and ruling. A focus on law’s spatial occurrences demonstrates that law is found in space for a reason – it is there to achieve (or prevent) something. Thus, law’s presence is indicative of moral, political and resourcing choices – made by those with some degree of power over a situation, place or thing.

But the materialities of place (and the specifics of the task-related actions performed there) also give life to law; otherwise, it is merely a cluster of abstract, generic concepts. Law comes alive applied to space, and the action and things embodied within places. It both produces and is itself produced by actors’ ‘world-making’, and – particularly as shown by legal geographers working upon indigenous understandings of property, place and landscape – both places and their legalities are products of histories, material conditions, markedly differing cultural frameworks and change across time (see Bartel et al. 2013). Location matters. But legal practice – including any lack of emphasis on location – matters too. A lack of space-talk may be a clue that location should not excuse culpability – that murder is murder wherever it happens.

### *Extending the Scenes of Inquiry*

The legal geographer is a detective then – tracing the manifestations of law upon space – and in turn the ways in which law is limited, masked, channelled or amplified in certain spatio-material settings. Having briefly charted the rise of legal geography and considered the formulation of its core methods, we turn now to look at the ways in which the techniques and goals of the legal

geographer's detective work are evolving. In doing so, our concern is to show how new ways of examining the sites of law's manifestation (or its apparent absence) are being developed.

#### SPACE AND TIME

We have shown that, to legal geographers, places are understood as splices or nomospheres. They provide sites of study that can capture modern understandings of the production of space and the contingent, relational natures of spatialities. Drawing on the resources throughout the academy, this project supplements geographers' own identification of the spatio-temporal as a subject of study (see, for example, Harvey 2008). Some legal geographers have recently acknowledged that the discipline is 'guilty of privileging space over time' (Braverman et al. 2014, 14). There are notable exceptions to this (Blomley 2010; Delaney 2010; Kedar 2003) and also more recent suggestions that there should be, within legal geography, not only greater curiosity about the past but also understandings of multiple aspects of temporality and the dynamics of space-time (Braverman et al. 2014, 14).

Valverde (2014, 57), taking up this challenge, cautions legal geographers against 'reifying the spatial and privileging, a priori, spatial over temporal analyses'. She has urged scholars to have regard to temporality (the presence of time as factor within social socio-spatial life), noting that places and times are woven together in different ways: thickening or thinning dependent upon a variety of factors. Adopting Bakhtin's concept of chronotopes, Valverde explores the temporal and spatial slippages in courtrooms and family homes. She joins scholars in other disciplines interrogating the temporality of events and their spaces, using these 'time-space envelopes' (Richland 2008, 10) as conceptual devices. These chronotopes 'mark the outer spatio-temporal horizons of particular activities, developments, or processes' as well as capturing 'inner spatio-temporal patterns: the textures of space wedded to the rhythms of time' (Lawson 2011, 384).

Thus, time and space ebb and flow, and the flows of neither time, space nor law are ever smooth, even or readily divisible. For example, Benton (2010) explores this in her study of the territorial expansion of European empires up to 1900 and shows how the expansion of European sovereignty over other lands was not a linear, smooth or purely 'political' process. Instead it was partial, chaotic and, at times, accidental – and yet it was never entirely lawless. Specifically, she shows how pirates bought the legal culture of European states with them – framing their actions within a relationship to the states from which they were hiding from or plundering – yet despite their 'outlaw' status, they organised their actions around notions of law and transposed that normativity onto the landscapes and seascapes within which they now operated. Thus, as Benton (2010, 212) puts it and as the sailors in *R v Dudley & Stephens* show, people are 'vectors' of law; they carry it through space and time, performing both spatiality and legality as they travel.

Again, of course, concern with the playing out of the spatio-legal across time (and amidst socio-economic relations) has always been evident in historical legal geographies, for example, E. P. Thompson's analysis of the 1732 Black Act which criminalised poaching at a time of mass land enclosure and agro-industrial change – thus figuring deer, rabbits and fish within class antagonism over access to land and its produce. Thompson explored the way in which law is 'deeply imbricated within the very basis of productive relations' (Thompson 1975, 261). What this means for legal geography is that to the extent that splices may conventionally be seen as frozen moments of time, in fixed spatial configurations, these are temporal moments too. For example, in *R v Dudley & Stephens*, the boat could not stay on the water forever, and eventually, the surviving sailors returned to Falmouth and thereafter became enmeshed in the legal temporalities of the court process.

Temporality is under-researched in socio-legal scholarship (for a recent initiative via legal anthropology to address this, see the special issue on time and legal pluralism: von Benda-Beckmann et al., 2014), which is surprising given how important time is to lawyers as a technique of law's administration (and of its co-option into strategies of obfuscation or resistance). This underdeveloped understanding of time's role in law is perhaps also reflected in the way that time operates within legal processes, and specifically, its tendency to get 'stuck' – for the law to fall behind and to reflect the conditions of the past rather than those of the present. This idea of temporal fixity is echoed in Stewart's study of *Housing Action in an Industrial Suburb*, which investigated how a 'legal form of building lease which was originally an expression of the economic relations of housing production survives today even though it has outlived its original purpose', explicitly placing leasehold tenure 'in a class analysis' (Stewart 1981, 8). As Stewart and Thompson illustrate, the legal geographer, studying how law makes space may often need to work backwards in time in order to make sense of a currently persisting spatio-legal regime, because of this 'dead-hand' effect that law can have in space across time.

Legal provisions then can move between a static moment (which might be centuries long) and relatively sudden cycles of legal change. Delaney's conception of the nomosphere is one formulation that focuses on this aspect of law and legality's 'movement' and 'becoming' as part of world-making. For example, in the implementation of 'Operation Rose' in 1961, which created the 'world' of East Berlin, until November 9, 1989, when it was equally swiftly undone (Delaney 2010, 146). There can be fixity and flow, with studies recognising that the spatio-legal reaches across time, its effects ebbing and flowing – or sometimes carrying effects through time in a way that becomes detached from the spatio-material context for which it once came about. Simultaneously, sites are also socio-legally and spatially co-constructed moment by moment and task by task. Thus, the legal geographer's task is to work out how all of the elements – the spatial, the social and the legal – fit together within the pragmatic 'taskscape' (Ingold 1993) under examination and within that analysis to identify how fragments of previous projects and their spatio-legal ordering leave behind a shaping effect over that place, Delaney's 'nomic traces' (2010, 67).

#### MATERIALITIES AND AFFECT

The recent emergence of a greater sensitivity to the law's temporalities and its spatialities occurs at a moment where we are also witnessing something of a 'material-affective' turn in social theory, a new concern with understanding human's entanglement with matter (Hodder 2012) and of the (broadly) emotional consequences of this relationship with nonhuman things (Bennett 2010). Legal geography is – albeit tentatively – engaging with these trends too.

Earlier, we highlighted ethnography as one of legal geography's favoured methodologies and how analysis working in that vein builds up a site and situation's story working upward and outward from the local, working towards more abstract shaping forces and delineating their actual localised effects. Such site-focussed ethnographically inclined studies also often have an attentiveness to the materiality of law, showing how it exists embodied within things (documents, buildings, street layouts and signs, habitats and creatures) and people upon the site.

Like time, matter (and our relation to it – which is what 'materiality' means) is an under-acknowledged presence throughout the life of the law, from law-making right through to application of the law towards the determination of disputes and infractions. Yet, the law has a quiet but fundamental relationship with physical things – a dependency that can be glimpsed in the world of evidence, where producing the murder weapon in court is necessary because speaking of it is not enough. It must itself appear in order to be able to give its full weight

(and silent testimony) to the proceedings. This law–thing dependency is also seen in the attentive on-site searching and characterisation enacted upon places by crime scene investigators.

Delaney has argued that understanding the materiality of law enables us to move beyond a conventional (and limited) notion of the law, which he suggests ‘stops at the utterance: the verdict, the sentence, the decree’. Focusing on materiality

allows us to examine this background assumption, to consider the idea that law does not stop at the utterance, but continues on through causal chains into the world of stuff. Actually, it was never anywhere else. The violence that law authorizes or blocks happens on bodies and elsewhere in the material world. This is not separable from law, nor are these simply ‘effects’. (Delaney 2003, 78)

Legal geography’s attentive, localised ethnographies can thus help to reveal law’s dependency upon a distinctly thingy world and our emotional attachment to (rather than detachment from) law’s things, as Latour (2009) shows in his finely nuanced ethnographic account of the *Conseil de France* and its portrayal of the intimate relationship between that place’s atmosphere of authority, its legal productivity and its spatial arrangement formed by its desks, filing cabinets and quiet corridors.

In short, legal geographers find that law is (and has always been) embedded in the world rather than hovering above it in some disembodied way. The materialities inflected analyses thus far pursued in legal geography have not, however, sought to eschew the human. Legal geography’s avowed critical humanism (born of its concern with equality and justice) lends it towards an interpretive style and concern, which often seeks to ‘personate’ local manifestations of law and people’s fates within the physical world. The opening chapter to Delaney’s (2010) book is an example of this – the reader’s attention being gained through the affective storying – the ‘human interest’ – of the state’s incursion into the house of Rosa Sorto during a US crackdown on illegal immigration; things are broken and displaced; a cherished feeling of ‘home’ is violated by a combination of the abstract logic and physical – materialised – force of the law being enacted upon a place. Delaney then introduces his nomosphere neologism by explicating the (more abstract) forces at work in the co-constitution of this place (room, house and town state), expectations of it (homeliness, privacy and civil rights) and state usurpation (juristic notions of state need, proportionality and public order). During the course of his book, Delaney is keen to follow both the perceptual dimension (what we might call Rosa’s affective world – her experience of her home and its violation) and (more traditionally) the analysis of law, power, inequality and spatiality that can be extrapolated from an individual event and its site of occurrence. In straddling this duality, Delaney is fringing the affective realm, something that socio-legal scholars have also done in their attempts to examine legal consciousness (Ewick and Silbey 1998).

This step towards affect, individual consciousness and our engagements with everyday materiality requires an embrace of the limits of law’s reach, its logic and even its coherence when encountered within the daily world-making of individual actors. Studies of legal cognition and its pragmatic co-option into everyday life show how law is promiscuously appropriated and forced to fit tasks in hand. Law thus becomes close to a feeling, a background sense of entitlement or prohibition.

In pursuit of an understanding of the material–affective realm of place, some UK cultural geographers have in recent years attempted to move beyond a fixation with analysing discourse and representation (Thrift’s 2008 ‘non-representational theory’ or Lorimer’s 2005 ‘more than representation’ reformulation). But law is centrally concerned with discourse, and analysis of it cannot entirely abandon a notion of law as an abstract discourse based normative system that acts symbolically in the world. At its core, law is about representation (the connection of words

and commands to the material world beyond). Thus, legal geographers will need to work out just how far they can follow researchers in cultural geography and anthropology like those in Gregg and Seigworth (2010) or Stewart (2007) into analysing the feelings and dispositions that a material–affective analysis of law’s contribution to place-making would need to pursue.

### *In Conclusion: Solving the Case?*

We began then, with the critique of the ‘invisibility of space in legal studies’ (Blomley and Bakan 1992, 662) (as well as an invisibility of law in geography). Certainly, much has been made of law’s closure and the insularity of the legal academy. Yet, as Blomley and Clark put it in 1990, the ‘law–space–nexus’ provides for exciting and complex inquiries (435). As enthusiastic participants in the legal geography project, we have no desire to (re)solve the case to a binary – truth/untruth, law/geography. And yet, we are concerned that ‘law’ (or more precisely legal practice) should not be understood as a ‘straw man’ in these endeavours, berated for its aspatiality when all is perhaps not quite as it seems.

For it is not that locality and context were blindly overlooked in *R v Dudley & Stephens* – quite the contrary, we suggest. In that case, the prosecution’s concern was to assert a general prohibition over anything other than state-sanctioned killing in English territories, and it was already a settled principle that English ships and their sailors fell under English jurisdiction anywhere in the world. The case was, therefore, a moment of modernisation – the English legal system seeking to emphasise its sovereignty over its sailors and their spaces of travel and thereby to eradicate a ‘lawless’ practice of ‘shipwreck cannibalism’ (Simpson 1984) which appeared then to be customary amongst seafarers and which posed a challenge to the moral clarity of the law of murder.

Legal geography’s site and event-focussed spatial detective work can help to show that the law actually approaches spatiality selectively – sometimes ignoring it, while at other times embracing it. Here, it is instructive to contrast the fate of our shipwreck cannibals with a case arising from the 1781 ‘Zong massacre’ in which 132 enslaved Africans were thrown off the slave ship *Zong*, owned by a Liverpool slave-trading syndicate. In this case, the spatiality of the situation – the ‘out-at-sea-ness’ – was determinative, for the ship’s captain was held to have been justified by the necessity of his remote predicament in throwing African slaves overboard in order to secure the survival of his ship and its remaining ‘cargo’ (*Gregson v Gilbert* 1783, Arvind 2012). While important questions of race and power were clearly at play in the treatment of slaves as dispensable ‘cargo’ (the *Zong* case was an insurance law dispute), had 132 slaves been killed on the English mainland, a murder charge would almost certainly have been brought. But, as they were killed ‘out’ at sea, the court’s application of the law to the event decided that there was no murder committed. Thus – strangely – the application of an aspatial formalism (i.e. ignoring location, as was the approach derided by Prue in *R v Dudley & Stephens*) in *Zong* might have led to what we would consider to be *greater* justice, for we might be inclined to think that ‘murder is murder wherever it happens’.

We suggest then that it is insufficient to regard law as spatially blind or to assert that embracing locational differentiation would always be progressive. Instead, what needs to be teased out of any encounter between law and spatiality is whether, and if so how and for what purpose (and what period of time), spatiality is being invoked or ignored, for an apparent absence of space is also doing spatial and legal work. Thus, to become spatial detectives, we need to consider when spatial and social specificity is productive and equally when aspatial formalism may also do important work.

We also suggest that legal geography’s sensitivity to context, its embrace of specificity, should be borne in mind. Arising primarily in the urban geographies, and part of a wider ‘critical social

project' (Blomley and Clark 1990), new opportunities for legal geographies are emerging beyond the critical project (important as this aspect undoubtedly is). Whether legal geography will ever embrace an object-oriented *post-humanism* to any significant extent (and thus dwell upon the relationship between Latour's chairs and tables rather than upon their co-option – alongside the texts and officials he glimpsed at work there – in essentially human projects) remains to be seen. Yet there are challenging and interesting projects if we expand legal geography scenes, working with affective geographies of matter and understanding legal practices as embedded (and embedding). It is possible then that the dominance of critical theory over legal geography may itself be under some challenge, by (as Braverman et al. 2014 put it) 'timely' widening.

If more people become 'spatial detectives', we would welcome these developments. For, as Whatmore (2006) has argued, geography is the best-placed social science to embrace the physicality of the world and of our enmeshment in it. By extension then, legal geography offers the best route to explicate the grounded, embodied effects of law in the constitution of the world and to challenge the impression that law aspires to dematerialisation, that it seeks to marginalise specificity (i.e. local distinctiveness) and that law seeks to erase spatiality, or indeed ever could.

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### *Short Biographies*

Luke Bennett is a senior lecturer at Sheffield Hallam University. After 17 years in commercial practice as an environmental lawyer, he joined SHU in 2007 to teach and research in the Department of the Natural and Built Environment. His research explores the role of law and other normative orders in the formation, management and use of places – with particular emphasis upon seemingly empty spaces: ruins, abandoned quarries, empty fields and derelict military bunkers. His work has been published in *Environment & Planning D: Society & Space*, *Gender, Place & Culture* and *The International Journal of Law in the Built Environment*.

Antonia Layard is Professor of Law at the University of Bristol, where she teaches property, planning and environmental law as well as research methods. Her research explores how law, legality and maps construct space, place and 'the local'. She has particular interests in 'urban law', and the legal provisions and practices involved in large-scale regeneration and infrastructure projects. One day her book *Law, Place & Maps* will be published by Glasshouse Press, Routledge.

### *Note*

\* Correspondence address: Luke Bennett, Department of the Natural & Built Environment, Sheffield Hallam University, Norfolk 306, City Campus, Howard Street, Sheffield, S1 1WB, UK. E-mail: l.e.bennett@shu.ac.uk

\*\* Correspondence address: Antonia Layard, University of Bristol Law School, Wills Memorial Building, Bristol, BS8 1RJ, UK. E-mail: antonia.layard@bristol.ac.uk

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## Cases

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- Gregson -v- Gilbert* (1783) 3 Doug KB 232.
- Somerset -v- Stewart* (1772) 98 ER 499, KB.
- Sturges -v- Bridgman* (1879) LR 11 Ch D 852.
- R-v- Dudley & Stephens* (1884) 14 QBD 273.

## Statutes

- Alien Tort Claims Act* (28 U.S.C. § 1350 (2006)).