

Practising legal geography

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Abstract

Legal geography is experiencing a “practice turn.” Understanding the material, spatial, and embodied characteristics of law is illuminating hitherto obscured experiences of justice, injustice, and political practice. It is contributions from scholars at the forefront of these concerns, from geography and cognate disciplines, that comprise the papers in the Practising Legal Geography special section. Across seven papers we are seeking to explore the ways in which a focus on practice can deepen our understanding of the methods and praxis of legal geography. Following an outline of its conceptual underpinnings and origins of the research, we give a short account of each of the papers and point to areas of future research for which they provide provocation. Practice emerges as much more than empirical detail – it is a perspective through which we can trace the operation of power and struggle in the making of law.

KEYWORDS

courts, law, legal geography, methods, practice

1 | INTRODUCTION

Practice in the discipline of Geography has a central place (Cloke et al., 2004; Crang, 1998; Dewsbury & Naylor, 2002; Jacobs & Merriman, 2011; Whatmore, 2006), whether studying the spatial practices of world-making or actively taking part in a range of practices tied to methodology, pedagogy, or activism. Its presence and impulses can be witnessed across human geography and take diverse forms, such as: researching artistic practices and geographers’ own recourse to creative practice (Hawkins, 2013); examining nonviolent political practices and asking more from the geographical profession about its own “peaceable practice” (Megoran, 2011, p. 188); and geographers investigating embodied work practices through their own bodily participation “at work” (McMorran, 2012).

In this special section, we advocate and try to address the need for more sustained attention to the practice of law and practising of legal geography to further this disciplinary commitment to practice. Law is significant to understanding lived social relations and experience (Braverman et al., 2014), to the webs of power that organise life for ordinary citizens (Sarat & Kearns, 2009). Just as there have been calls to “expand” the *spaces* of law studied (Braverman et al., 2014), we argue that the *practices* of “doing” law also warrant expansion, taking in those of qualified legal practitioners (Martin et al., 2010), a broader gamut of actors who interpret, enact, and shape laws through their everyday being in the world, and the practice of geographers’ themselves as they research and become directly involved in the (re)making of laws in court and non-court spaces.

A focus on practice, widely defined, opens up new sightlines in the multidimensional relationship between geography and law. It reflects on the methods we use and the “doing” of research in legal geography. Unquestionably, there has been a widening

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of methodological approaches in recent years as geographers have sought to evoke the lived experience of law, to challenge law as a purely “textual” process, and to think through the ethnographic nature of its unfolding (see, e.g., Braverman, 2014; Gill et al., 2020; Latour, 2010; Lees & Hubbard, 2020). This work has sometimes suffered from being overly focused on formal legal practices, so through this collection of papers we have sought to encourage reflection on the wider spaces through which law is both practised and deliberated. Practice also encompasses the use of findings from research (perhaps initially unrelated to the legal realm) in impact-work that can take diverse and unanticipated forms. These include, but are not limited to: acting as an expert witness, giving testimony, assisting individuals or groups facing legal challenges, and/or advising those seeking to change the law. These processes orientate our attention to how geographical ideas travel into and through legal deliberations and domains, in doing so retaining a practical utility.

2 | LEGAL GEOGRAPHY AND PRACTICE

Legal geography is a label that has been applied to an array of different endeavours that share an interest in the relationship between law and space (Bennett & Layard, 2015; Orzeck & Hae, 2020). This starting point alerts us to the challenge that we face in practising legal geography: “law” is a term that has been subject to centuries of scrutiny as a label referring variously to the rules through which life is governed, the system through which such rules are made, the institutions and mechanisms through which they are imposed, and the social and cultural practices through which all of these processes are interpreted (Brunnée, & Toope, 2010; Hart, 2012). These already-disparate conceptualisations are stretched further when we set law alongside space. Legal geographers – a necessarily interdisciplinary label that includes many who are not part of geography departments – have sought to trace how space is more than simply a territorial backdrop to law, or a neutral container within which law plays out. Rather, this work has explored how law appropriates space (Blomley, 1989; Delaney, 2015), is productive of spatial meanings (Jeffrey, 2020a), becomes an instrument of settler-colonial power (Kedar et al., 2018), is projected on and through the gendered and racialised body (Faria et al., 2020; Jeffrey, 2020b), privileges human practice (Braverman, 2012), and organises environmental knowledge (Charpleix, 2018). While these varied approaches defy simple abbreviation, there is a shared sentiment across much of this work of the reciprocal and co-produced nature of law and space in cultural and material landscapes, captured in terms such as *nomosphere* (Delaney, 2004) and *geolegality* (Brickell & Cuomo, 2019).

Rather than foreclosing this diversity, in this special section of *Area* we expand the boundaries of legal geographical interests through the focus on practice. The collection of papers emerges as part of a wider project we are pursuing, entitled “Using Geographical Expertise in Legal Settings,” which has involved conference sessions, a survey of geographers undertaken by the editors in 2018–19 to ascertain the range of legal engagements that geographers undertake, and follow-up interviews with 11 individuals who had extensive experience with legal work.¹ The preliminary findings of the survey point to the multifaceted ways in which law and geography come in contact with one another. We spoke to academics who had given testimony, to those who had shaped law-making, and to those who had been threatened with legal action on the basis of their academic pursuits. While we are currently in the process of writing this up for publication, one of the features of law that this illuminates most starkly is that law is a practical pursuit, not simple a mode of investigation or an intellectual lens. In this respect there will always be a question of how geography as a discipline relates to law's practices, and in turn how law shapes the production of geographical knowledge. The papers in this special section attend in various ways to how practising legal geography relates to different spaces and sites.

3 | PRACTISING LEGAL GEOGRAPHY IN COURT

The first three papers in the special section explore court spaces. The section opens with Dana Cuomo's (2020) paper, which navigates issues of power in a Central Pennsylvania courtroom and in doing so reflects on the kinds of methodological tools and skills required to understand the differential subjective experiences of legal spaces. In widening the methodological toolkit of legal geographers, and in particular drawing on the significance of advocacy practices such as accompaniment and institutional advocacy, Cuomo illustrates how activist strategy and methodological practice can interplay to reveal – while also seeking to confront – law's spatial qualities. This interface between intellectual practice and activist strategy is further developed in the second paper of the section by Nick Gill and Jo Hynes (2021), in their exploration of courtwatching. This seemingly simple activity of observing the unfolding of trials has been utilised by activists and civil society groups to scrutinise legal processes and challenge miscarriages of justice. The history and geography of courtwatching becomes a launch pad for Gill and Hynes to trace the significance of visibility to both the unfolding of law and the granting of credibility and legitimacy to its outcome.

In the context of increasing use of digital technology to facilitate judicial processes across the world, the paper concludes with a timely reflection on the significance of physical presence to the unfolding of law. This question of physical presence and the practice of law is picked up in the third paper in the section by Catherine Traynor and Philippa Tomczak (2020). Their work focuses on the changing conditions under which vulnerable people give evidence in Scotland, focusing in particular on the changing role of voluntary organisations and alterations to the physical infrastructures of law. Continuing the methodological innovation of earlier papers, Traynor and Tomczak propose an approach that fuses assemblage methodologies and appreciative inquiry, providing a novel methodological hybrid to underpin forthcoming research examining what constitutes these measures and their relationships with the court voluntary sector.

4 | PRACTISING LEGAL GEOGRAPHY “OUT OF COURT”

The second part of the special section widens out from court spaces to think of the other sites enrolled within the making of law. Katherine Brickell (2020) opens this discussion with an examination of a client consultation competition on domestic violence held in Phnom Penh, Cambodia. This event saw law students and legal representatives deliberate on domestic violence cases, arguing questions of prosecutorial guidelines, admissibility of evidence, and burdens of proof. What could be understood as a technical issue of doctrinal law is understood in different terms through Brickell's analysis, to illuminate the political nature of the interactions both in terms of law students deliberating with agents of the state, but also scrutinising the politics and ethics of participant observation. Reflecting critical scholarship on the state (see McConnell, 2016), Brickell's discussions conclude with the call for legal geographers to look beyond court spaces to the wider set of places and spaces within which law is rehearsed. The range of actors involved in the deliberation of law is also a feature of Jacobsen's (2020) paper examining the collaborative work between legal practitioners, activists, and forced migrants at community centres in Denmark. This work illuminates the political potential of scrutinising embodied and everyday encounters, to trace how power operates in socio-legal situations. By focusing on the nature of collaboration, Jacobsen advocates feminist legal collaboration, a “method and praxis that takes place through direct engagement with the law and legal practices in order to co-produce knowledge and radically reconfigure existing approaches to legal counselling” (p. 1).

The methodological reflections contained within Brickell and Jacobsen's paper are continued in Joanna Kusiak's (2021) exploration of the potential for Critical Legal Engineering (CLE) to become part of the toolkit of legal geographic action research. This work encapsulates many of the core arguments of this special section: it seeks to probe the ways in which geographical knowledge can be translated into legal arguments, thus “using law's own tools to implement normative agendas implied in critical research” (p. 1) This approach casts a spotlight once more on the mutable and fuzzy boundary between the “technical” process of law and the “politics” of social change and emancipation. Empirically, Kusiak illustrates this argument through urban activism in Berlin that has utilised the German constitution to bring private housing back into state control.

The section concludes with Bennett's (2020) paper calling for greater use of practice theory in legal geography, an approach that he argues would help to clarify how structure and agency interplay in the implementation of law. In doing so Bennett is keen to trace the edgework involved in legal practices, where the line between legality and illegality is worked out through the situated practices of individual actors but working within the structures of legal frameworks. This argument is made through attention to the edgework practices of “place managers” who “translate communal understandings of law and other normative codes into the local specifics of their places, balancing the requirements of safety law with the desired thrill of enabling visitors to step close to precipitous edges at tourist attraction sites.”

5 | CONCLUSION

Practice serves as the thread linking the seven papers in the specials section. In particular it points to three strands of animation across the papers that we think provide fertile ground for future research. First is the unfolding of law as an embodied socio-cultural practice. As each paper demonstrates, this unfolding is intrinsically shaped by spatial dynamics, whether spaces of legal proceedings, networks of actors, or site-specific socio-legal contexts. Second is the refinement of a range of methodological approaches that seek to balance the structures and agencies of legal actors and geographical knowledge production. The papers in this special section showcase innovative and, in many cases, highly participatory approaches that draw out productive insights into the breadth of legal geography practices. Finally, and relatedly, is the foregrounding of the role of the geographer themselves. There is a deeply intertwined relationship between the legal work done by geographers, and an individuals' identity

and practices as a professional geographer. This is an area touched on by many of the papers that follow, and one that warrants more detailed attention in the years to come.

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ENDNOTE

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