

# Antipode

A Radical Journal of Geography

**David Delaney**, *The Spatial, the Legal, and the Pragmatics of World-Making: Nomospheric Investigations*, New York: Routledge, 2010. ISBN 2010 978-0-415-69777 (paper), ISBN 978-0-415-46319-5 (cloth)

Within the field of legal geography, it is widely acknowledged that law is more than a medium for engaging in social disputes and adjudicating claims; it reflects a dynamic relationship to spatial forms and discourses with corresponding productions of control, authority and power. As such, it is a worthy subject of inquiry for those interested in understanding contemporary configurations of these productions and how to change them. In *The Spatial, the Legal, and the Pragmatics of World-Making: Nomospheric Investigations*, David Delaney argues that the legal geography project has stalled: “While the quantity and sophistication of work in legal geography has increased significantly in the past 15 years, there is, at the moment, a palpable sense of impasse” (p. 12). He makes two observations related to the current state of the literature in this respect. First, he notes that much of this work can be aptly described as situating “the legal” within certain spatial contexts, or, conversely, locating “the spatial” aspects of legal rulings, controversies, *etc.* Delaney argues that, while valuable, this work has resulted in a piece-meal, fragmented approach with no common ground on which to build theory. He explains, “the result is analogous to economists investigating ‘the economic’ one transaction at a time” (*ibid.*).

The second observation relates to the continued bifurcation of “law and geography” or “law and space” into two separate but overlapping realms. Delaney notes that much of the legal geography literature is still trapped in this binary. He contends that the law/geography binary is inherently limiting because it automatically restrains investigations within familiar disciplinary boundaries and, along with those boundaries, unnecessarily static lines of inquiry: “Thinking about space and law in these conventional ways promotes a conventional way of understanding their relationship as analogous to (or some version of) some of the ruling antinomies or dichotomies of modernist thought” (p. 13). Delaney argues that there is a need to jump out of

this “cognitive centrifugal force that impedes investigation of the richness of mutual constitutivity of the legal and the spatial” (*ibid.*).

Delaney attempts to address the current impasse by embracing the nomosphere - an investigative framework that provides a common language and approach - as a possible pathway beyond the law/geography bifurcation. His nomospheric approach includes a new suite of tools and orientations in an attempt to engage in more productive lines of inquiry related to the interplay of the spatial and the legal. The “nomosphere” refers to the cultural-material environs that are constituted by the materialization of “the legal” and the legal signification of the “social-spatial”, as well as the practical, performative engagements through which such constitutive moments happen and unfold. Delaney proposes that “the concept ‘nomosphere’ is useful in so far as it successfully holds together the socio-spatial and the socio-legal while foregrounding the dynamic interplay of forms of social meaning and materiality; these are implicated in the historical constitution of social-relational power and situated, embodied experience” (p. 26-27). He provides a series of “steps” for the nomospheric approach, including repositioning materiality and discursivity in relation to each other and foregrounding resulting performativities. For example, when U.S. Immigration and Custom officials break into a home, handcuff suspected ‘illegals’ and place them in detention facilities, these government agents can be viewed as social actors who perform their roles in ways that create “enactments *of* space rather than behaviors *of* space” (p. 15). The corresponding spatialities of homes, church basements, and other places become reflective of the discursively related practices of territory and citizenship.

In general, nomospheric investigations twist and braid various aspects of the legal and the spatial rather than locating one in the other. Delaney identifies four related lines of inquiry for furthering nomospheric investigations: [i] how, under what conditions, and with what consequences is that domain of the social that is identified as ‘law’ spaced or spatialized, how is it worlded?; [ii] how are the processes, projects, practices and performances of legal-spatialization implicated in the operations of social power?; [iii] what might a close and wide-ranging investigation of these reveal about the pragmatics and politics of world-making, and contribute to the richer understandings of what it is like to be in worlds so made?; and [iv] what useful insights might be gained about the social phenomena of ‘law’ and ‘production of space’ through such an investigation? (p. 8).

The nomosphere comes with a new vocabulary provided in an attempt to work from an orientation grounded in the mutual constitutivity of space and law. Each chapter introduces a new aspect of this vocabulary. They include: nomospheric *situations* (“the temporal enmeshment of and engagement of embodied social beings with the social, material world” [p. 37]); nomospheric *settings* (“determinable segments of the material world that are socially fabricated by way of inscription or assignment of traces of legal meaning” [p. 59]); *nomoscapes* (“the worldly - and worlded - expression of ideologies or pervasive cultural meaning systems” [p. 101]); nomospheric *projects* (“future oriented power projects centrally concerned with intervening nomospheric fields of power and the related contours of the lived experience of the contours of power” [p. 147]); and, finally, nomospheric *techniques* (“the strategies and practices of nomospheric technicians, *i.e.* actors more conventionally known as lawyers and judges” [p. 157]). Each chapter is replete with examples from relevant case law, as Delaney attempts to capture nomic world-making in ‘everyday’ settings ranging from schools and bathrooms to habitats for endangered species.

He creates the nomosphere in an attempt to move beyond the law/space binary and provide a new vehicle for investigations based on the mutual constitutivity of law and space. He successfully and rather straightforwardly outlines a framework for doing so. An intriguing concept, but does it work? At the 2012 annual meeting of the Association of American Geographers in New York, co-organizer Robyn Bartel from the University of New England and I tried to find out. In fall of 2011, we put forward a call for papers for the upcoming conference, asking prospective participants to submit abstracts for papers using Delaney’s nomospheric approach. In response, we received numerous proposed abstracts and eventually organized three back-to-back sessions held at the conference in February 2012. Presenters included law students and professors as well as geography faculty and PhD candidates. With panelists from five countries and investigations in areas ranging from regulation of the sex-trade in Australia to Bedouin land rights in Israel/Palestine, the papers were diverse and represented many fields of inquiry.

Based on these papers and the resulting discussions that ensued, some interesting themes emerged. The first theme identified was that of visibility, the way in which law renders some spaces more visible while also (and often concurrently) masking others. Jason Prior and Penny Crofts from the University of Technology, Sydney examined how land use planning is being

used in New South Wales to regulate awareness of sex premises. Conversely, my paper regarding the ‘burden of proof’ in environmental case law demonstrated how law screens legal claims by denying space within the privileged nomospheric setting of the courtroom. Lisa Pruitt from the University of California, Davis lamented the invisibility of socio-legal manifestations of ‘the rural’ in contrast to the geography’s preoccupation with urban processes and productions of the city.

The second and closely related theme that emerged involved the concept of legitimacy. Erez Tzfadia from Sapir College investigated Israel’s settlement project in the occupied Palestinian territory; he highlighted the way in which the occupied territory becomes a socio-material realization of ethno-national and territorial ideology. Marc Poirier of Seton Hall University used a U.S. Supreme Court decision upholding the expulsion of a gay man from his position as an assistant scoutmaster for the Boy Scouts of America in order to demonstrate how the state legitimizes the exclusion of transgressive performances in the name of ‘free speech’. Margo Kleinfeld of University of Wisconsin-Whitewater, in her investigation of ‘asylum cities’ and hospital towns under the Geneva Conventions, examined the law’s role in the legitimization of violence vis-à-vis the division of space into zones of war and zones of peace.

It is equally important, however, to note what *did not* emerge in the paper sessions. In general, the papers struggled to actually make the *shift into* and *use of* the nomosphere. While there was some use of the vocabulary, there were few attempts to access investigations from a place of mutual constitutivity - what Delaney calls “twisting the split” (p. 13). As a result, while some common themes were identified among the various papers, they did not share a theoretical framework. To be fair, the use of a common vocabulary should not be undervalued. Anyone who has tried to conduct a review of the literature using terms like ‘legal’, ‘geography’, and ‘space’ knows that it is increasingly difficult to research scholarship in this growing field. This is especially true given the disparate nature of the subject matter involved and the current lack of a peer-reviewed journal specializing in legal geography.

But the nomosphere holds much more potential than the creation of a common vocabulary and use of search terms. It provides a new suite of tools and techniques as a basis for investigation. This is critical to any meaningful development of the field of legal geography. The limitations of current approaches identified by Delaney have also been acknowledged by others (see Blomley 1989; Philippopoulos-Mihalopoulos 2010). Yet the problem remains. As

the 2012 AAG sessions demonstrate, learning how to drive this new vehicle will not be effortless or intuitive - but it has the capacity to take us to new places where scholarly engagements can be more relevant and productive. A commonly understood theoretical orientation and approach provides an opportunity for scholars to build on each other's work. It also allows scholars to more effectively challenge and critique the theory and related work as the field develops, facilitating the need to for further theoretical development. Recent debates among human geographers regarding 'the politics of scale' (*i.e.* the Brenner/Marston debate) provide an example of the advantages of a shared groundwork and point of reference (see Brenner, 2001; Marston and Smith 2001; Marston *et al.* 2005). While the 'nomospheric' sessions at the 2012 AAG were generally not successful in using Delaney's new approach, I believe that these attempts underscore the challenges and hinted at the opportunities associated with conducting nomospheric investigations. They also highlight just how difficult it is to get sufficient traction for new theories and methods.

There is value to the nomospheric lens. The challenge will be to find ways to encourage work in the nomosphere. As the field of legal geography continues to grow, perhaps those of us who teach in this area will train nomospheric investigators who, an academic generation from now, may share a perspective and approach. Because legal concepts, claims and systems intersect and bound almost all subjects of inquiry in human geography - ranging from international climate policies and water governance to border towns and queer identity - Delaney's nomospheric approach may provide an entry point into legal geography for scholars working in other fields as well. Delaney's book has great potential to advance the legal geography project. Whether fellow scholars will actually use it remains to be seen.

## References

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