

Book Review

Matteo Nicolini, *Legal Geography, Comparative Law and the Production of Space*, Springer, 2023.

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1 Nicolini's Inquiries into the Space and Law Tangle

The monograph of Matteo Nicolini explores an unknown land: the relationship and the interplay between law and space. The monograph is the result of the extraordinary intellectual curiosity of the author and is characterized by originality and breadth of scope. The author develops the central theme of the relationship between law and space by easily and courageously crossing the disciplinary boundaries of geography and law.

Nicolini's on *Legal Geography* perfectly reflects the conception of relative space, understood as a container of social and, therefore, also legal processes.¹ Indeed, the oldest geography embraced the 'Newtonian' conception of homogeneous, empty and absolute space. The transition from one to the other conception is due, among others, to the thesis of the triple dialectic of space by Lefebvre, author of the 1974 text *The Production of Space*.² More recently, it was not a geographer who drew attention to the existence of so many different spaces, but a philosopher: Foucault, who, although he dedicated only a few (but illuminating) explicit interventions to space, was nevertheless always sensitive to the space-time dimension in his 'major' writings, so much so that the new geography drew important stimuli from his reflection and lively dialogue with him. In a short essay in 1984, Foucault evokes the existence of the many dimensions of spaces to develop his conceptualisation of "heterotopias".³ In the opening part of the essay, Foucault, in order to emphasise that the spaces in which we live are not homogeneous but articulated and qualitatively different from one another, distinguishes places of transit, places of temporary rest and places of rest.

In Nicolini's work, there appears the reconstruction of the concept of space in its multiple dimensions, identifying physical (atmosphere, climate change) space, social

1 H. Lefebvre, *The Production of Space*, (Milan: Moizzi, 1976).

2 Lefebvre, "The Production of Space", 54.

3 M. Foucault, *Spazi altri. I luoghi delle eterotopie*, edited by S. Vaccaro (Mimesis, Milan, 2001), 19–32.

space (critical geographies) and, finally, space in the abstract sense, as individual perception. Now, the very idea of ‘abstract’ space, i.e. as a ‘mental’ space, allows for a very shrewd analysis of the factors involved in spatial determinations and the complexity of their links and dynamics. These factors include social processes and, as will be better said, also law. Nicolini’s book brings the insights and resources of the geographical sciences into the legal sphere, and, in the opposite direction, to enrich the understanding of geography in the light of the role of the other social sciences and, in particular, of law. And it is clear that this project is, by its very nature, cross-disciplinary and, therefore, structurally different from the two original disciplines and aimed at creating a new field of research that can enjoy its own autonomy and independence.

In the following paragraphs, the main parts of the monograph will be examined and contextualised in the current debate about legal geography. Considered the above, only crossdisciplinarity could, in the intentions of its authors, unveil this overlap of the geographical, the social and even the legal. A reading of the recent literature in legal geography, despite the diversity of topics ranging from animals to satellites,⁴ allows us to conclude how the distinctive characteristic of the discipline consists in understanding how the geographical and legal dimensions influence each other in an extremely wide sense, so that topics, such as cultural protection,⁵ emotions,⁶ prison visitation⁷ and consumption⁸ are also addressed.

Nicolini touches the main lines of research in the field and, by adopting a very convincing structure of four parts offer to the reader a much-needed systematisation of the main theories of legal geographies. Precisely, Part 1 of the monograph concerns taxonomies and methodologies, Part 2 focuses on spatial normatives and, particularly, on topics related to the never-ending processes associated with the colonization

4 J. Prior, P. Crofts, P. Hubbard, “Planning, law, and sexuality: Hiding immorality in plain view”, *Geographical Research*, 51 (2013): 354–363; K. Srinivasan, *The biopolitics of animal being and welfare: Dog control and care in the UK and India*, in *Transactions of the Institute of British Geographers*, 2012, 38: 106–119; C. Collis, *The geostationary orbit: A critical legal geography of Space’s most valuable real estate* *Sociological Review* 57 (2009): 47–65; J. Lepawsky, *Legal geographies of e-waste legislation in Canada and the US: Jurisdiction, responsibility and the taboo of production* *Geoforum* 43 (2012): 1194–1206; B. D’Arcus, *Extraordinary rendition, law and the spatial architecture of rights*, *ACME: An International E-Journal for Critical Geographies*, 13 (2014): 79–99.

5 M. Benson, *Mining sacred space: Law’s enactment of competing ontologies in the American West*, *Environment and Planning* (2012), 44: 1443–1458.

6 D. Delaney, *Legal Geography I: Constitutivities, complexities, and contingencies*, *Progress in Human Geography*, (2014): 1–8.

7 D. Moran, *Carceral geographies and the spatialities of prison visiting: Visitation, recidivism and hyper incarceration*, in *Environment and Planning*, 31 (2013): 174–190.

8 A. Layard, *Shopping in the public sphere: a law of place*, in *Journal of Law and Society* 37 (3) (2010): 412–441.

and decolonization of legal thought, and it also deals with critical legal geographies. Part 3 deals with territorial nomenclatures, including reflections about borders and linguistics. Finally, Part 4 addresses the de-territorialised legal geographies. The following sections analyse and discuss the above-mentioned parts of Nicolini's book.

2 The Quest for Crossdisciplinarity: Legal Geography

One of the merits of the monograph consist in the fact the author is working across disciplines by generating a number of intellectual and practical problems and tensions. The author expressly recognizes himself as a legal geographer (p. 287) and argues in favour of crossdisciplinarity.

Indeed, the expression legal geography is quite recent and it first appeared in Blomley's 1994 book entitled *Space and the Geographies of Power*.⁹ In truth, the studies of human geography have not shown any particular attention to issues of legal relevance, at least until the emergence of this new discipline. This assertion is supported by reading the journals of the subject in which one cannot find, at least until the emergence of *Legal Geography*, any contribution referable precisely to legal themes. The first collection of scholarly contributions was published only in 2001 (precisely the *Legal Geography Reader*, 2001). The reader collected the articles published in the previous decade by various authors who are linked to the new discipline to some extent. Over time, the doctrine under review has grown in quantitative and qualitative terms and has seen increasing participation by young scholars. Since the 2000s, critical currents in the geography of law have also emerged in scholarship.¹⁰ Subsequently, two collections of writings, the first from 2003¹¹ and the second from 2014,¹² confirm, where there was still a need, the focus on this area of research, attempting to better define the areas of investigation, as well as the research methodologies.¹³ A fairly complete illustration of the objectives of the

9 N. Blomley, *Law, Space and the Geographies of Power* (London, The Guilford Press, 1994). Id., *Rights of Passage: Sidewalks and the Regulation of Public Flow* (Routledge, 2013).

10 I. Braverman, N. Blomley, D. Delaney, A. Kedar (eds.), *The expanding spaces of law: a timely legal geography*, (Stanford: Stanford University Press, 2014).

11 J. Holder, C. Harrison (eds.), *Law & Geography. Current Legal Issues*, (Oxford: OUP 2003).

12 I. Braverman, N. Blomley, D.P. Delaney, A. Kedar, *The Expanding Spaces of Law: A Timely Legal Geography*.

13 Y. Blank, I. Rosen-Zvi, *The spatial turn in legal theory*, *Hager Studies in Culture, Polity and Identities*, 10 (2010): 37–60.

doctrine under consideration is contained in the book *The Expanding Spaces of Law: A Timely Geography*.¹⁴ In this regard, it can be said that one of the main objectives of the project can be found in the interdisciplinary vocation of these studies: the underlying idea is to foster the exchange of concepts and methods between the legal and geographical disciplines. For this reason, this field of investigation is characterised by a rather high degree of multidisciplinary collaboration. A second objective is to extend the geographical and legal investigation, now distinctive of legal geography to the unresolved and most pressing social issues of contemporary society.

In particular, the relationship between comparative law and space is characterised by mutual dependence and influence and the author proudly confirms its crossdisciplinarity vocation and background in a particular legal discipline, comparative law that is characterized for being open to contaminations from other disciplines since its origins. It is sufficient to recall the influence of linguistics in developing Sacco's legal formants.¹⁵ The author shows us how and to what extent legal geography deals, on closer inspection, with what - for the comparative lawyer (such as Nicolini) - are the normative and jurisprudential formants, as well as implicit formants. And, in fact, this discipline also manifests an interest in other actors, events and expressions that are not expressions of state law, such as practices,¹⁶ customs,¹⁷ social norms¹⁸ and even the rules common to the patrons of an English pub.¹⁹

Interestingly, for geographers of law, as Nicolini, law is perceived as a dynamic, changing and often contradictory process. This is perhaps most striking in geographic studies examining neo-liberalism, insofar as it is clear that this concept

14 I. Braverman, N. Blomley, D. Delaney, A. Kedar, (eds.), *The expanding spaces of law: a timely legal geography*.

15 A. Kedar, *On the Legal Geography of Ethnocratic Settler States: Notes Towards a Research Agenda* 5 (2003) *Current Legal Issues*, 401–441, 405. The author notes how an entire issue of the journal *Historical Geography* was dedicated in 2000 to the theme *Geography, Law and Legal Geographies*. The first colloquium on the topic was then held in London in 2001, which was followed by the publication of the first edition of the book edited by J. Holder and C., *Law and Geography* (Oxford: OUP 2003).

16 L. Bennett, *A pub, a field and some signs - a case study on the pragmatics of proprietorship and legal cognition*. A paper presented at Cobra 2011 - Royal Institution of Chartered Surveyors International Research Conference, Manchester, UK, 12–13 September 2011.

17 V. Nagarajan, A. Parashar, *Space and law, gender and land: Using CEDAW to regulate for women's rights to land in Vanuatu*, *Law and Critique* 24 (2013): 87–105. D. Robinson, *Legal geographies of intellectual property, 'traditional knowledge' and biodiversity: Experiencing conventions, laws, customary law, and karma in Thailand*, *Geographical Research*, 51 (2013) 375–386.

18 L. Konsen, *Norms and Space: Understanding Public Space Regulation in the Tourist City*, *Lund Studies in Sociology of Law* (2013): 41.

19 P. Hubbard, *Kissing is not a universal right: Sexuality, law and the scales of citizenship*, *Geoforum* (2012), 49: 224–232.

refers to fundamental transformations in legal rules, relations and modes of governance associated with so-called privatisation, as well as market deregulation.²⁰

The monograph highlights how there are in fact reciprocal influences between the legal and geographical dimensions by discussing of *space normatives* (part 2).²¹ In his intellectual effort, Nicolini goes beyond the simple fact that society is a legal entity to investigate how this entity is constituted and the effects of how it is continually influenced in its actions by the legal framework and changes therein.²² To further exemplify, climate change governance (consists of much more than substantive rules, regulations and policies, but includes technical rules, the practice and dissemination of which can have significant material consequences in the world.²³ Thus, the researcher here addresses entities such as the home, society, the environment, the city, the state, the citizen, the worker, and the market. Well, these entities are constituted by law itself, which defines them, conforms them and thus makes them legal expressions.

In particular, law is called upon to modify the social meaning of space (the city, for example) when dictating the rules of social coexistence there. Usually, geographers write, constitutive moments are responsive as entities are subsequently reconstituted in open and sometimes even criticisable processes. In essence, as noted, the geographer perceives the legal as a process in the making, not as a given.

On this point, it is worth mentioning that the monograph of Nicolini shows how law also constitutes and continuously reconstructs itself as an autonomous 'space' through its constitutive operations in relation to other 'spaces', such as politics and the market, and also by mediating conflicts.²⁴ In other words, Part I highlights how law 'constitutes' a large part of modern reality through its incessant, albeit inconsistent, reiterations of divisions between public and private, national and foreign, national and international, subject and object of law.²⁵

Now, it is quite easy to show how law is constitutive of space: the law of the state draws national, regional and local boundaries, constructs interiors and exteriors, assigns legal meanings to the boundaries themselves and, as is well known, regulates the legal effects of crossing these boundaries. To exemplify, a number of scholarly

20 J. Barkan, *Law and the geographic analysis of economic globalisation*, *Progress in Human Geography*, 35 (2011): 589–607.

21 D. Delaney, *The Spatial, the Legal and the Pragmatics of World-Making Nomospheric Investigations* (Routledge 2010), 15.

22 J. Barkan, *Law and the geographic analysis of economic globalisation*, cit.; M. Pendras, *Law and the political geography of US corporate regulation*, *Space and Polity* 15 (2011): 1–20.

23 M. Benson, *Rules of engagement: The spatiality of judicial review*, in I. Braverman, N. Blomley, D. Delaney, A. Kedar (eds.), *The Expanding Spaces of Law*: 215–238.

24 J. Barkan, *Law and the geographic analysis of economic globalisation*, 603.

25 M. Valverde, *Jurisdiction and scale: Legal 'technicalities' as resources for theory*, *Social and Legal Studies* 18 (2009): 139–157.

works have investigated the legal and geographical aspects inherent to prison spaces,²⁶ hospitals,²⁷ places of torture,²⁸ as well as said scholars have investigated, from the same perspective, issues related to sexuality²⁹ and also the governance of public water.³⁰ It is also very interesting the exploration of the role of law as an instrument to configure spatial practices, such as confinement, exclusion, expulsion and forced mobility. In this sense, the doctrine illustrates how law constitutes (i.e. delimits and regulates) more or less extensive spaces (from the state to the home) by confining the individual in these contexts.

More important, the author significantly contributes to the epistemological construction of the above-mentioned area of studies by focusing on taxonomies and methodologies (Part 1).

3 Taxonomies and Metaphors

The author easily employs certain terms that are peculiar to human and social geography, such as space, place, territory. A new semiotics attentive to the spatial perspective is thus born, and it is almost de rigueur in numerous discourses whose analytical depth has been enriched by references to terms such as: mapping, scale, horizon, domain, field, space/place, boundary, just to mention a few.³¹ Nicolini emphasises that, on the one hand, law contributes to defining space (think of the definition of public place and private place), and, on the other hand, spatiality has an effect on our understanding and practice of law (think simply of the rules protecting artistic and landscape heritage). This relationship, or rather interaction (or mutually constitutive character, as the author writes), between the two spheres can be found in multiple contexts of human life and offers an interdisciplinary key to interpretation. In particular, it is certainly true that space, time and place are constitutive elements of life and social organisation.

About space/place idea, the monograph often dwells on the idea of place or the absence of a precise location. Some studies have examined the role of law with

26 K. Beckett, S. Herbert, *Penal boundaries: Banishment and the expansion of punishment*, *Law and Social Inquiry* 35 (2010): 1–18.

27 D. Moore, L. Freeman, M. Krawczyk, *Spatio-therapeutics: Drug treatment courts and urban space*, *Social and Legal Studies* 20 (2011): 157–172.

28 B. D’Arcus, 2014.

29 P. Hubbard, *Kissing is not a universal right: Sexuality, law and the scales of citizenship*, *Geoforum* 49 (2012): 224–232.

30 E. Perramond, *Water governance in New Mexico: Adjudication, law and geography*, *Geoforum* 45 (2013): 83–93.

31 Blomley 1994, 2003.

respect to particular places, such as, for example, a city in New Mexico,³² the city of Ottawa,³³ the Galilee,³⁴ Hmong villages in Thailand,³⁵ and brothels in Sydney³⁶ and pubs in England.³⁷ It also perfectly masters the idea of landscape: Howe (2008): focused on religious landscapes and the relative legal protection of such contexts, Braverman (2010) offered a critical analysis of the natural and political landscapes of Israel and Palestine.³⁸ Furthermore, Delaney wrote an essay in 2013 - and this is really curious - on landscape and civil liability from the perspective of the doctrine under consideration here.³⁹ In short, according to the author, there is nothing in the world of spaces, places, landscapes and environments that is not touched by the workings of law, and specifically by its explicit and implicit formants, understood as a legal flux in the making.

In the monograph, the constitutive power of law, however much it may interest geographers, is not limited to aspects of nature. Indeed, it does not stop at the analysis of natural phenomena, but focuses, above all, on the 'critical' form, on 'persons' and on the social relations between persons. In the first perspective, it is emphasised that law defines people in a broad sense (e.g. citizens, consumers, animals, lovers, owners, workers, refugees, children, soldiers and so on) and determines their life in the world. In the second perspective, it is assumed that social relations of various kinds are also legally relevant relations. One thinks of labour relations, as well as marital and family relations, just to mention a few examples.

Firstly, the author uses all these key conceptual devices used to identify moments or instances 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.⁴⁰ Of course, metaphors are not inferior to what might lie behind the metaphor itself. Metaphors are often the only way to overcome the problem of disciplinary boundaries. At the same time, however, metaphors can become too vague, hindering the goal of understanding and instead facilitating a

32 Perramond, 2013.

33 K. Walby and R. Lippert, "Spatial Regulation, Dispersal, and the Aesthetics of the City: Conservation Officer Policing of Homeless People in Ottawa, Canada," in *Antipode*, (2012) 44: 1015–1033.

34 G. Forman, "Israeli Supreme Court Doctrine and the Battle over Arab Land in Galilee: A Vertical Assessment", in *Journal of Palestine Studies*, (2011) 4: 24–44.

35 Robinson, 2013.

36 Prior et al., 2013.

37 Bennett, 2011; Hubbard, 2012.

38 I. Braverman, *Planted flags: trees, land, and law in Israel/Palestine* (Cambridge, Cambridge University Press, 2009).

39 D. Delaney, *Seeing the legal landscape*, in N. Johnson, R. Schein, J. Winders (eds.), *Companion to Cultural Geography* (Oxford, Wiley-Blackwell, 2013): 238–249.

40 L. Bennett, A. Layard, *Legal geography: Becoming spatial detectives*, in *Geography Compass* (2015) 9: 406–422, 410.

separation, in this case, between law and geography. However, formulated in non-metaphorical terms, the spatial turn of law may be interesting on many fronts. Evidently, it contrasts with a certain positivist conception, which sees law as something immaterial, universal and abstract, and it also fits poorly with a socio-legal view of law as something rooted, empirically proven and geographically situated.⁴¹ The first way of combining law and space is to understand the latter according to the narrow, legalistic terminology of jurisdiction.⁴² Jurisdiction (space) can ultimately change (time) as a result of disputes or developments in the legal field. But in this formulation space remains fixed, 'static' and entirely consequential to what is traditionally its most seductive opposite: time.⁴³

Secondly, Nicolini overcomes the practice of barricading behind a geographical location without ever considering the world as space - i.e. the global as opposed to the local dimension of the city or the countryside⁴⁴ - and shows how the issue has repercussions that go far beyond the purely theoretical.⁴⁵

Thirdly, the author does not reduce space to yet another social factor, to yet another perspective that, at best, offers nothing more than a context and, at worst, a background. This is probably what Lefebvre intended to avoid when he wrote that space is not an object, any product among others, but rather manifests the capacity to shape reality and the objects that are part of it, delineating the material (and indeed also imaginary) world.⁴⁶

If the spatial turn is exhausted in background considerations, without therefore providing the epistemological basis on which coexistence and simultaneity can be demonstrated, then one can more accurately speak of geography rather than space.

41 D. Cooper, *Governing out of Order: Space, Law and the Politics of Belonging*, (Rivers Oram, New York, 1998). D. Massey, *Space, Place and Gender* (Cambridge, Polity Press, 1994).

42 N. Blomley, *Law, Space and the Geographies of Power*, 1994. D. Delaney, *Race, Place, and the Law, 1836–1948*, (University Texas Press, Austin 1998); R. Ford, *The Boundaries of Race: Political Geography in Legal Analysis*, *Harvard Law Review*, 1994 (107): 1841–1921. M. Blacksell, Ch. Watkins, K. Economides, *Human Geography and Law; A Case of Separate Developments in Social Sciences*, in *Progress, Human Geography*, 3 (1986): 371–396.

43 See, however, Richard Ford's attempt to formulate a fluid concept of jurisdiction as "at once a material technology, a constructed environment and a discursive intervention", in *Law's Territory (A History of Jurisdiction)*, in *The Legal Geographies Reader*, edited by N. Blomley, D. Delaney, R.T. Ford (Blackwell, Oxford, Oxford University Press, 2001), 201. On time and space, E. Soja, *Postmodern Geographies* (Verso, London, 1990); D. Harvey, *Spaces of Capital: Towards a Critical Geography* (Routledge, London, 2001).

44 A valid point in itself, although not an irrefutable one, as D. Massey, *World City, Polity* (Cambridge, Cambridge University Press, 2007).

45 Z. Pearson, *Spaces of International Law*, in *Griffith Law Review*, vol. XVII, no. 2, 2008, pp. 489–514; see also A. Brighenti, *On Territory as Relationship and Law as Territory*, in *Canadian Journal of Law and Society*, 2006, XXI, 2, pp. 65–86, for an opposing theorisation of space.

46 H. Lefebvre, 1976.

Geography, the reduction of the world to an image, the grapheme (-graph) of the Earth (geo-), is a representation. As such, it reveals but at the same time conceals its own reference, namely space itself. As David Delaney states, geography “seems to represent spatiality, places, landscapes, materiality, and the solid, sensuous domain of the visible”.⁴⁷

Thus, space is not (only) jurisdiction, an idea or a social factor with respect to legal conception. Occasionally it may be, represent or be represented by all of the above, but such dimensions omit some truly promising facets of analysis rooted in geography where space is a product of entrenched interrelationships and practices, a sphere of multiple possibilities, a field of probability and undecidability, and as such always in the making, always open to the future.⁴⁸ In comparison, time is benevolent: while movement in space is mere escapism, time is only now, and everything (however illusorily) can be comprehended in the present moment, within its history and its afflatus; space, on the other hand, is always parallel, always elsewhere, always other than what is given. Time is static, space is in motion. This combination of material and immaterial, concrete and abstract are the reason why Lefebvre called space a concrete abstraction. In the same spirit, according to Nicolini, the law is also a concrete abstraction, characterised by its paradox of materiality that allows us to remember that, after all, it is only law that can give itself a spatial turn.

4 Unexplored Territories

The monograph explores physical and nonphysical process of territorialisation and de-territorialisation. In essence, such reflections lead in the direction of greater attention towards the study of law in its context: a research direction that *Legal Geography* shares with comparative law. The novelty that the former offers us consists, in our opinion, in an extraordinary enlargement of the places (physical, imaginary, social) to be examined in theoretical and empirical comparative research. Particular attention should be paid to these fascinating non-places that include not only physical spaces, but also situations such as migration flows, urban development and refugee camps.

It seems to us, then, equally interesting how the doctrine under consideration can make a significant contribution to overcoming the traditional convergence between the nation-state and law and, above all, to understanding the law or, rather, the rights of globalisation. In this sense, it is possible to observe a convergence of

⁴⁷ D. Delaney, *Beyond the World: Law as a Thing of this World*, in C. Harrison, J. Holder (eds.), *Law and Geography*, (Oxford, Oxford University Press, 2002).

⁴⁸ D. Massey, *For Space*, (London, Sage, 2005): 17.

research interests between geographers and jurists who are interested in these same issues. Nicolini examines *inter alia* the remaining of the globalisation.⁴⁹ Particularly, Part 2 of the monograph shows how by moving the individual into a certain space, one can decide on the rights and protections from which the individual can (in this case, cannot) benefit.⁵⁰ However, if at the global level we witness the creation of a common space, of a mass culture, conversely, at the local level, we witness the emergence of a series of socio-cultural pluralisms that lead to the creation of a socially variegated local dimension. It follows that, in an increasingly globalised world, there can be no local or local-environment geography that is not also simultaneously a global and globalised-environment geography: in any case, the 'new' planetary vision of the local-global environment disrupts and disarticulates the geography of nation-states at the root.

This obviously makes it difficult to represent social processes geographically, including processes that are legally relevant. The question therefore arises as to which right(s) can be the subject of representation. The monograph investigates, for example, global law, state law, and local practices.

On the one hand, it clarifies how legal categories are not immune to the increasing interaction between people and states from different places on the planet: in the language of jurists, the adjectives transnational and 'supranational' are both used to describe the overcoming of the traditional territorial measure' of regulatory power: the nation-state. However, while supranational law (e.g. European law) maintains a relationship with borders and is fully traceable to a certain geographical area, the term transnational indicates a going beyond that translates into a connection between places that cannot be defined *a-priori*. Well, as one author writes, "supranational law stands on the territory like a stain that spreads on the paper when water falls on a drawn figure. In such a case, two effects are created (...): the contours of the drawing become less clear and sometimes get lost, even touching neighbouring figures. And again, (...) at the same time, the colour of the drawn figure, as it expands, fades, i.e. it becomes lighter, less sharp, but also variegated because it mixes with the colours underneath other figures, resulting in mixed colours".⁵¹

On the other hand, traditional systematisation assumed that non-state law - customary, religious and indigenous law - could only have relevance when it was accepted by and within state law, thus becoming an integral part of it and increasing its level of complexity. This process has been referred to by some scholars as weak

49 C. Minca (ed.), *Introduction to postmodern geography*, (Padua, Cedam, 2001).

50 K. Raustiala, *The Geography of Justice*, in *Fordham Law Rev.* 73 (2005): 2501–2560.

51 M.R. Ferrarese, *Diritto sconfinato. Legal inventiveness and spaces in the global world* (Rome-Bari, Laterza, 2006): 25–26.

pluralism, assuming one can speak of pluralism in this case.⁵² To follow such thinking, Nicolini makes clear to the reader that the classification based on state law is too limited to analyse the complexity of the present and opens the way to a multi-level exploration of the various dimensions of spaces that the law co-constitutes.

5 Critical Legal Geography

It is also worth noting the author is a critical legal geographer. It is true that geographers of law are reminiscent of scholars who have been part of the critical movements with respect to the study and use of law, known as *Critical Legal Studies* (CLS), since the 1960s. In other words, it is possible to detect similarities and think of a return of critical and geographical studies on contemporary law.

Now, the CLS, which were in continuity with the law and society movement and the tradition of American legal realism, were deeply questioning the role of both the jurist and legal science with respect to the complexity of the social order, taking radical positions on the question of power.⁵³

In particular, starting from a neo-Marxist approach, CLS scholars consider the relationship between the legal system and economic relations as not marked by an unequivocal automatism but reciprocally influential and immersed in a dense network of interdependencies (economic, political and social) that leads them to admit a relative autonomy of law. If law is traditionally the result of hegemonic production and class relations, it can maintain a role as an exogenous variable in processes of economic change and open up to alternative practices that are, in any case, oriented towards promoting democracy and supporting emancipatory practices of excluded subjects and groups.

Above all, the CLS exerted a radical deconstruction of liberal reformism and positive law, revealing their internal ambiguities and indeterminacies and their inability to grasp social complexity. This last assumption is the starting point for one of the many outcomes of this movement, the strengthening of interdisciplinary trajectories and the thematic and methodological intermingling with other social and humanistic disciplines that shared an interest in neo-Marxist literature and post-structuralist thought between the 1980s and 1990s and that were being influenced by the interpretative turn, that of feminist studies and *critical race theory*. The spatial turn in legal thought was in fact nourished by these broader currents of study and it was within them that an awareness of the reciprocity of the relationship between space and law as mutually dependent emerged, thanks to a series of

52 J. Griffiths, *What is legal pluralism?* *Journal of Legal Pluralism* 24 (1986): 1–55.

53 G. Marini, *I critical legal studies*, in *RCDP* (1986): 187–212.

pioneering publications. Not only do the socio-geographical characteristics influence the genesis of law, together with (it is worth remembering) many other historical and political factors (which pertain to the circulation of legal models), but law in turn regulates and norms space by determining its order and helping to regulate the identities that move there.

Reciprocally, law will be able to be forced, strengthened and transformed by the dynamics that move within and from that specific space. It will thus be that a project of interdisciplinary studies (Braverman, Blomley, Delaney, Kedar) will be constituted that is highly critical in its approach to the legal system as a homogeneous cultural order, which will take to using spatial analysis to highlight both the ideological structures that run through the instruments of territorial conformation and the distorting, conservative or redistributive effects of the norms that order space and to valorise alternative meanings and experiences with respect to the dominant legal logics.

In the 1980s, a series of publications by Gordon L. Clark (an English geographer affiliated with Harvard at a time when Harvard was the centre of the *Critics* movement) developed an analysis of local politics through a legal casuistry that brought out the meanings and scope of local democracy in the United States and Canada. In these works (1985), the critique of legal formalism and positivism are combined with a critique of liberal policies in their local-scale impacts in an innovative combination of spatial and legal analysis that focuses on the question of interpretation and the heterogeneity of social values that can guide it.

In fact, the founding treatise of that interdisciplinary project later called *legal geography* will be the text *Law, Space and Geographies of Power* by Nicholas Blomley in which the Canadian geographer, despite the supposed and unanimous call for multidisciplinary, denounces the division between law and geography, the substantial lack of a common theoretical and analytical vocabulary, and attempts to open up (here and through some subsequent collective works) a field of study around themes such as property, land use, the dynamics of *gentrification*, and the critique of liberal spatiality through a series of empirical studies animated by a radical vision of social justice.

If the CLS, denouncing the disciplinary closure of law and highlighting its indeterminateness and contingency, had at first turned essentially towards history, geography had also been the protagonist of an internal critique directed towards a pure and abstract vision of space detached from political and social references, opening up, however, in preference to economics, sociologies and political and urban sciences. In the essay Blomley identified, however, precisely in the iconoclastic will of both CLS and *Critical Legal Geography* a trait of possible fruitful contamination as

well as in their insistence on the political, multiform and interdependent matrices of the dynamics studied.⁵⁴

Among the many different fundamental contributions to this turn of events, one can mention the interdisciplinary work of Mitchell, who from the 1990s began a series of analyses on the conflicts related to the use of public space in the United States of America. Starting with the living conditions of the homeless and studying the liberal tendencies towards the purging of urban space, the American geographer more recently came to take up the notion of the 'right to the city' in a strongly spatialised key (as the right to minimum access to the city).⁵⁵

In particular, two authors developed, also from the 1990s, some works, which are considered to be particularly significant, on the pervasiveness of racism within both American policies, highlighting the openly discriminatory intentions of some territorial policies and the redistributive injustices that determine direct effects of spatial segregation. Consider, for example, the feminist issues that have been analysed in North American legal literature.⁵⁶ These studies show the connection between environmental risks and racial issues by developing a rich conceptual armamentarium that critiques the legal and spatial construction of identities.

Now, the writings of geographers belonging to the aforementioned critical current seem to converge in themes and objectives with the thinking of the aforementioned *critical legal studies*. Indeed, geographers have written about space from a critical perspective to denounce injustice and discrimination and to point out how space is part of the process of producing justice or injustice. Emblematic among these studies are those on the so-called *white flight*, i.e. the analysis of the factors that accentuated the formation and social and racial homogenisation of the suburbs. And it is interesting to note how such reflections are also present in the historic *Brown v. Board of Education* (1954) judgment.⁵⁷ In the field of private instruments, one cannot fail to mention the work of the North American scholar Duncan Kennedy on the effects of administrative regulations on the regulation of habitability and the mechanisms of eviction of property occupants. The author uses the English term *gentrification* to analyse the legal datum in the context of such housing conflict situations. This is a concept that is proper to sociology and indicates the progressive socio-cultural change of a proletarian to bourgeois urban area as a result of the purchase of real estate, and the consequent revaluation on the market, by wealthy individuals. For example, the author examines some forms of collective housing and

54 N. Blomley, D. Delaney, R.T. Ford 2001.

55 D. Mitchell, *The Right to the City: Social Justice and the Fight for Public Space* (New York, Guildford Press, 2003). Id., *The Right to the City* (New York, Guildford Press, 2003).

56 M. Fineman and M. Thomson, *Exploring Masculinities. Feminist Legal Theory Reflections* (Routledge, 2014).

57 *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

these reflections still offer viable alternative possibilities to the exclusive and absolute ownership relationship with one's own home.⁵⁸

6 Towards a European Legal Geography

The doctrine of *Legal Geography* started from the observation of a gap consisting of a deeply entrenched division of the intellectual work of lawyers and geographers (particularly in the discipline known as human geography and economic geography).⁵⁹

Once the gap in research between the two disciplines had been systematically noted, the doctrine under examination began to take on a new awareness of its goals from the late 1980s.⁶⁰ Scholars began to deepen this gap, considering how the understanding of law was impoverished by the absence of attention to geographical phenomena.⁶¹ Of course, this was not entirely new work. Scholars have studied for generations how the legislative formant, for example, produced landscapes and places.⁶² Similarly, scholars of comparative law have long explored how different landscapes and cultural factors have contributed to influencing legal systems.⁶³ Certainly, some of these analyses, when read through the eyes of contemporaries, seem to attribute a kind of deterministic causality between natural geography and legal systems (e.g. Grossfeld 1983, 1514 according to whom landscape plays a role in shaping water legislation). In particular, writes one author, comparative law has historically manifested a tendency to separate the analysis of law, geography and

58 D. Kennedy, *The effect of the warranty of habitability on low income housing: milking and class violence*, in *Florida State University Law Review* 15 (1987): 485. Id., *The Limited Equity Coop as a Vehicle for Affordable Housing in a Race and Class Divided Society*, in *Harvard Law Journal* 46 (2002): 85–125.

59 N.K. Blomley, J.C. Bakan, *Spacing out: towards a critical geography of law* *Osgoode Hall Law Journal* 30 (1992): 661–690.

60 N.K. Blomley, G.L. Clark, *Law, theory, and geography* *Urban Geography* 11 (1990): 433–446; G. Clark, *The geography of law. New Models*, *Geography* 1 (1989): 310–337. Id., *Judges and the Cities: Interpreting Local Autonomy* (Chicago, University of Chicago Press, 1985).

61 C. Butler, *Critical Legal Studies and the Politics of Space*, 18 (3) (2009) *Social Legal Studies*, 2009, 18 (3): 319.

62 H. Lefebvre, 1991.

63 B. Grossfeld, *Law & Geography*, in 82 *Mich. L. Rev.*, 1510 1983–1984; P.H. Sand, *Current trends in African legal geography: the interfusion of legal systems*, in *The Journal of Legal Pluralism and Unofficial Law* 3 (5) (1971): 1–27; J.H. Wigmore, *A map of the world's law*, in *Geographical Review* 19 (1) (1929): 114–120.

society, even in pursuit of its goal of learning about the differences between different systems.⁶⁴

Yet, from the outset, these scholars seemed - in the opinion of geographers - to be more concerned with legal science than with contextual analysis, investigating the reciprocal influence between place and legal norms, customs and local customs.

The discipline under consideration originates, as mentioned in the previous paragraph, in the experience of geographers in North American, Canadian and English universities, i.e. in the *common law* experience. What has changed most strikingly since the 1980s, however, has been the way legal geography has explicitly brought the correlation between space, law and society to our attention. This is particularly evident in Blomley's (1994) work on, inter alia, the American city, worker security and migration. The author suggested the need to transcend the causality of orthodoxy by advocating the intertwining of legal, social and spatial in order to achieve a satisfactory analysis of the above-mentioned case studies.⁶⁵ In short, law, people and place are intertwined. This is the 'co-constitutive' approach, a theme that has become a *leitmotif* of the discipline. It is precisely stated that this original and interdisciplinary way of working could help us achieve a better understanding of geographical, social and legal phenomena.⁶⁶

For example, Braverman focuses on the places of law: social spaces are not simply the inert sites but also have, according to the author, a legal significance. Also notable in the English landscape are the 2015 writings of Bennet and Layard who attempted a geographical and legal analysis in this context.⁶⁷ Likewise, Holder and Harrison suggest the possibility of identifying local legal universes or proceeding with a kind of legal localisation. They intend to emphasise the possibility of having forms of regulation rooted in local conditions of existence.⁶⁸

Indeed, spatial terminology found its first manifestation in the English language. However, it should be emphasised that the subject has also found fertile ground in European and *civil law* contexts and, precisely, in France and Italy. In particular, in France as elsewhere, some geographers have shown a certain interest in the relationship between space and law. This has given rise to a French school of *legal geography* that is characterised, for example, by its liveliness and attention to

64 N. Blomley, *Making space for law*, in K.R. Cox, M. Low, J. Robinson (eds), *The SAGE Handbook of Political Geography*, (London, Sage, 2007).

65 N. Blomley, *Law, Space, and the Geographies of Power* (New York and London, The Guilford Press, 1994), 63 and 28.

66 N. Blomley, D. Delaney, R.T. Ford, *The legal geographies reader: law, power, and space*, Oxford, Blackwell, 2001.

67 L. Bennett, A. Layard, *Legal geography: Becoming spatial detectives*, in *Geography Compass*, 2015, 9, pp. 406–422.

68 J. Holder, C.E. Harrison (eds.), *Law and geography*, Oxford, OUP, 2003, p. 4.

different perspectives of investigation such as, above all, the geographies of urban spaces, as well as the theme of the localisation of public policies.⁶⁹ French doctrine has a strong link with Canadian doctrine, which is one of the most active and fertile, by virtue of the common reference to the French language and, in particular, to geographical terminology in that language.⁷⁰

In Italy, a number of scholars have, since the 2000s, introduced the spatial theme into legal theory and legal comparison. One must, first of all, recall the writing of Natalino Irti who coined the expression: geo-law.⁷¹ In the eminent scholar's thought, this expression indicates the study of the relations between legal norms and points in space. The author picks up on the German culture that has known treatises on *Geojurisprudenz* since the first decades of the 20th century. Now, geo-law starts from the observation of reality to point out how the legal norm is only conceivable in relation to a place (and time). To clarify, legal obligation concerns, in fact, the action of one or more subjects at a given point in space and at a given moment in time.

Nicolini has, then, manifested a particular sensitivity with respect to the multiple geographies of law, dwelling, with an extraordinary vivacity of thought, on the study of law in different places, such as, to cite just one example, the islands.⁷² Finally, it must be acknowledged that, in our country, legal geography is founding a fertile ground in the academic discussion on the conceptualisation and administration of the commons. Here, then, both jurists and geographers have dwelt on the analysis of the governance of the commons, and the discourses of both sometimes seem to converge on the same problems and critical accents.⁷³

7 Conclusions

To conclude, Nicolini's monograph invites us to think of spaces in the plural and overcome, once and for all, the 19th-century way of thinking of the unitary space of sovereignty, and to delineate a jagged geography of places and rights existing there. It is possible to direct research into the law, even comparative law, of the 'new spaces' (physical, cultural and perceived). In fact, it is possible to identify distinctive places in

69 P. Melé, *Pour une géographie du droit en action*, in *Géographie et cultures*, 72 (2009): 25–42.

70 P. Forest (ed.), *Géographie du droit - Épistémologie, développement et perspectives* (Québec, Les Presses de l'Université Laval, 2009). Id., *Placing the law in geography*, in *Historical Geography*, 5 (2000): 5–12.

71 N. Irti, *Norma e luoghi: problemi di geo-diritto* (Roma-Bari, Laterza, 2001).

72 N. Nicolini, T. Perrin, *Islands and Insularity: Between Law, Geography, and Fiction*, *Pólemos*, 14:2 (2020): 209–223.

73 M.R. Marella, *Beyond the public and the private. For a right of common goods* (Verona, Ombrecorte, 2012).

the global era with respect to which it is possible to conceptualise a new geography of centrality: such places are, for instance, the aforementioned global cities.⁷⁴

Firstly, Nicolini's work seems to be permeated with a critical vein with respect to the discourses of power that are created precisely in space and its regulation. As one of the leading scholars in this field writes, the writings of the geographers of law lead us to understand the relationship between space, place and law and, on this premise, to discuss the injustices that arise from it.⁷⁵ It is interesting to note that it is the geographers themselves who seek a kind of parallelism with *CLS*, writes: "Both critical legal studies and critical geography began by interrogating the categories at the centre of their disciplines - law in legal studies, space in geography - and contesting their respective closures."⁷⁶

Secondly and important, it is clear that the goal of crossdisciplinarity is central to this academic monograph. Now, openness to crossdisciplinarity presupposes a functional - and not formal - approach to legal analysis. On this point, we agree with the periodization proposed by an author who has been careful to distinguish three moments in the development of this new area of research.⁷⁷

At first, geographers sought to overcome the traditional disciplinary barrier to the legal sciences. Blomley expresses well in one passage the difficulties of relating to the law and lawyers by confirming the perceived lack of accessibility of law. One reads, in particular, that given its closure, law vigorously polices knowledge, with a suspicion to that deemed outside. External influences, such as geography are thus admitted - if they are admitted at all - on law's terms.⁷⁸ In the second moment, it is possible to find the beginning of an initial dialogue between the two disciplines and only later the convergence of the aforementioned disciplines in legal geography. In this regard, the link with the emergence of legal doctrines - such as the above mentioned *CLS* - that manifested a conception of law in an informal and critical sense is emphasised.⁷⁹ Indeed, it is interesting to read that questions over power brought legal scholars and critical geographers closer, as they began to read the same social theorists and to pose similar concern.⁸⁰ Scholars dealt with the most diverse topics at

74 S. Sassen, *Globalised and Discontented*, (Milan: Il Saggiatore, 2002).

75 D. Delaney, *Legal geography II: Discerning injustice*, in *Progress in Human Geography*, 2016, 40 (2): 267–274, 268.

76 N. Blomley, *From "what?" to "so what?": Law and Geography in retrospect*, in J. Holder, C. Harrison (eds.), *Law and Geography*, 2003: 17–33.

77 I. Braverman, *Who's Afraid of Methodology? Advocating a Methodological Turn in Legal Geography*, in I. Braverman, N. Blomley, D. Delaney, A. Kedar (eds.), *The Expanding Spaces of Law: A Timely Legal Geography*, 2014: 120–141.

78 N. Blomley, 2003, 4.

79 N. Blomley, 2003, 4.

80 I. Braverman, 2014.

that time, as mentioned above, while converging on the common concern for social, economic and political inequality and trying to show how legal institutions and practices contribute to this situation. A further aspect that deserves to be emphasised is the constant reference to the reciprocal influence between legal issues and spatiality: as noted, the original term is referred to as the co-constitutive approach in doctrine to signify a relationship of close cohesion between the two spheres. The underlying idea is bold: “(...) 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”.⁸¹ Indeed, it is an evolutionary path that should lead the subject from a moment of dialogue between disciplines to a true form of crossdisciplinary study. This path marks the transition towards the third and final formative moment of the subject. Thus, Nicolini’s monograph opens the way to establishing a European legal geography and shows that working across disciplines is possible and generates novel, original and unexpected results.

81 N. Blomley, D. Delaney, R. Ford, 2001.