

# Feminist legal geographies

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## Introduction

Since the 1980s, legal geographical research as a trans-disciplinary project has drawn attention to the binding connections between law and space. Legal geography can be defined as

a stream of scholarship that makes the interconnections between law and spatiality, and especially their reciprocal construction into core objects of inquiry. Legal geographers contend that in the world of lived social relations and experience, aspects of the social that are analytically identified as either legal or spatial are conjoined and co-constituted. (Braverman et al., 2014: 1)

In this theme issue we seek not only to redress the lack of attention given to feminist scholarship in the geographies of law project, but also to identify and carve out a new and distinctive ‘stream’ within it. While recent publications have sought to ‘expand’ the spaces of law studied (Braverman et al., 2014) and explore spatialities of injustice precipitated and/or alleviated through law (Delaney, 2015), in these and many other works in the field, sensitivity to difference, the gendered character of law, and its (everyday) material sites and discourses remain limited (Brickell and Cuomo, 2019).

This theme issue aims to raise the profile of feminist legal geographies and feminist legal theory in the ‘mainstream’ field of legal geographies. As a dynamic subfield of law, feminist legal studies developed during the 1980s, with its influence affirmed by the establishment of numerous feminist-specific law journals (Minow, 2016). It has questioned the understanding of law in liberal states as neutral and abstract and has shown how its elevation can not only institutionalize power over women but also institutionalize power in its male form (MacKinnon, 1989). Giving the timing of the field’s emergence, it is curious that legal geography did not engage more with feminist legal studies as it concurrently developed in

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the 1980s. As the vanguard of legal geography and a rare counter-example, Vera Chouinard (1994: 426) argues in the mid-1990s that,

The current rather ambiguous status of engagement with feminist work on law is also a significant barrier to more open and comprehensive debates about the power of law, and how we can account for its expression in people's lives and their reactions to those manifestations.

Calling for a more radical and inclusive geographies of law, she argued that one of the most promising avenues in legal geographies could be found in feminist thought. While David Delaney (2017: 667) identifies that geographers are now 'filling gaps in the legal geographic literature. . . in terms of forging connections with other intellectual projects', this theme issue galvanizes a more sustained engagement with feminist work, which Chouinard called for over 20 years ago.

More broadly, Nicholas Blomley and Joel Bakan (1992: 666) have observed that while 'critical legal and geographic studies interrogate the categories relied upon within each disciplinary mainstream-*law* in legal studies, *space* in geography', critical lawyers and critical geographers concentrate on their intersection and reject the idea of their separability from society given the 'political and ideological significance of space and law'. While scholars such as Blomley have worked over a sustained period of time to shape dialogue between law and legal geography, there is a need, we argue, for the mantle to be shared by feminist geographers and feminist legal scholars through greater exchange and partnership. In the feminist legal corpus, the 1990s saw attention to core feminist geography concepts, including challenging the public/private divide (Boyd, 1997), and seminal interlocutors, including Lisa Pruitt in the 2000s advancing scholarship on the workings of the legal system in relation to gender and rurality through dialogue with geography and geographers (see her 2008 paper as exemplar here). Other key feminist scholars have also made significant contributions to thinking on the spatiality of law outside of geography. This includes Sally Engle Merry (2006), an anthropologist, who explores the scalar intersection of transnational rights and their local articulations in relation to violence against women, and Marianne Valverde (2015), a criminologist and sociologist, who writes on the significance of scale in feminist legal thought.

In this introduction to our theme issue on feminist legal geographies, we provide a short entrée to the papers by exploring the 'doing' of feminist legal geographic work through, first, a methodology-focused section. In the second section we turn to some of the key messages that the authors illustrate by way of research in Cambodia, India, Indonesia, South Africa, and the US in respect to the hopes and failures of law to exercise and claim various rights: to asylum (Gorman, 2019), housing (Meth et al., 2019), protective areas (Gillespie and Perry, 2019), reproductive choice (Statz and Pruitt, 2019), and legal rights and capabilities within marriage (Schenk, 2019), and in cyberspace (Farries and Sturm, 2019). Together, they speak the vibrancy of emerging feminist legal geographic literature and echo work in feminist legal studies, which is characterized by the breadth of subjects it engages with (Davies and Munro, 2016).

### **Methodological parameters of feminist legal geographies**

The papers in this themed issue rely on a variety of data collection methods, largely employing qualitative methods including ethnographic interviews, focus groups, diary data, closed and open question surveys, and the examination of legal and non-legal texts to support in-depth socio-spatial-legal analysis of overwhelmingly intimate topics. While the data

collection methods are diverse across the papers, the authors utilize similar methodological approaches that seek to understand how law reproduces power dynamics and inequities that govern and structure the lives of women. Further, across the themed issue the authors are attentive to the ways that race, ethnicity, nationality, rurality, (hetero)sexuality, class, and religion intersect with gender to establish differently positioned socio-legal identities.

The authors also draw on their discipline-specific methodological training as qualitative social scientists, feminist and legal geographers, and scholars of feminist legal theory. Noting that scholars with different disciplinary training 'do different things', we underscore Statz and Pruitt's (2019) multi-disciplinary approach to studying how distance affects women's experiences of reproductive injustice, which weaves together Statz's training as an anthropologist of law and Pruitt's perspective as a scholar of law, rural livelihoods, and feminist legal theory. While we encourage scholars to foster new data collection techniques, we also take seriously Statz and Pruitt's counsel that research projects suffer when we employ disciplinary-specific methodologies that exceed our own training. Statz and Pruitt illustrate, however, how multidisciplinary methodologies enhance a collaborative project when they align with the training of the co-scholars.

This theme issue also proposes new methodologies to support ongoing and future feminist legal geographic research. Notably, in her analysis of the US asylum case of a Guatemalan domestic violence survivor named Rody Alvarado, Cynthia Gorman (2019) develops the methodological approach of feminist legal archeology to situate Alvarado's 13-year legal journey within its broader cultural and geo(political) context. By focusing on the layers of legality embedded within the case, Gorman examines the textual record in its entirety to unpack the multiple power-laden systems of domination that influenced Alvarado's claim for asylum. Central to Gorman's feminist legal archeological approach is an intersectional analysis that makes visible how raced, classed, and gendered logics structured the legal case. With attention to both context and intersectionality, Gorman develops an explicitly feminist legal archeology that excavates how relations of power and intersecting forms of inequality are constructed and maintained, while also illustrating how legal process is always spatially and territorially embedded.

Unpacking how law reproduces inequitable power dynamics by utilizing an intersectional analytic is also visible in Meth et al.'s (2019) exploration of state-led housing interventions in India and South Africa as the authors employ a multi-method qualitative and comparative study to examine the experiences of (in)security of differently socio-legally positioned home 'owners' across gender, class, caste, and religion. Through this intersectional analysis, the authors illustrate the paradoxical effects of programs that seek to mitigate gender inequality and security through the provision of housing upgrades and relocation as experiences of insecurity, particularly domestic violence, emerge in response. Similarly, through a critical discourse analysis of copyright takedown notices to address the unauthorized distribution of intimate images, Farries and Sturm (2019) detail experiences of overlapping discriminatory harassment as online trolls harass women of color, namely the celebrity Leslie Jones.

## **Hopes and failures of law from a feminist legal geographic perspective**

Feminist scholars have long cautioned against relying on the law for gender-justice demands and have argued that it has the potential to reinforce women's subordinated position and the uneven application of law across socio-legal identity (Brown, 1995). Work in feminist legal studies, for example, commonly stresses this need, 'to move beyond positive law and the enunciation of rights within it, and to take account of women's particular locations and the constitutive realities of their lives' (Patel, 2008: 82). Papers within this theme issue

reinforce the ongoing relevance of this critique by unpacking the way racism and sexism remain embedded within the law to show how the law shapes legal subjectivities and who becomes grievable. Gorman's (2019) research on Rody Alvarado – a Guatemalan domestic violence survivor seeking asylum in the US – illustrates this point. Gorman traces the discursive tactics and legal maneuvers that immigration officials used to deny and delay Alvarado's asylum claim for over a decade by situating the case within the broader context of racialized and gendered fears surrounding Latina immigration from Central America. Gorman shows how immigration officials minimized the abuse Alvarado experienced and pathologized her ex-husband as a rare and abnormally disturbed person, rather than a domestic violence abuser who engaged in a systematic pattern of abuse and who was emboldened by the Guatemalan state's indifference to prosecuting domestic violence. Moreover, immigration officials relied on the sexist trope that women lie about experiencing male violence and the racist myth of high pregnancy rates among Latina women to claim that Alvarado provided false motive for her asylum claim.

Similarly, Farries and Sturm's (2019) article reinforces the gaps in legal protections, particularly those that involve gender-based abuse and harassment within cyberspace. This paper focuses on the unauthorized distribution of intimate images or 'revenge porn' in which intimate photos of a person are distributed without their permission. This form of tech-enabled abuse often occurs in the context of domestic violence when an abuser posts – or threatens to post – intimate sexual photos of their victim as a means to maintain control, but also occurs in stranger contexts when trolls hack photos from personal accounts, notably of celebrities. As the law regularly lags behind the latest tactics of abusers, the authors highlight how copyright logic presents an option for victims of revenge porn to experience legal reprieve. While a creative option to address what is otherwise a gap in legal protection, this paper reminds us that protecting private property interests, rather than the bodily integrity and safety of women, represents the foundation of civil and criminal law.

The papers also highlight the continued value of intersectionality as an analysis for making visible the erasures built into the law. For example, as conservative politicians in the US have chipped away at the right to legal abortion for decades, Statz and Pruitt (2019) illustrate how laws restricting access to abortion result in uneven impacts for women across geography, class, and ethnicity (see also the recent paper by Calkin, 2019). With their focus on the material and social distance that women must travel to obtain an abortion in response to the implementation of two Texas TRAP laws<sup>1</sup> that forced the closure of facilities across the state, the authors underscore the disproportionate impacts of TRAP laws on marginalized women living in rural areas, particularly poor Latina women living in communities along the border. The authors note that spatiality and the issue of distance became a defining feature of the Supreme Court's ruling, which overturned the TRAP laws, as the legal arguments presented in court centered on how distance created an undue burden for women seeking to exercise their legal right to an abortion.

Meth et al. (2019) also focus on gaps within the law as they illustrate how housing interventions meant to improve the lives of urban residents in Kulamnagar, India, and Hammond's Farm, South Africa produce uneven legal geographies resulting in disproportionate impacts for poor women of color. By centering their analysis on the patriarchy–poverty nexus and its role in shaping experiences of privacy and (in)security – specifically in relation to domestic violence – the authors detail how the formalization and extension of housing rights fall short in achieving 'intersectional gains' for recipients when gender, poverty, caste, and religion are considered concurrently.

Similarly, in their discussion of the Central Cambodian protected area wetlands of Tonle Sap, Gillespie and Perry (2019) examine how the system of management implemented to

enforce the international protected area laws results in negative impacts that affect the lived experiences of local residents, and especially women. The authors note gendered disparities that include how women gain access to information about the regulations, noting that men in the community learn from government officials directly, while women receive information second hand. The authors, therefore, raise tensions surrounding biodiversity conservation efforts imposed through international law that impact local fishing and livelihood practices through existing power-geometries that can work to discriminate against women's interests.

Finally, Schenk's (2019) research on legal reforms regulating the registration of marriages and divorces in the Indonesian province of Aceh illustrates the theme of struggle and the local politics of law-making from a gendered perspective. The author's paper demonstrates a tension concerning the scalar implementation of law as she analyzes the impact of shifting the regulation of family management issues (such as marriage and divorce) from local/traditional law to state law. These tensions are further complicated by crises independent of the law, as Schenk details how a decades-long civil war, coupled with the 2004 tsunami that washed away many of the legal documents that state law now requires, leaves women especially vulnerable to successfully experiencing the various protections and rights that the law promises to afford.

Here, and in agreement with the conclusions that Meth et al. (2019) arrive at in relation to land rights in South Africa, and Gillespie and Perry (2019) on protected wetlands, legal pluralism is shown to be essential to understanding women's lived experiences and is essential to any critical analysis of legal norms and processes. Therefore, several papers in the theme issue explicitly discuss pluri-legality, the multiplicity of legal orders that co-exist from the local to the global, and from more 'familiar bodies of law' to those which are 'customary law, indigenous law, religious law, or law connected to distinct ethnic or cultural groups within a society' (Tamanaha, 2008: 375). Thus, the theme issue positively responds to the call made by Von Benda-Beckmann and Von Benda-Beckmann (2014: 30) that 'a fully-fledged legal geography should incorporate the possibility of coexisting legal spaces'.

## Conclusion

Engagement and relationship-building between feminist geography, the legal geographies project, and feminist legal studies is still in its infancy (Brickell, forthcoming). It remains implicit rather than formerly articulated and argued, the implication being that there is significant scope for this collaboration to be developed in coming years. Just as some 'legal scholars have become thoroughly versed in the work of human geographers and social studies, most others continue to explore space, place, and landscape without the full benefit of the array of resources developed by geographers and others' (Braverman et al., 2014: 8). This is a state of affairs that this theme issue has contributed to addressing with specific reference to feminist geographical thinking and bringing together geographers with legal scholars to do so. The issues and questions that the theme papers draw out and which we have introduced here speak to legal geography's broader and renewed interest 'in the realities and materialities of law, including the ways in which they are experienced, and also the ways they are avoided, ignored, undermined, absent, oppressive or irrelevant' (Robinson and Graham, 2018: 4). Feminist legal geography has a central role to play in this endeavor in revealing and elaborating on the law-space nexus from a feminist perspective attentive to the 'geometries of oppressions' (Valentine, 2007) and their redress, which law forges on and through different bodies, spaces, and at intersecting scales.

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### Note

1. Targeted Regulation of Abortion Provider (TRAP) laws place requirements on abortion providers and abortion clinics that are different and more burdensome than those imposed on other medical practices. The 2013 Texas TRAP laws require abortion providers to have admitting privileges at a hospital within 30 miles of the clinic and require abortion clinics to meet Ambulatory Surgical Center standards.

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