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ARTICLE

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In defence of the hearing? Emerging geographies of publicness, materiality, access and communication in court hearings

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Abstract

The shift towards dispute resolution taking place outside traditional legal arenas is fundamentally changing the relationship between space and law, presenting legal geography with pressing new research opportunities. This paper explores how the emerging geographies of publicness, materiality, access to justice and communication shed light on the consequences of alternative and online dispute resolution. Crucially, these consequences raise urgent interdisciplinary questions for geography and law. We set out these questions and suggest that legal geography will be best placed to address them by working through some of the practical, applied ramifications of its concepts and perspectives.

KEYWORDS

access to justice, alternative dispute resolution, court materiality, face to face communication, legal geography, online dispute resolution, open justice, video link

1 | INTRODUCTION

As the central image of our justice systems, court spaces can appear to be static, stuffy spaces, incapable of changing to better serve the non-professional users who use them. Socio-legal scholars have often been critical of courts, sometimes noting the "functional voicelessness" of litigants[1] whose social background denies them the confidence

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and understanding to take part fully in the proceedings (Bezdek, 1992). Geographers, too, have highlighted the injustices of court processes: their variations in outcomes (Gill, Rotter, Burridge, Griffiths, & Allsopp, 2015), their political nature (Campbell, 2013) and the impacts of cuts to legal aid (Burridge & Gill, 2017). As Rowden (2018, p. 263) notes, courts "often reveal a profound gap between the professed ideals of justice and their delivery." Yet in focusing solely on these shortcomings, we risk underestimating the benefits that existing hearing spaces provide.

Courts are closing in large numbers,[2] and dispute resolution is increasingly moving either online or beyond traditional legal arenas. It is therefore pertinent to review the reasons why hearing spaces exist in the form that they do, and why their physicality matters. Underpinning this analysis is an examination of access to justice and the extent to which new material and technological infrastructures can secure it. Geography, and legal geography in particular, has much to offer in these debates, not least through an understanding of the co-constitutional nature of space and law (Blomley, 2003) and the importance of paying attention to lived experience, materiality and co-location.

We argue that, via its attention to "how the spatio-legal is implicated in the making of place" (Bennett & Layard, 2015, p. 413), legal geography may help to address some of the urgent questions surrounding contemporary access to justice that are emerging through conversations among both academics and legal practitioners (see e.g., Justice, 2019). We draw on the example of the United Kingdom to explore these issues throughout the paper, although the issues discussed parallel those in various other countries.

Our focus is upon alternative dispute resolution (ADR) and online dispute resolution (ODR) – two trends that are reshaping access to justice in the current era. By considering these twin developments our aims are to demonstrate the productivity of legal geographical perspectives for responding to practical questions facing justice systems on the one hand, and to exemplify the utility of applying the conceptual resources of legal geography to particular, functional dilemmas of delivering justice on the other.

In the first section, we examine recent changes to justice systems via a review of relevant socio-legal literature and identify the geographies inherent to these changes. In the following four sections, we explore outstanding interdisciplinary questions with respect to public space, materiality, access to justice and communication in hearings. Having identified a series of areas that merit closer interdisciplinarity between geography and law, we conclude by noting how the space of the courtroom encourages legal geographers to examine the applied ramifications of their work, and reflecting upon how to best apply the conceptual insights of legal geography in practical settings.

2 | GEOGRAPHIES OF CONTEMPORARY JUSTICE SYSTEMS

Physical court spaces are under pressure as a result of two major shifts in the way developed societies resolve disputes. The first, ADR, entails a shift away from adjudication towards "resolution through conciliation" by offering alternatives to formal court processes such as pop-up courts, mediation and arbitration (Resnik, 2006, p. 542; see also Farrow, 2014). The second, ODR, involves a shift towards using technology to both implement traditional methods of resolving disputes, and creating entirely new methods altogether (Resnik, 2006, p. 542; see also Online Dispute Resolution Advisory Group, 2015). Consequently, the United States has seen a reduction in the percentage of cases resolved by trial, as well as a decline in the absolute number of trials, causing Galanter (2004) to assert that trials are "vanishing." In England and Wales, cases that go to trial are now seen as simply the "tip of the iceberg of dispute resolution" (Prince, 2019, p. 115). Instead, there has been a proliferation of ways in which disputes are now resolved such as through out of court settlements, arbitration including online arbitration, and via private mechanisms of redress. This is driven by a desire to make redress accessible, by introducing ADR and ODR, and justice systems cheaper to administer, by reducing estate costs and devolving or privatising significant aspects of dispute resolution (Resnik, 2006).

Increasingly, ADR and ODR are presented as being symbiotic and are being implemented in tandem. These processes are currently playing out under the Her Majesty's Courts and Tribunals Service (HMCTS) reform programme, guided by the vision outlined in the White Paper, "Transforming Our Justice System" (Ministry of Justice, 2016).

Starting in 2016, this reform programme has a budget of over £1 billion, and has the aims of reducing the number of court and tribunal buildings and using funds from these sales to invest in the digitalisation of HMCTS, thus reducing the need for physical court space (Justice, 2016; Thomas & Tomlinson, 2018). These changes have significant implications for the geography of the British justice system because the "unity of time, place and process" we traditionally associate with adjudication at court is being undone (Resnik, 2019, p. 3). In other words, both changes are unsettling our notions of "legal place" (Mulcahy, 2011, p. 11). Furthermore, these new forms of dispute resolution are more frequently obscured from the public, and many proceedings go "uncompiled, under-recorded, and minimally represented" (Resnik, 2006, p. 548).

The debates surrounding the importance of the physicality of hearings crystalize in a spatial question posed by the Civil Justice Council's Online Dispute Resolution Advisory Group in their report on Online Dispute Resolution Advisory Group, 2015, p. 6): "is court a service or a place?" For Jaconelli (2002), courts provide a service and are defined by their functions, much more than the place or time in which they operate. One possible extension of this view is that using technologies that improve efficiency and widen engagement are positive and progressive, part of the much-needed improvement and modernisation of courts (Susskind, 2013). However, others have voiced reservations about ADR and ODR, including their impact on open justice (Resnik, 2006), on the symbolic function of the court (Rowden, 2018) and on access to justice and non-verbal communication (Federman, 2006). As we move towards justice systems that increasingly conceive of courts as a service, we explore what we may lose by diminishing the role of place in courts.

3 | HEARINGS AS PUBLIC SPACES

We now consider four areas of intersection between the work of geographers and legal scholars investigating these developments. In each case, we identify the potential for synergy and a shared approach to the conceptualisation of these issues.

First is the closure of public hearings to the public. The development of ODR and ADR has been associated with the closure of court spaces to public observers for at least three reasons:

1. Legal procedures are becoming more distributed (i.e., not occurring in a single court, but via telecommunication between two or several computers that may be located in private or quasi-private spaces).
2. Legal procedures are becoming more informal, which can mean that dispute resolution occurs in a range of places that may not have been designed with openness in mind, such as schools and workplaces.
3. There is a higher degree of privatisation: eBay now processes in the order of 60 million disputes annually under private or quasi-private conditions (Resnik, 2019).

The "right to a fair and public trial" is enshrined in Article 6 of the European Convention on Human Rights, which is given domestic effect via the Human Rights Act 1998. Yet there are limits and conditions to a public trial, including the need to protect people involved in the hearing and to limit the negative impacts of public and media attention (Jaconelli, 2002, p. 16). In terms of protection, courts are sometimes closed in order to reduce public stigma, such as in family and youth courts where the best interests of the child are at stake (Bazelon, 1999).

In order to limit press attention, a court can be closed[3] to protect witness anonymity or eliminate the stress of a face-to-face confrontation with the accused party (Jaconelli, 2002, p. 4). Concerns about press involvement in hearings have been present since the advent of print media, often around times of technological innovation, such as radio and television (Douglas, 1960) and social media (Resnik, 2019). "Excessive" public and press attention may result in a hearing degenerating into a "show trial," Jaconelli (2002, p. 1) argues. Furthermore, the judiciary (as well as other hearing participants) may feel tempted to "play to the galleries," Douglas (1960, p. 842) suggests. Yet is worth noting

that such negative outcomes of press involvement in hearings are not inevitable. Instead, the above simply makes the case for sound media ethics and effective contempt of court laws.

Beyond concerns about the impact of public presence in courts, the contraction and, sometimes, closure of the court space available to the public should be of interest to legal geography. Geographers have long been concerned about the shrinkage of public space. They associate this with the dilution of democratic life in cities and the intrusion of capitalist relations, through privatisation, upon fundamental human freedoms of expression and assembly (Low & Smith, 2006; Mitchell, 1997). The law has been seen as central to this perceived assault on public space, since it is through legal regulation and its enforcement that the city has become increasingly gated and inaccessible to disadvantaged communities (Mitchell, 2003). And yet the publicness of legal processes themselves has rarely garnered geographical attention. This raises the question of whether geographers would see the closure of court spaces as part of the general contraction of public space and connected to similar logics.

Framing courts as public spaces and keeping more courts open would arguably promote accountability and legal education. A danger of closed courts is that they can obscure courts and agencies from scrutiny and thus "prop up a malfunctioning bureaucracy" (Bazelon, 1999, p. 191). As Jeremy Bentham noted in 1843, an open court "keeps the judge…while trying, under trial" (Bentham, 1843, p. 316). Echoing geographers' concern for democracy under conditions of a curtailed publicness, it has been suggested that there is a "democratic deficit," a loss of accountability, without open justice (Farrow, 2014; Ryder, 2018, p. 5). The public, then, has a role to play "in witnessing, in interpreting, in owning, and in disowning" court proceedings (Resnik, 2006, p. 537). Ryder (2018, p. 6) refers to this as "observational justice." As Ryder (2018, p. 5) notes, open justice can help to "interpret, communicate and develop our public social values." Whether the public gallery is empty or full, it serves as an "important symbol of potential, if not always actual, public scrutiny" (Rowden, 2018, p. 279).

It is important, nevertheless, not to assume that technology and online procedures can only lead to contraction of public space. While it might be harder to gain access to physical hearings in online or informal environments it may still be possible on some level – by listening to recordings of what was said, attending one of the locations of a distributed courtroom, or viewing videos of the hearing afterwards. Sir Ernest Ryder, Senior President of Tribunals, has even suggested that digitalisation can support "our commitment to open justice", through the generation of data and research opportunities that can lead to "data-led reform" (Ryder, 2018, pp. 21–22). Data produced by digitalisation can be more easily analysed and shared, presenting an opportunity for a reimagining of open justice as a "more contemporary useable concept" (Prince, 2019, p. 113).

This raises questions about how critical geographers should view the closure of legal hearings. What tools and concepts might geographers transfer from their critique of the shrinkage of public urban space to the phenomenon of the disappearance of these "civic spaces" (Rowden, 2018, p. 266)? It also calls into question the extent to which legal scholars could integrate their concerns and critiques of contemporary changes in legal systems into general social theories about de-democratisation, neo-liberalism and state revanchism.

4 | COURT MATERIALITY

A second area of overlap between current developments in legal systems and the interests of geographers involves legal, and specifically court, materiality. As Mulcahy (2011, p. 1) suggests, the "environment" of a hearing is a "physical expression of our relationship with the ideals of justice." Jeffrey (2017) also clearly demonstrates that there is a productive overlap between understandings of materiality in cultural geography and understandings of legal processes in legal anthropology. Technology, architecture, courthouse location, security arrangements and the layout of the internal workings of the courthouse all play a role in generating the space of the courthouse (Jeffrey, 2017). This space "shapes understandings of the legitimacy and purposes of law," generating subjectivity and disciplinary power, while law produces this space in turn (Jeffrey, 2017, p. 7; see also Blomley, 2003).

The materiality of the court, therefore, plays a role in generating its symbolic function. The place of a hearing has traditionally been marked out as "in some way special and out-of-the-everyday," by designating a separate place for the court and a separate time for court events to occur (Rowden, 2018, p. 265). This formalism, using spatial and temporal indicators, serves to demonstrate the symbolic significance of the hearing. Generating an atmosphere of formalism, it has been argued, acts as a bulwark against discriminatory practices that can otherwise thrive in informal settings (Delgado, 2017). In short, whether a hearing is at the grand Palais-Royal in Paris (Latour, 2010), or a crumbling Magistrates Court, certain rituals, official language, codes of conduct and dress, tend to abide. A "special place for law," seemingly separated from the everyday by physical and temporal conditions, is thus generated through the manipulation of "light, texture, materiality and form" (Rowden, 2018, pp. 263–264).

Video conferencing technology, along with other remote communication methods, constitutes an integral element of the shift away from this materiality. It may be in danger of disregarding the symbolic function of the courtroom, without, as yet, offering a way of reimagining this symbolism within a new distributed court format (Rowden, 2018). Rowden (2018, pp. 275–276) outlines two major losses perceived by distributed court participants. First is the loss of connection, whereby the ability of space to "convey respect, provide social structure and underlie the importance of participants" concerns' was reduced. Second is the loss of legitimacy, whereby the sense that the court was "dispensing justice on behalf of the community" was also diminished. The "arrangement of bodies, materials and sites" is thus fundamentally rearranged by this addition to the court infrastructure (Jeffrey, 2017, p. 1). Video conferencing disrupts "long-established and complex social and physical relationships" (Rowden, 2013, p. 108). Kallel (2008, p. 345) concurs, suggesting "'traditional' arbitration cannot be automatically transposed into the electronic environment." These systems are more likely to be perceived as less confidential and transparent, as well as posing actual security risks (Kallel, 2008).

However, the materiality of law should by no means be seen as sacrosanct. Jaconelli (2002, pp. 11–13) asserts that the function of a hearing is more important than the time or place in which it occurs and suggests that although "standards of propriety" must be upheld, "no trial depends for its validity on it having been staged in a purpose-built courtroom." Several studies have also drawn attention to the counter-productive nature of formalism. Some ask how it can shape the experience of a hearing for those that are not "repeat players" in the courtroom. While these spaces might promote respectful interaction and due diligence, they might equally intimidate. They can thus both "calm or oppress" (Mulcahy, 2011, p. 1). In terms of the latter, the space of the courtroom can also have "coercive effects" (Rowden, 2018, p. 272).

Rossner et al. (2017, p. 317) note the role of the dock in constructing the defendant as guilty. They conducted a jury study in a mock criminal trial with over 400 community members and actors and found that jurors were 1.8 times "more likely to convict defendants when they are located in a traditional dock or a secure dock," compared to when defendants are at the bar table. Similarly, Tait et al. (2015) in their study of the impact of using a distributed courtroom model, note that defendants were most likely to be considered guilty by the mock jury when they were in the dock, and least likely to be considered guilty when they were next to their legal representative and presented via video link.

In a time of the increasing dematerialisation of court processes, the issue of court materiality represents a second contact point between critical geography and law that again produces challenging questions for both geographers and legal scholars. How, for example, can geographers concerned with materiality connect their analyses with the rich work on object-agency, assemblages and actor-network theory in ways that remain practical, relevant and accessible for non-geographers (Jeffrey, 2017)? Moreover, what emphasis should legal scholars place on materiality in light of legal ethnographic work that appears to suggest its centrality to the workings of law (Latour, 2010)?

5 | ACCESS TO JUSTICE

A third area of mutual interest involves access to justice, which relates to more than simply getting to court, or finding a legal representative, although both are important (Genn, 2013). Byrom (2019, p. 3) suggests four components

that constitute an “irreducible minimum standard of access to justice.” These are: access to the formal legal system, to an effective hearing, to a decision in accordance with substantive law, and to remedy. Effective participation in legal systems requires that the lay user is able to understand the “main rules and purpose of the hearing” and that professional court users recognise lay user presence (Justice, 2019, p. 15). It can also be boosted by “being listened to,” “having good information” and “being able to take part with confidence” (HMCTS Customer Insight Team, 2018, p. 2). With these considerations in mind, are ODR and ADR a way to improve access to justice?

Proponents of ODR and ADR purport to address three key challenges of access to justice in court-based systems, including: expense to the user, inaccessible locations and inaccessibility of court practices (Ryder, 2018). With their focus on the site of the body and the importance of understanding the lived experience of law, legal geographers are well-placed to evaluate these claims.

In the first instance, it can “render it futile or irrational to bring a claim,”[4] if the expense of bringing a case to hearing is too high. This is particularly true if the outcome is difficult to predict or there is a poor track record of enforcement of awards at the court or tribunal. If the costs of accessing justice are borne by the litigant (as is increasingly the case) then “faster and less costly” procedures are imperative (Assy, 2017, p. 70). In the second instance, the location of hearings can also render them inaccessible to some individuals, especially those with specific vulnerabilities and disabilities. Thirdly, not every lay person experiences the practices and language of courts as accessible, and there are significant improvements to be made in terms of individuals' understanding of the process and substance of law (Justice, 2019). The reduction in staff numbers in courts and tribunals is a factor contributing to poor accessibility for lay users, especially in reception areas that are now often unstaffed (Justice, 2019).

On the other hand, some critical commentators argue that increased investment in physical accessibility and legal aid are the more appropriate solutions to access to justice. They note that, by 2023/24, funding for the British Ministry of Justice will have been reduced by 51% in real terms per person, compared with 2010/11 (New Economic Foundation, 2019). It is possible to see ODR and ADR as distractions from this reduced investment. Moreover, ODR may create its own forms of exclusion. Only 30% of the U.K. population using government digital services “have the skills, access and motivation to use digital services unaided” (Ministry of Justice, 2016, p. 13). Individuals may also be less willing to participate in digital processes that involve confidential material (Magistrates Association, 2018b). HMCTS have responded to these concerns by offering assistance to people not accustomed to working digitally and by retaining a physical process that is open to users who prefer to opt out of the digital system.[5] Justice (2019, p. 100) note, however, that litigant and witness support services play a vital role in preparing lay users for their hearing. As sites of justice are further dispersed, access to the necessary support services may be lacking and effective participation compromised (Justice, 2019). Commentators have thus suggested that barriers to accessing the formal legal system are likely to be exacerbated in justice systems using ODR and ADR, particularly if they are poorly resourced.

Additionally, virtual hearings present certain new risks to the integrity of the hearing. There is a danger of an off-screen coercive agent, potentially coaching or manipulating a witness or defendant. There is also the risk of hearings being filmed and uploaded online or even live-streamed, which could lead to litigant or witness over-exposure. While a hearing in a court is by no means free of security risks, participants are arguably visible to security personnel in a distinct, fuller, way.

As a traditional area of focus for geographers, how can the discipline use its cartographic skills to address the practical questions raised by recent developments most effectively (Reiz, O'Lear, & Tuininga, 2018)? And how can legal scholars ensure that access to justice, in its conceptualisation and implementation, is as holistic as possible?

6 | FACE TO FACE COMMUNICATION

A fourth area of interdisciplinarity involves communication. Critics of ODR have been concerned about the loss of in-person, face to face communication in particular. Geographers have suggested that face-to-face contact is an “efficient communication technology,” particularly in environments when the information to be transferred involves

symbols and is not easily codified (Storper & Venables, 2004, p. 351). This is because it generates meaningful, fast feedback and allows for "verbal, physical, contextual, intentional and non-intentional" dimensions of communication to be transmitted rapidly (Storper & Venables, 2004, p. 355). Furthermore, being face to face may generate a "bio-physical 'rush'" in participants and consequently "raise[s] the quantity and quality of information which can be transmitted" (Storper & Venables, 2004, p. 357).

From a legal perspective, face-to-face communication is often viewed as a "more complete" form of communication (Rowden, 2018, p. 272), indicating a high degree of synergy between the two disciplines in this area. Indeed, the continued significance of the principle of habeas corpus in law points to the important role of "physical presence" (Jeffrey, 2019, p. 2). Hearings using video-conferencing have been described as lacking the "body heat" of an in-person interaction, with the "whole, warm-blooded, 'live' person" being reduced to an appearance on a screen (Rowden's, 2018, p. 273). Under "'high stakes' conditions" in particular, such as asylum hearings, this lack of completeness "reduces trust and mutual understanding" (Federman, 2006, p. 433).

McLuhan's (1967) theory that "the medium is the message" suggests that *how* information is transmitted and the cultural context in which it is received, is more important than its content. Mehrabian (1972) suggested that the spoken word only accounts for 7% of meaning transferred in an interaction, with the tone of voice accounting for 38% and body language accounting for 55%. Non-verbal communication, then, is a significant part of "the message."

In a Western cultural context eye contact is a key means by which trust between individuals is secured. However, for a judge in a hearing using video-conferencing to sense that eye contact with the applicant is being maintained, the applicant must speak directly into the camera, obstructing their view of the screen where they can see the judge (Walsh & Walsh, 2007). This is unintuitive and presents a trade-off of senses for the applicant. Lord Wilson, in a judgment of the U.K. Supreme Court, has observed that "[t]here is no doubt that, in the context of many appeals against immigration decisions, live evidence on screen is not as satisfactory as live evidence given in person from the witness box."[6]

Asylum cases have been given particular attention in the literature, since in these hearings credibility forms a fundamental part of judges' assessments. Federman (2006, p. 433) notes that cultural differences in non-verbal communications are "exacerbated" by the use of video-conferencing, introducing "the possibility of inconsistency, inaccuracy, and altered judgement." Using data from the Executive Office for Immigration Review relating to over 500,000 asylum removal hearing outcomes in the United States, Walsh and Walsh (2007, p. 259) show that the use of video teleconferencing "roughly doubles to a statistically significant degree the likelihood that an applicant will be denied asylum." Similarly, hearings conducted "on the papers" as opposed to in an oral hearing have been shown, in the case of first-tier immigration appeals in the United Kingdom, to be 21% less likely to result in a successful appeal for the appellant (Thomas, 2017).

Video-conferencing can also increase feelings of alienation and stress for the appellant (Justice, 2019, p. 54). In her study of the use of video-conferencing for detained persons in U.S. immigration adjudication, Eagly (2015) notes that litigants presented via video link were more likely to be deported not because judges denied claims at higher rates when using video-conferencing, but because litigants themselves were less able to engage with the hearing or retain legal representation (Eagly, 2015).

There is also evidence to suggest that witnesses are perceived as less trustworthy when presented via video-conferencing. In Goodman et al.'s (1998, pp. 165 and 199) research into its impact on child witness testimony, they concluded that child witnesses were "viewed as less believable" when they were presented via video-conferencing compared to testifying in-person. This was despite the fact that those testifying via video link gave more accurate answers and were less anxious (Goodman et al., 1998).[7]

Practical difficulties also arise with the use of video-conferencing, especially for vulnerable appellants (Justice, 2019). The client-representative relationship may be compromised, for instance, limiting their ability to build rapport and for the representative to take instructions (Justice, 2019). It is also harder for judges to identify when the defendant or witness is struggling to understand or needs to take a break (Magistrates Association, 2018a, p. 5).

The Magistrates Association (2018b) consequently suggest that fully virtual hearings are "generally inappropriate for defendants… [with] identified vulnerabilities."

The value of effective communication and co-presence are of shared concern to geographers and legal scholars. How might geographers draw on work which explores the importance of co-presence beyond the courts, for example in economic geography, or feminist geographies which draw attention to the site of the body? And how might law draw on the experiences of legal practitioners to critically challenge the increasing disembodiment of legal processes?

7 | CONCLUSION: NURTURING APPLIED LEGAL GEOGRAPHIES OF JUSTICE SYSTEMS

It is important to avoid nostalgia and idealism regarding the superior nature of hearings heard with all participants physically present in open court (Rowden, 2018). Our review nevertheless reflects a certain uneasiness about the pace of change towards the abandonment of physical hearings. There is "no parallel call" for technology to replace physical presence at "parliaments, weddings, christenings, bar mitzvahs or funerals" (Mulcahy, 2011, p. 178).

Our review has presented the plurality of questions that a legal geographical perspective raises in relation to access to justice and the changing space of the courtroom. Although our focus has been on the U.K.'s justice system, there are certainly comparisons to be made to other countries.[8] What is more, the rise of ODR and ADR have consequences for public space, court materiality, the practicalities of court access and communication in hearings. These consequences underscore the importance of interdisciplinarity in addressing contemporary changes and challenges to accessing justice.

A sustained attention to how the sophisticated insights of legal geography can be applied to issues of access to justice offers a way forward with regards to nurturing this interdisciplinarity and responding to some of the questions raised in this article. Legal geography has given serious attention to its ontological principles, the relationship between law and space and (especially recently) its methods. We now suggest that a turn towards the applied, practical questions facing legal systems and concerning dispute resolution would be constructive. This does not entail abandoning the important theoretical perspectives developed in recent years, but working to develop a closer relationship between theoretical and applied work and deriving the ramifications of the former for the latter, especially with respect to dispute resolution and justice systems.

Legal geography of this sort will benefit from dialogue with a broad set of actors within and outside academia. This may necessitate expanding the capacity of the sub-discipline.[9] But entering into debates with think tanks, charities, statutory bodies and government departments strengthens the appeal of legal geographical work and ensures that legal geographers do not share their important insights exclusively with each other. In turn, this will provide the necessary engagement to arrive at recommendations for policy and practice. Just as important is a commitment to empirical work, including qualitative and quantitative enquiry into litigants' experiences of justice systems. As legal processes become increasingly dematerialised and disembodied (Jeffrey, 2017, 2019), legal practitioners and the designers of legal systems, as well as lawmakers and judges, are likely to take notice and appreciate the fresh perspectives that an attention to space, place and time promises.

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CONFLICT OF INTEREST

There are no conflicts of interest.

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ENDNOTES

[1]This article speaks across courts, tribunals, civil law and criminal law and thus "litigant," "defendant," "claimant" and "appellant" will all be used as appropriate to refer to the individual who is answering a charge or bringing a claim or appeal.

[2]See for example, *The Guardian*, 2019 *Half of Magistrates Courts Closed Since 2010* https://www.theguardian.com/law/2019/jan/27/half-of-magistrates-courts-in-england-and-wales-closed-since-tories-elected

[3]Or the courtroom can be "fragmented" by the erection of a screen between the witness and the accused party, or a video conferencing link between the witness and the court.

[4]R (UNISON) v Lord Chancellor [2017] UKSC 51 (2017)

[5]Byrom (2019), however, raises concerns that if there was more demand for this channel than expected it may lack sufficient resources.

[6]*R (on the application of Kiarie) v Secretary of State for the Home Department* [2017] UKSC 42.

[7]Findings are mixed however. In the Goodman et al. (1998) study, the defendant was no more likely to be found guilty if the child witness was testifying via video link. This is in contrary to an earlier study by Ross et al. (1994) who found a 15.8% higher conviction rate when a child witness testified in open court as opposed to via video link.

[8]See Flynn and Hodgson (2017) and Sterett and Walker (2019) for a comparative discussion of access to justice and digital justice respectively.

[9]For example by establishing a *Legal Geography* journal, and/or a working group of the Royal Geographical Society devoted to legal geography.

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