

The Geography of Justice Wormholes: Dilemmas from Property and Criminal Law

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Article Summary

Osofsky's article on "justice wormholes" is an ambitious attempt to highlight the weak spots in our legal justice system and discuss their existence and persistence using a geographical approach. By focusing on two case studies in two areas of law (criminal and property), Osofsky maps out justice wormholes, deconstructs their positionalities using the popular geographic concepts of space, place and time, and suggests ways to rid the legal system of wormholes entirely.

If that short, two-sentence summation sounded confusing, it's because the article was confusing as well. Without properly providing a comprehensive legal or historical background to the case studies (and at times essentializing indigenous people in the U.S.) and applying a rather tenuous connection with too many broad geographical concepts, the article falls short as an exemplary cross disciplinary work that incorporates geography and the law. Insisting on the benefits that can result from studying law in conjunction with geography makes up nearly a third of Osofsky's article – space that could have been put to better use explaining legal arguments or defining terms. We have been told several times in class that studying law through the lens of geography is common and trendy in research lately, so it remains an odd choice to devote so much writing to the topic.

It is difficult to classify this article, since it is not at all a typical research article. The author does not have a formal methodology, research questions or purpose statement. It reads more like a multivariate essay that attempts to prove some things while assuming too many things. All analysis and theoretical arguments stem from two case studies where each party was denied certain legal protections or rights and thusly were described to have fallen victim to justice wormholes. These parties are the Dann sisters (members of a tribal subset of the Western Shoshone Indians who are in danger of losing their land to the United States government) and José Padilla (an alleged terrorist or "enemy combatant" who spent years incarcerated while legal authorities flip flopped on whether he'd be granted a civil or military trial).

The author's analysis of the two cases and their specific wormholes in justice are explained through place, space and time. Yet, each concept does not always clearly apply to the legal points of each case study and sometimes a concept will not apply at all—or will be difficult to distinguish from the analysis of another concept. This analysis takes up the first two thirds of the article, before the broad, theoretical and slightly disconnected discussion moves towards discussing a few parameters that influence the remapping and prevention of wormholes (the author never adequately explains the term *remapping*). These parameters center of the problematic consequences of the United States presenting itself as a nation-state, the power of narrative in this presentation and how American exceptionalism reinforces the nation-state presentation. All throughout the discussion the author consistently makes several calls for mixed method legal and geographical research and finally concludes by taking a stance on a style of governance that can limit and prevent wormholes from developing.

Discussion Summary

The class discussion began by thoroughly discussing the two case studies, with each case study being moderated by another student. The tenor of the discussion so far was characterized by highly polarized opinions on the circumstances of the case studies as well as equal and unanimous criticism of the author's lack of direction in the article. It was my job to moderate discussion regarding the overlap of geographical and legal concepts; but since we agreed that the article did not provide extensive legal information or accurately use geographical theories, this part of the discussion was highly critical as well.

After summarizing the author's information on what she coins as "justice wormholes", discussion began with the disclaimer observation that all laws in the United States have colonialist foundations and are thus inevitably reflective of that time period's socio-political epistemologies. This point was not made in the article and critiques about the lack of background information on justice wormholes peppered the discussion: what were the origins of wormholes? Were they the result of intent? Are wormholes really a problem that can be fixed, or are they inevitable? What does the author mean by remapping them and why is mapping them the best way to fix them? Unfortunately, as these are large scale questions that should and deserve to have one article dedicated to answering them, we were unable to satisfactorily come up with an explanation. This is not to say that the message of how easy a person can fall into justice wormholes was lost on us. On the contrary and Padilla's case in particular, was a sobering and dismal reality, reminding us of the uncertainty of our freedoms in a post 9/11 America.

It was agreed early on that the author was overly ambitious in the number of concepts and analytical points she wanted to cover in the nearly 60 page article; and that, perhaps, this could be the result of her background as a legal writer and not as much as an academic writer. I put in that attorneys are trained to think and therefore, write differently in order to reflect the clear conciseness of the law and that the ability to thoroughly discuss and explore ideas is suppressed for legal writers. Another recurring criticism centered on the manner with which the author espoused a mixed method law and geography approach in research. Aside from the frequency of these calls to scholarly action, it seemed as if the author were forcing the law into geography, rather than inductively searching for areas where the two organically and meaningfully converge. Even just beefing up the part of the article that connects space, place and time with each case study could have improved the geographical/legal tone while significantly adding direction to the piece.

The most obvious and annoying shortcoming of the article were the images used and the images omitted. Geography without maps is unthinkable! Yet, even a map of the Dann sisters' land that was under threat of being expropriated was absent and it would have been entirely appropriate to put that map in. Also, the images included to represent the four versions of governance (versions that can effect the development and persistence of wormholes) were janky, inaccurate and unnecessary. These poor image choices and a deficiency of conceptual explanation demonstrated a lack of rigor in the article.

Yet, there were areas where the article stimulated interesting discussion (whether or not the author meant for that or not) and one of these areas focused on the relationship between space and authority. The author indirectly states that political entities with larger (physically) spatial jurisdictions that cover multiple nations have less overall authority to each individual nation, especially to the United States. Conversely, the United States as a nation-state can claim more political authority because of the strong, delineated boundaries and smaller spatial jurisdiction. This analytical point was written in one paragraph during a larger, convoluted analysis of how formal and informal narratives (a dualism never defined in the article) of the United States as a nation-state elicit different forms of governance that effect the persistence of wormholes. Some clarification was found when the author circuitously explains that narratives based on American exceptionalism allow the U.S. government to opportunistically ignore the concerns of international political bodies in order to achieve their own ends.

The dry and inspiration-less lecturing (by me) on the four visions of governance outlined in the article educed little discussion and it was not until a tangent observation on the current ontological debate on scale in human geography^{1,2} that the lull in discussion was temporarily ameliorated, albeit from an outsourced article.

A problematic observation surfaced during discussion of the concluding sections of the article where the author clearly acknowledges a need for special variations in the law's applicability to individuals depending on the circumstances of their offenses; yet, she not only fails to address how to fairly handle those variations but seems to forget that most of the preceding pages argue against those variations in the first place. The author explains that certain "minimum" freedoms should be universal, but does not attempt to define what those minimum freedoms should be. Many of us agreed that if universally applicable freedoms could exist, then justice wormholes would not be problem. This conflict divided the core analysis and added an unnecessary setback to the article's already questionable believability.

¹ Marston S., Jones, J. P. III, & Woodward, K. (2005). Human geography without scale. *Transactions of the Institute of British Geographers*, 30, 416–32.

² Leitner, H., & Miller, B. (2007). Scale and the limitations of ontological debate: a commentary on Marston, Jones and Woodward. *Transactions of the Institute of British Geographies*, 32, 116-125.