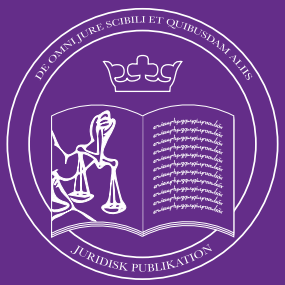

Juridisk Publikation
STOCKHOLM - UPPSALA - LUND - GÖTEBORG - UMEÅ

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Jurisprudence and Geography – Sketching a Morphogenetic Approach to Law in the Landscape

Särtryck ur häfte 1/2026

Nummer 1/2026

JURISPRUDENCE AND GEOGRAPHY
– SKETCHING A MORPHOGENETIC APPROACH TO LAW IN THE LANDSCAPE

By Gustav Stenseke Arup[1]

Although law and geography has grown into an important discipline in international legal scholarship it has just recently begun to make its mark in the Swedish legal academia. In this article, I discuss some legal geographical concepts that could have implications for how we understand the ontology of law. Starting in human geographic discourses on space, place, and landscape, I present a sketch of what I call a morphogenetic approach to law in the landscape.

1. INTRODUCTION

Since emerging in the 1980s, legal geography has brought numerous geographical concepts, methods, and debates into legal scholarship and practice.[2] Planning law and environmental law in particular, have benefited from increased attention to the geographical contexts in which law operates. Legal theory and jurisprudence have likewise gained fresh perspectives in the ongoing effort to understand law as a phenomenon. It is only in recent years, however, that legal geography has begun to gain recognition within Swedish legal scholarship.[3]

This article contributes to this development by introducing and elaborating a landscape perspective on law and exploring its implications for legal ontology.

1 Senior Lecturer in Jurisprudence at Karlstad Business School, Karlstad University. I am grateful to the anonymous reviewer for generous and incisive comments on earlier versions of this manuscript, and to the editors at JP for valuable comments on its structure and language. I also thank the participants in the Critical Legal Geography stream at the Critical Legal Conference (Lund, 2024) for helpful feedback on my initial ideas about the morphogenesis of law in the landscape.

2 E.g. Braverman, I., Blomley, N., Delaney, D., and Kedar, A. (eds.) (2014), *The expanding spaces of law: A timely legal geography*. Stanford University Press, Stanford, CA; Delaney, D. (2015), "Legal geography I: Constitutivities, complexities, and contingencies." *Progress in Human Geography*, Vol. 39 No. 1, pp. 96–102; O'Donnell, T., Robinson, D. F., and Gillespie, J. (eds.). (2019), *Legal geography: Perspectives and methods*, Routledge, Abingdon, UK; Bartel, R., and Carter, J. (eds.) (2021), *Handbook on space, place and law.* Edward Elgar Publishing, Cheltenham, UK; Nicolini, M. (2022), *Legal geography. Comparative Law and the Production of Space.* Springer; Kymäläinen, P. (2024), "Legal geography I: Everyday law", *Progress in Human Geography,* Vol. 48 No. 3, pp. 352–361; Gillespie, J., Robinson, D. F., and O'Donnell, T. (2024), "Insights from Antipodean legal geography: Building an environmental legal geography scholarship", *Progress in Human Geography*, Vol. 48 No. 3, pp. 316–331.

3 Westholm, A. (2021), *Scaling marine and water management.* Doctoral dissertation, Gothenburg University, Gothenburg, SE; Wejstål, K. (2024). *At the Border–EU Law, Asylum and the Spatialities of Fundamental Rights*. Doctoral dissertation, Gothenburg University, Gothenburg, SE.

While spatial perspectives have become well-established in legal theory, the concept of landscape remains relatively under-theorised. I argue that the landscape concept provides a distinct analytical vantage point from which law can be understood as an emergent, materially embedded, and more-than-human phenomenon. The morphogenetic approach to law in the landscape developed in the article conceptualises legal phenomena as metastable patterns that emerge through interrelated natural, social, and cultural processes. This approach shifts the focus of legal ontology away from viewing law as a system of norms or formal structures, toward the ongoing processes through which law takes shape in specific landscapes.

To elaborate on how landscape can inform our understanding of law, this paper adopts a relational and process-ontological approach. Process philosophy is related to the works of philosophers such as Gottfried Leibniz, Henri Bergson, Alfred North Whitehead and Gilles Deleuze. However, process thinking as a broader approach to reality has also gained prominence in various academic disciplines throughout the 20th century, such as in theoretical physics, chemistry, biology, and geology to anthropology, theology, geography, and law.[4] Similarly, relational ontologies have a long history in philosophy, dating back at least to Heraclitus. They have gained renewed attention within the social sciences in recent decades, notably through the works of geographers such as Doreen Massey and Sarah Whatmore.[5]

By combining landscape theory with relational and process-oriented ontologies, the article promotes a less legal-centric and more post-anthropocentric understanding of law.[6] Rather than presupposing law as a distinct or autonomous

4 Unwin, T. (1993), *The Place of Geography,* Routledge, Abingdon, UK; Lyman, R. L. (2007), What is the process' in cultural process and in processual archaeology? *Anthropological Theory*, 7(2), 217–250; Dawson, P. (2019), *Reshaping Change: A Processual Perspective* (2nd ed.), Routledge, Abingdon, UK.

5 Massey, D. (2005), *For Space*, Sage, London, UK; Whatmore, S. (2002), Hybrid geographies: Natures cultures spaces. SAGE Publications Ltd; See e.g. Jones, M. (2009), "Phase space: geography, relational thinking, and beyond", *Progress in human geography,* Vol. 33 No. 4, pp. 487–506; Candiotto, L. (2017), "The reality of relations", *Giornale di metafisica,* Vol. XXXIX No. 2, pp. 537–551; Selg, P., and Ventsel, A. (2020), *Introducing relational political analysis: Political semiotics as a theory and method,* Springer Nature Switzerland AG.

6 The term post-anthropocentric refers to a stream of thought within contemporary academia attempting to move beyond anthropocentrism and ecocentrism, instead emphasising the inherent entanglement of all matter, whether it appears as human or non-human. See e.g. Malone, K., and Bozalek, V. (2021), "Post-Anthropocentrism", Murris, K. (ed.) *A Glossary for Doing Postqualitative, New Materialist and Critical Posthumanist Research Across Disciplines*, Routledge, Abingdon, UK. For overviews on post-anthropocentric legal scholarship, see Davies, M. (2023), *Asking the law question.* 5th (ed.) Thomson Reuters, ch. 10; Burdon, P. D. (2023), The Anthropocene: New Trajectories in Law. Routledge; Stenseke Arup, G. (2023), Några tankar om rätten i antropocen. *Retfærd: Nordisk Juridisk Tidsskrift*, 4(178), pp. 9–25.

domain, the morphogenetic landscape perspective situates law within the same relational fabric of processes that constitute socio-ecological environments. Thereby, I hope to open up new possibilities for interdisciplinary and transdisciplinary legal research.

In section 2, I discuss how landscape relates to the notions of space and place, and in section 3, I explore how law in the landscape can be understood and studied through a process-oriented and relational approach. I introduce the concept of morphogenesis as a tool for analysing the network of relations among processes that produce what appear as law in landscapes.

2. LAW IN SPACE, PLACES, AND LANDSCAPES

2.1 INTRODUCTION

A principal contribution of legal geography to legal scholarship has been to reformulate the abstract question *What is law?* into the more materially grounded question *Where is law?* As Margaret Davies writes:

> The question [Where is law?] does something unexpected to legal theory. By asking us to place law, it opens up the traditional 'what' question: as soon as we ask whether law is in (for instance) lawyers' offices, or courts, or people's homes, or the street and cityscapes, or the womb, or the high seas, or a remote desert location, or a university classroom, or physically imprinted on our minds and bodies, law becomes something different from an abstract set of rules that are the same in many contexts. Rather, the context, the location, and the performance of law in space are important – space is not just a tabula rasa (either in or out of the mind), nor is it just a neutral medium. Rather law becomes what it is, where it is – in material locations as performed in and by subjects who are both recipients of law and conveyors of it.[7]

Locating law hence goes beyond situating it in its contexts. As legal geographers have shown, law appears as a co-producer of the very spaces in which it appears. However, in locating law, it is also important to note how law emerges differently across places and landscapes.

Space, place, and landscape are concepts central to geography since its emergence as a science in the 19th century. Much ink has been spilt discussing the precise definitions of and relations between these concepts. However, as they tend to rely on the same theoretical assumptions and are often defined in relation

7 Davies, M. (2017), *Law Unlimited,* Routledge, Abingdon, UK. p. 30.

to each other, the concepts are nowadays often understood as complementary rather than oppositional. Although this article's focus is primarily on landscape, it is therefore fruitful to explain landscape through its entanglement with the concept's theoretical siblings, space and place. Before delving into the landscape and its uses in legal geography, this section introduces the concepts space and place. The relational and process-oriented aspects of space and place are also important for the morphogenetic approach utilised in section 3.

2.2 SPACE AND PLACE

Since the 1990s, with the so-called spatial turn in the social sciences, space has become a much-discussed concept across the broader academy.[8] Also, in strands of legal scholarship, the notion of space has for a long time received a considerable amount of attention.[9] A distinction is often made between two ways of understanding space.[10] First, in an Euclidean and Newtonian sense, space is understood as the backdrop to everything that exists, or a container independent of the objects inside it. Second, in what might be called a Leibnizian tradition, space instead consists of its objects and relations. According to the Leibnizian understanding, there is no backdrop or emptiness, only processes, relations, and things that together constitute space.[11] It is space in this latter sense, as something being produced rather than given, that has inspired the relational and process-oriented ideas of space used in social sciences in the 20th century. Inspired by this approach, Doreen Massey defines space as the product of "interrelations; as constituted through their interactions, from the immensity of the global to the inimitably tiny".[12] Space is hence a sphere of coexisting heterogeneity, constantly becoming in the relations between multiplicities of trajectories. Massey's concept of space, or similar relational and process-oriented ideas of space as co-constituted by social and ecological phenomena and by law, has also been influential in legal scholarship, not least in legal geography.[13]

8 Warf, B., and Arias, S. (2009), *The spatial turn. Interdisciplinary Perspective*, Routledge, New York, NY.

9 Economides, K., Blacksell M., and Watkins, C. (1986), "The Spatial Analysis of Legal Systems: Towards a Geography of Law?", *Journal of Law and Society*, Vol. 13 No. 2, pp. 161–181; Blomley, N. (1994), *Law, Space, and the Geographies of Power*, The Guilford Press, New York, NY; Delaney, D. (2010), *The Spatial, the Legal and the Pragmatics of World-Making: Nomospheric Investigations*, Routledge, New York, NY; Blank, Y., and Rosen-zvi, I. (2010), "The Spatial Turn in Legal Theory" *Hagar: Studies in Culture, Polity and Identity*, Vol. 10 No. 1, pp. 37–60; Philippopoulos-Mihalopoulos, A. (2014), *Spatial justice: Body, lawscape, atmosphere.* Routledge, Abingdon, UK.

10 Jones M. (2010), "Limits to 'thinking space relationally'", *International Journal of Law in Context,* Vol. 6 No. 3, pp. 243–255.

11 Unwin (n 4); Agnew, J. (2011), "Space and place", in Warf, B. & Arias, S. (eds.), *Handbook of Geographical Knowledge*, Routledge, New York, NY, pp. 316–331.

12 Massey (n 5) p. 9.

13 Wejstål (n 3).

While place is also a much-discussed, fundamental concept within geography,[14] it has perhaps been a little less discussed in the broader social sciences than space. In legal geography, the notion of place has, in the last decade, begun to render a significant body of literature.[15] Whereas space might be seen as the general fabric of reality in which everything takes part, a place is often thought of as a specific part of that reality, a delimited set of interrelationships or a particular part of the map.[16] The debates concerning the meaning of place have, however, oscillated between this understanding of place as a particular node in space and a view of place as "a phenomenological understanding of a place as a distinctive coming together in space".[17] While place in the former view is a mere part of space, the latter view emphasises that the becoming of places is what constitutes the processes that make up space.

Place-related studies have historically had a slightly different approach than space-related research. In her influential work *Feminism and Geography*, Gillian Rose describes the advent of place research as a reaction to the positivist scientific ideals of a neutral science of space in geography in the 1960s.[18] She explains how early human geographers focused on "the emotional response of people to places […] locations which, through being experienced by ordinary people, became full of human significance" and that "in contrast to spaces, which were represented through scientifically rational measurements of location, places were full of human interpretation and significance".[19]

14 Tuan, Y. F. (1977), *Space and place: The perspective of experience*, University of Minnesota Press, Minneapolis, MN., Agnew (n 11).

15 Delaney, D. (1998), *Race, place, and the law*, 1836–1948, University of Texas Press, Austin, TX; Sarat, A., Douglas, L., and Umphrey, M. (eds.) (2009), *The place of law*. University of Michigan Press, Minneapolis, MN; Graham, N. (2011), *Lawscape: Property, Environment, Law,* Routledge, Abingdon, UK; Buffery, C. A. (2015), *Changing landscapes: a legal geography of the River Severn,* Doctoral dissertation, University of Birmingham, Birmingham, UK; Bennett, L. (2016), "How does law make place? Localisation, translocalisation and thing-law at the world's first factory", *Geoforum*, Vol. 74, pp. 182–191; Kanellopoulou, J. (2020), "Of place and law", *The Routledge Handbook of Place*, Routledge, Abingdon, UK, pp. 367–376; Bartel, R., and Graham, N. (2023), "Place in legal geography: Agency and application in agriculture research", *Geographical Research,* vol. 61, no. 2, pp. 193–206; Kymäläinen (n 2); Kanellopoulou, E., Panayiotopoulos, A., and Pavlidis, S. A. (2024), "Cultural heritage beyond juridification: towards a place-first research agenda", *Journal of Place Management and Development*, Vol. 17 No. 2, pp. 220–236.

16 Furia, P. (2022), "Space and place. A morphological perspective", *Axiomathes*, Vol. 32 No. 3, pp. 539–556.

17 Rose, M., & Wylie, J. (2011), Landscape. Agnew, J. A., & Duncan, J. S. (eds.). (2011), The Wiley-Blackwell companion to human geography. John Wiley & Sons, pp. 221–235.

18 Rose, G. (1993), *Feminism and Geography: The Limits of Geographical Knowledge*, Polity Press, Cambridge, UK.

19 Ibid. p. 41.

However, as described above, space is in no way locked into a positivistic discourse but has long been understood as constructed by social processes in the same way as place. Massey argues convincingly that space/place is not a dichotomy between the abstract and the concrete, but rather that the concepts should be understood as equally relational, process-oriented, and material.[20] Refraining from describing place as a distinct or static slice in space and time, Massey defines place as a "particular constellation within the wider topographies of space", a coming together or "throwntogetherness" of trajectories, a "locus of generations of new trajectories and new configurations".[21] Place is thereby understood as a spatio-temporal event, a conjuncture of processes happening at the same moment in time and space. As Agnew notes in a review of the space-place conundrum in geography, both terms have been used periodically to scrutinise the other for being, in some sense, essentialist, but are nowadays more often seen as complementary concepts, fundamental to human geography.[22]

The literature on law and place articulates a similar difference in research focus as the historical bifurcation in geography between space and place. While law and space literature may tend to theorise space in general, place-sensitive legal research emphasises the importance of distinguishing among diverse places.[23] A tendency within place-and-law literature is a connection to legal pluralism, everyday law, and the heterogeneity of law's meanings across different peoples and localities.[24] A crucial theoretical contribution from the literature on law and place, hence, concerns the idea that law emerges in different ways in different places.

2.3 LANDSCAPES

Landscape has, in a similar vein to space and place, been a central concept in geography, and has thus also been the subject of various debates and shifts in meaning.[25] The concept relates to space to a certain extent but has perhaps a closer kinship to place.

In the European Landscape Convention art. 1, landscape is defined as "an area, as perceived by people, whose character is the result of the actions and interaction of natural and/or human factors". Although the subclause "as perceived by

20 Massey (n 5) pp. 183–186.
21 Ibid. pp. 131, 140–141.
22 Agnew (n 11).
23 Bartel and Graham (n 15).
24 Kymäläinen (n 2).
25 Dubow, J. (2019), "Landscape", Kobayashi, A. (ed.), *International encyclopedia of human geography*, Elsevier, New York, NY; Mason, O., and Riding, J. (2023), "Reimagining landscape: Materiality, decoloniality, and creativity", *Progress in Human Geography,* Vol. 47 No. 6, pp. 769–789.

people" could be ignored to accommodate less anthropocentric understandings, the definition captures some general differences between landscape and its siblings, space and place. Just as a place, a landscape is typically a specific area rather than a general space (although landscape is sometimes also referred to in a more general sense). Historically, however, the concepts have been used to outline different research approaches. While place-based research has often focused on human interpretations and experiences of particular places, landscape research has been more focused on the dynamic interrelationships between natural and cultural processes across a wider area (often encompassing several places).[26]

The landscape, in the sense of the visible part of a specific area of land, was a central object of study for German geographers in the 19th century.[27] It became popular within the emergent scholarship of human geography in the 20th century, not least through Carl Sauer's seminal article, *The Morphology of Landscape*, where he defined landscape as an area made up of the interrelations of physical and cultural forms.[28] While Sauer introduced an approach to landscape by studying the associations of forms and their developments over time, a more explicit process-oriented approach to landscape began to develop some decades later in the international geographic society.[29] In a classic essay from 1958, Sidney Woolridge criticised the study of geomorphology within geography for being too obsessed with forms rather than processes, and concerned with geomorphography rather than geomorphogeny.[30] He argued that the topography of the landscape is ever-changing due to tectonic movements, climate changes, glacial ages, and so on, and has a history and a future but no stable form. In the same year, Edward Ackerman presented seven seminal principles for the study of Geography as a fundamental research discipline, with the first principle formulated as "the near universal characteristic of space-relations patterns is unceasing change".[31] In the following decades, process thinking became a dominant paradigm within landscape studies through geographers such as Yi-Fu Tuan and Torsten Hägerstrand, and this processual approach has since been further developed in multiple ways.[32]

26 Rose (n 18) p. 86.
27 Bladh, G. (1995), *Finnskogens landskap och människor under fyra sekler: en studie av samhälle och natur i förändring*, Doctoral dissertation, Karlstad University.
28 Sauer, C. (1925), "The morphology of landscape", *University of California Publications in Geography*, Vol. 2 No. 2, pp. 19–54.
29 Unwin (n 4).
30 Wooldridge, S. W. (1958), "The Trend of Geomorphology" T*ransactions and Papers (Institute of British Geographers)*, Vol. 25, pp. 29–35.
31 Ackerman, E. A. (1958), Geography as a Fundamental Research Discipline, Department of Geography, University of Chicago, Chicago, IL.
32 Unwin (n 4); Mason and Riding (n 25).

In Anglo-Saxon scholarship, landscape has often been defined as scenery, a way of seeing or/and a gaze on reality. The definition has its origin from the popularisation of landscape art in Britain in the 16th century.[33] As such, it has sometimes been claimed that the landscape does not constitute an empirical object on its own but just a perspective. In the 1980s, the landscape concept was therefore criticised for being used to construct a colonial, male, distanced gaze as a neutral empirical reality.[34] In the same period in Germany and Scandinavia, however, landscape retained more of its older connotations with land rather than scenery.[35] It was landscape in this meaning that originally emerged within geography, and it was also in this sense that Sauer used the word. In the 1990s, this German and Scandinavian meaning of the concept was highlighted as a way of countering the critique of landscape and recovering its "substantive nature".[36] Mirroring the theoretical developments on space and place, landscape is now often used as a complementary, relational, and process-oriented concept.[37]

For this article, a landscape can hence be understood as an area composed of interrelated natural and cultural processes. Above all, it represents a particular research approach or perspective, one that directs attention to the very interrelations between tectonic, geological, socio-ecological, and cultural or legal (and so on) processes.

2.4 LANDSCAPE IN LEGAL SCHOLARSHIP

Law in the landscape has been explored to some extent in human geography and has occasionally featured in legal scholarship.[38]

33 Olwig, K. R. (1996), "Recovering the Substantive Nature of Landscape", *Annals of the Association of American Geographers,* Vol. 86 No. 4, pp. 630–653.

34 Dubow (n 25).

35 Bladh (n 27).

36 Olwig (n 33).

37 Stenseke, M. (2018), "Connecting 'relational values' and relational landscape approaches", *Current opinion in Environmental Sustainability,* Vol. 35, pp. 82–88; Phillips, M. (2023), "Landscape", Lees, L., and Demeritt, D. (eds.) *Concise Encyclopedia of Human Geography*. Edward Elgar Publishing, Cheltenham, UK.

38 Olwig (n 33); Jones, M. and Peil, T. (eds.) (2005), Landscape, Law and Justice, Novus Forlag, Oslo, NO; Jones, M. and Schanche, A. (eds.) (2004), Landscape, Law and Customary Rights, Dieđut, Kautokeino, NO; Jones, M. and Stenseke, M. (eds.) (2011), The European Landscape Convention: Challenges of Participation, Springer, Dordrecht, NL; Olwig, K. (2002), Landscape, Nature and the Body Politic, University of Wisconsin Press, Madison, WI; Blomley, N. (1998), "Landscapes of Property" *Law & Society Review,* Vol. 32 No. 3, pp. 567–612; Martin, D. G., and Scherr, A. (2005), "Lawyering Landscapes: Lawyers as Constituents of Landscape", *Landscape Research* Vol. 30 No. 3, pp. 379–393; Graham (n 15); Buffery (n 15); Strecker, A (2018), *Landscape Protection in International Law,* Oxford University Press, Oxford, UK; Marusek, S. (2021), *Law and the Kinetic Environment: Regulating Dynamic Landscapes,* Routledge, Abingdon, UK; Byer, A. (2022), *Landscape, Heritage and Spatial Justice: New Legal Perspectives on Heritage Protection in the Lesser Antilles*, Sidestone Press, Leiden, NL; Jones, M.,

In legal theory, however, the landscape concept has not yet had as significant an impact. In discourses on the ontology of law, researchers sometimes refer to the legal landscape or coin neologisms that are similarly directed toward specifically legal aspects of space. *In The Spatial, the Legal, and the Pragmatics of World-Making: Nomospheric Investigations*, David Delaney, for example, outlines the concepts of *nomosphere* and *nomoscape* to account for how legalities and spatialities emerge in places.[39] In *Lawscape: Property, Environment, Law*, Nicole Graham engages with the landscape-concept in a study of law's relationship to land and natural resources through its property regime, but her central concept is *Lawscape*.[40] Similarly, in *Spatial Justice*, Andreas Philippopoulos-Mihalopoulos explicitly favours his conception of *Lawscape* over what he sees as the "ocular-centric" concept of landscape.[41] Although these concepts have contributed to legal theory with much-needed spatial and platial perspectives, I find that their emphasis on the legal or the normative sometimes implies an overly legal-centric understanding of space.

A more distinctive landscape-based approach to the ontology of law has been developed by the legal geographer Caroline Buffery. In her thesis, *Changing Landscapes: A Legal Geography of the River Severn*, she shows how a landscape approach can be used to understand the "complex, multi-layered and multi-dimensional ways in which law and geography are woven together in a particular setting".[42] In her study, it becomes evident how law is produced in the relations between institutions, nature, and society in specific landscapes. In *Law and the Kinetic Environment Regulating Dynamic Landscapes*, Sarah Marusek similarly explores the relationships between ever-changing landscapes and law. Still, she focuses more on the landscape's kinetic forces.[43] In her work, natural phenomena such as oozing lava, moving glaciers, or bubbling geothermal pools serve as examples of the ever-changing nature of landscapes, which affects how law is produced. Päivi Kymäläinen has also analysed law in the landscape from a relational perspective, tracing how everyday law emerges from the entanglement of diverse processes within the landscape.[44] In her works on emotions and law,

Strecker, A., Setten, G. and Mitchell, D. (eds.) (2024), Landscape, Law and Justice—20 Years, Kungl. Vitterhets Historie och Antikvitets Akademien (KVHAA), Konferenser 113, Stockholm, SE.

39 Delaney, D. (2010), *The Spatial, the Legal and the Pragmatics of World-Making: Nomospheric Investigations*, Routledge, New York, NY.

40 Graham (n 15).

41 Philippopoulos-Mihalopoulos (n 9).

42 Buffery (n 15).

43 Marusek (n 38).

44 Kymäläinen (n 2).

she has particularly analysed "the significance of personal feelings and emotional responses when something is evaluated as 'legal' in the landscape."[45]

A landscape-based approach to law hence explores how law emerges from the entanglement of ever-changing social and natural processes in particular landscapes, rather than analysing a specific legal dimension of space. As everything in the landscape, including social, ecological, kinetic, and geological processes, is in constant flux on various scales, law cannot be understood as a fixed entity or an abstract social construct. Compared to scholarship on space, place, and law, situating law in its landscapes further accentuates law as a more-than-human phenomenon, emerging through myriad changes in specific landscapes.

2.5 CONCLUDING REMARKS

As discussed in this section, locating law in its space, places, or landscapes implies a shift from an abstract notion of law's ontology towards a material understanding of law as coproduced in, as well as by, its environments. Rather than a juridical or social construct, law appears as a phenomenon emerging in interrelated natural-cultural processes. The spatial perspective situates law as a material phenomenon that co-constructs the spaces in which we live, and the place-oriented perspective emphasises how law emerges from local conditions. A landscape approach further directs the focus toward intersecting tectonic, geological, socio-ecological, cultural, and legal processes. Based on the insights and discussions presented in this section, I further utilise a process-oriented approach to law in the landscape in section 3, which I call a morphogenetic approach.

3. THE MORPHOGENESIS OF LAW IN THE LANDSCAPE

3.1 INTRODUCTION

In the previous section, I introduced the concepts of space, place, and landscape, and briefly discussed their use in legal scholarship. While space and place have influenced legal theoretical discussions, the concept of landscape has primarily been used in more applied legal-geographic studies. One aim of this section is therefore to explore what adopting a landscape perspective on law might imply for legal ontology.

A central insight from landscape perspectives is that law does not enter the landscape from the outside, nor can it be identified as discrete threads within it. Rather, law emerges from the web of relations among processes and events in the landscape that are not themselves legal. The topography of law is thus characterised by constant motion, and what appear as legal forms are metastable

45 Kymäläinen, P. (2024), "Emotional and affectual legal landscapes" in Jones et al. (n 38) p. 65.

patterns of interrelated processes.[46] Tracing law from a landscape perspective should therefore not aim at understanding its morphology, but rather its continuous emergence, which can be conceptualised as the morphogenesis of law in the landscape.[47]

While morphology studies forms, morphogenesis denotes the dynamic processes through which forms come into being.[48] The morphogenesis of law in landscapes thus emphasises the interrelation of formative processes that generate law as it emerges within specific spatial and material configurations, rather than treating law as a static outcome or driver of these processes. As discussed below, this approach also aligns well with established process-oriented socio-legal theories. However, beyond providing a landscape perspective, introducing the concept of morphogenesis seeks to conceptualise the co-constitution of space and law in a less legal-centric way than previous spatio-legal frameworks.[49] To unpack the morphogenetic approach and incorporate insights from process philosophy and relational ontologies, this section is structured around the concepts of process and relationality.

3.2 PROCESSES OF CHANGE

A key aspect of the morphogenetic approach to law in the landscape concerns the relationship between change and stability. From a process-oriented ontological standpoint, apparent stability or enduring forms are always dependent upon, and generated through, ongoing processes of transformation operating across multiple scales.[50] In this view, process precedes substance. The *process* is ontolog-

46 See Nail, T. (2024), The philosophy of Movement: An Introduction, University of Minnesota press p. 49 where Nail defines metastable patterns as "an ongoing process that restores and repeats itself slightly differently, like a whirlpool or eddy in a river".

47 Stenseke Arup, G. (2025), A legal geography of wolves in Swedish landscapes: a morphogenetic approach. Journal of Property, Planning and Environmental Law, 17(2–3), pp. 118–130.

48 In philosophy and the social sciences, various process-oriented thinkers, such as Deleuze and Guattari, Luhmann, Archer, Nail, and DeLanda, have employed the concept to describe the interrelated processes of transformation that shape reality. See e.g. Deleuze, G., and Guattari, F. (1987), *A thousand plateaus, trans*. Massumi, B. University of Minnesota Press, Minneapolis MN; Luhmann, N. (1995), *Social systems*, Stanford University Press, Stanford, CA; Archer, M. S. (2024), *Morphogenesis answers its critics*. Cambridge University Press, Cambridge, UK; DeLanda, M. (2000), *A thousand years of nonlinear history,* Zone Books, New York, NY; Nail, T. (2018), *Lucretius I: An ontology of motion*. Edinburgh University Press. While morphology, or geomorphology, historically has been criticised for being too obsessed with descriptions of forms rather than processes of becoming, for long the concept has included process-based approaches as well, Woolridge (n 30). As Paolo Furia writes, not even Goethe's account of morphology defined form as something stable, Furia (n 16). Nonetheless, I think the concept morphogenesis is more precise as it targets the process that produces forms rather than forms themselves.

49 See section 2.5.

50 Seibt, J. (2022), "Process Philosophy", Zalta, E., and Nodelman, U. (eds.) *The Stanford Encyclope-*

ically primary, preceding any enduring *thing*. Change is thus not the opposite of stability. Instead, stability itself is understood as an emergent effect of continual movement and variation.[51] From this perspective, a landscape is not composed of movements between objects, but rather of movements, changes, and processes that produce what appear as objects and other phenomena, including law or legality.

A process-oriented understanding of law has been present in socio-legal studies for over a century. In his seminal work *Fundamental Principles of the Sociology of Law*, Eugen Ehrlich wrote:

> To attempt to imprison the law of a time or of a people within the sections of a code is about as reasonable as to attempt to confine a stream within a pond. The water that is put in the pond is no longer a living stream but a stagnant pool, and but little water can be put in the pond.[52]

In *Law as Process*, legal anthropologist Sally Falk Moore developed these ideas further, arguing that law and legality continuously emerge as processes that either seek to control or exploit the fundamental indeterminacy of social life.[53] In her work, it is the ongoing changes and processes that produce apparent regularities and stability, as well as observable legal changes. Understanding change as fundamental in law does not imply that rules themselves are constantly shifting. As Falk Moore notes: "On the microscale, all processes involve change because they involve alterations in the situations of the individuals involved. But they do not necessarily involve social and cultural change on the macro scale".[54] Similarly, Patricia Ewick and Susan Silbey describe law and legality as constantly emerging through everyday actions and practices.[55] Law and legality are thus emergent properties that are "constantly produced" and "continuous with the lived experience of everyday life".[56] Rather than depending primarily on formal legal documents and procedures, law is continuously generated by micro- and

dia of Philosophy (Spring 2024 Edition). Stanford University Press, Stanford, CA.

51 Li, O. (2024), *Den föränderliga guden – en introduktion till processteism*, Dialogos Förlag, Stockholm, SE.

52 Ehrlich, E. (1936), Fundamental Principles of the Sociology of Law. Trans. Walter Moll. Harvard University Press, Cambridge, MA. p. 488.

53 Falk Moore, S. (1978), *Law as process: an anthropological approach.* Routledge & Kegan Paul, London, UK.

54 Ibid. p. 43.

55 Ewick, P., and Silbey, S. (1998), *The common place of law: Stories from everyday life*, University of Chicago Press, Chicago, IL.

56 Ibid. pp. 223, 249.

macro-processes that are not themselves labeled as legal. Consequently, law is studied as an aspect of society rather than as a separate system.

In the last decades, spatial perspectives have been added to these process-oriented sociolegal insights, not only situating legal phenomena in space but also acknowledging them as produced by, as well as producers of, space.[57] Perhaps as a consequence of space being so obviously co-produced by other than humans, this spatial turn in law has, to a certain extent, influenced the contemporary post-anthropocentric legal scholarship.[58] A prominent example is Margaret Davies' theory of Ecolaw.[59] For Davies, norms are not a human phenomenon but a kind of process produced everywhere in the universe. She defines norms as "dynamic regularities – constantly re-forming patterns – that emerge from and promote sameness and convergence but also allow (indeed are based upon the possibility of) difference and divergence". Law is just "a specialized slice of this more generalized normativity".[60] In this way, what appears to us as law are processes emerging from the matter that make up space and thereby are always more-than-human.

I sympathise with Davies' effort to imagine how law is not just a social construct but a material phenomenon in timespace. However, from a landscape perspective, I find it more intuitive to approach legal phenomena as emergent through diverse processes rather than through norms. Instead of presupposing a generalised normativity in all matter, I argue that what appears as a norm is in itself constituted by material processes that we would not call norms. Similarly, whatever we call law or legality is not produced by specifically legal processes but is shaped through ongoing transformations within both the earth system and the socio-ecological environments where laws take form. In this way, law can be understood as a concept we use to describe specific material processes that emerge differently across landscapes, rather than as a specimen of a universal phenomenon inherent in all matter. This idea also aligns better with the fundamental insight from legal geography, and in particular landscape perspectives, that law emerges as an aspect of spaces or landscapes.

To give a brief example, the recent decline in the capacity of Swedish forests to absorb CO_2, due to drought, bark beetle infestations, and increased harvesting, has significantly complicated Sweden's ability to meet the climate targets set out in EU law.[61] As a result, the Swedish government may need to adjust its climate policies in order to reduce the risk of financial penalties for non-compliance with

57 See section 2.
58 E.g. Philippopoulos-Mihalopoulos (n 9). See also footnote 6.
59 Davies, M. (2022), Ecolaw: Legality, Life, and the Normativity of Nature, Routledge.
60 Ibid. p. 38.
61 Government Bill 2025/26:1, Annex 4, pp. 25–27.

EU obligations. While the text of the relevant EU directives has not changed, socio-ecological processes in the forests have altered the practical implications of these legal requirements, thereby constraining the range of climate-related policy options available to the government.[62] The constitutional norm in this case is thereby co-produced by processes related to the EU directive as well as processes in Swedish forests.

Acknowledging that geological, climatological or, say, biochemical processes not only affect law but are involved in the continuous shaping of legal forms potentially open up legal scholarship for more transdisciplinary approaches to law. Studying the morphogenetic becoming of law through non-legal processes thereby also has the potential to contribute to de-essentialising and de-centering law in legal scholarship.

3.3 RELATIONALITY

As discussed in section 2, relational understandings of space, place, and landscape were common in geography in the latter half of the 20th century. A central feature of relational ontologies is the idea that entities do not pre-exist their relations. Instead, objects are constituted through relations and come into being only through them. Processes are therefore always becoming in relation to other processes, and their identities and properties depend on these relational dynamics. In Karen Barad's relational onto-epistemology, for example, an object is understood as a phenomenon emerging from the relations among intra-acting agencies.[63] Crucially, neither the relata nor the relations are ontologically prior. Both materialise through the intra-active constitution of the phenomenon.

Understanding reality as constituted by interrelated processes often involves complex and interwoven multiplicities. Whitehead, for instance, writes "Every actual occasion exhibits itself as a process: it is a becomingness. In so disclosing itself, it places itself as one among a multiplicity of other occasions, without which it could not be itself".[64] A common feature of process-oriented and relational ontologies is thus a tendency to conceptualise reality in terms of interconnected structures, such as fabrics, weaves, meshes, networks, or webs, composed of relations among processes. What may appear as a distinct or bounded entity is, within this view, often a temporary configuration of nodes or relations within such a

62 Stenseke Arup, G. (2025), Klimatet i konstitutionen: några tankar om klimatkonstitutionalism i Sverige. Nordisk miljörättslig tidskrift, (2), pp. 29–50.

63 Barad, K. (2007), *Meeting the universe halfway: Quantum physics and the entanglement of matter and meaning*, Duke University Press, Durham, NC.

64 Whitehead, A. N. (1925), Science and the modern world: Lowell lectures, New American Library. pp. 175–176.

relational field. Whitehead calls this a 'nexus',[65] Latour refers to an 'actor-network',[66] Tim Ingold writes of 'bundles of lines',[67] and 'assemblage' is another widely used term.[68] Massey describes the "throwntogetherness of trajectories",[69] while Hägerstrand used the term tillvarovären, the weave or fabric of reality, to depict the landscape as a weave of processes.[70] In the IPBES "Global Assessment Report on Biodiversity and Ecosystem Services", the concept "fabric of life" is employed.[71] In my previous work, I have drawn inspiration from the concept of the rhizome, as used by Deleuze and Guattari,[72] which emphasises complexity, irregularity, and uncertainty, and which Merima Bruncevic has developed into a jurisprudential concept of Rhizomatic Jurisprudence.[73]

Sauer's account of landscape already contained relational elements, defining a landscape as the association of forms: "The phenomena that make up an area are not simply assorted but are associated, or interdependent".[74] Process-landscape research in the mid-20th century further emphasised the relationality of landscape. A central feature of Torsten Hägerstrand's time geography was the view of the landscape as a weave of relations that together produced reality.[75] Similar perspectives are found in the works of later landscape scholars such as Tim Ingold, Kenneth Olwig, Gunhild Setten,[76] and notably Don Mitchell, whose approach is explicitly relational.[77] Although these approaches differ in certain

65 Whitehead, A. N. (1979), *Process and reality*, the Free Press, New York, NY.

66 Latour, B. (2007), *Reassembling the social: An introduction to actor-network-theory*, Oxford University Press, Oxford, UK.

67 Ingold, T. (2015), *The life of lines.* Routledge, Abingdon, UK.

68 DeLanda, M. (2016), *Assemblage Theory,* Edinburgh University Press, Edinburgh, UK.

69 Massey (n 5).

70 Hägerstrand, T. (2009), *Tillvarovären*, Formas, Stockholm, SE., Stenseke, M. (2023), "Diorama—An Opening for Addressing the Global Challenges", *Tijdschrift voor Economische en Sociale Geografie*, Vol. 114, pp. 212–218.

71 Diaz, S. *et al.* (eds.) (2019), Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. IPBES secretariat, Bonn, DE.

72 Deleuze, G. and Guattari, F. (1987), A thousand plateaus: Capitalism and schizophrenia. (Trans. by Massumi, B.) University of Minnesota press, Minneapolis.

73 Bruncevic, M. (2014), *Fixing the shadows–Access to art and the legal concept of the cultural commons*, Doctoral dissertation, Gothenburg University, Gothenburg, SE; Bruncevic, M. (2018), *Law, art and the commons,* Routledge, Abingdon, UK; Stenseke Arup, G. (2021), *Entangled Law: A Study of the Entanglement of Wolves, Humans, and Law in the Landscape*, Doctoral dissertation, Karlstad University, Karlstad, SE.

74 Sauer (n 28).

75 Hägerstrand (n 70).

76 Ingold, T. (1993), "The temporality of the landscape", *World archaeology*, Vol. 25 No. 2, pp. 152–174; Olwig, K. R. (2019), *The meanings of landscape: Essays on place, space, environment and justice,* Routledge, Abingdon, UK., Setten (n 38).

77 Mitchell, D. (2017), "A relational approach to landscape and urbanism: The view from an exclu-

respects, they share the common ontological understanding that the fundamental texture of the landscape consists of relations among processes. In legal geography, relationality, especially relational understandings of space, also serves as a common point of departure.[78]

Relational ontologies have also been prevalent in socio-legal scholarship, particularly in legal anthropology, critical legal thinking, and new materialist-inspired legal scholarship.[79] In the legal pluralist tradition, law has often been seen as something that emerges in the interaction between formal and informal norms.[80] In a similar vein, Ewick and Silbey describe how law, legality, and legal consciousness cannot be analysed as the sum of separated processes but are instead phenomena that emerge through the relations between a vast array of processes in everyday life.[81]

A morphogenetic landscape approach further highlights how law emerges from the relations among diverse processes within specific landscapes. As shown in the previous section, constitutional norms related to climate policies seem to emerge in a vast web of relations between formal legal and socio-ecological processes. The EU Climate framework for example can have no distinct meaning separated from its relations within this web of interrelated processes, and is hence entangled not least with the beetles that contributed to the decline of the capacity of Swedish forests to absorb CO_2.

Another example of the continuous morphogenesis of law within webs of interrelated processes in landscapes concerns the entanglement of wolves, law and landscapes.[82] The EU Habitats Directive (Council Directive 92/43/EEC) provides a basis for the legal protection of wolves in the EU, but its effects vary across landscapes. In Germany, the wolf population has grown from a few individuals to over 1,000 within a few decades, whereas in Sweden it has stagnated at

sive suburb", *Landscape Research*, Vol. 42, pp. 277–290; Setten, G., Brown, K. M., and Rørtveit, H. N. (2018), "Landscape and social justice", in Howard, P., Thompson, I., Waterton, E., and Atha, M. (eds.) *The Routledge companion to landscape studies,* Routledge, Abingdon, UK, pp. 418–428.

78 For an overview, see Wejstål (n 3) p. 37.

79 Ewick and Silbey (n 55); Nedelsky, J. (2011), Law's relations: A relational theory of self, autonomy, and law. OUP USA; Davies, M. (2017), *Law Unlimited*, Routledge, Abingdon, UK; Stenseke Arup, G. (2021), Entangled Law: A Study of the Entanglement of Wolves, Humans, and Law in the Landscape. (Diss. Karlstad University); Michaels, R. (2017), "Law and Recognition: Towards a Relational Concept of Law", Roughan, N, and Halpin, A. (eds.), *In Pursuit of Pluralist Jurisprudence,* Cambridge University Press, Cambridge, UK, pp. 90–115.

80 Falk Moore (n 53); Griffiths, J. (1986), "What is Legal Pluralism?", *The journal of Legal Pluralism and unofficial law*, Vol. 18 No. 24, pp. 1–55.

81 Ewick and Silbey (n 55).

82 Stenseke Arup (n 79).

around 300–400.[83] Several landscape-specific factors contribute to this stagnation. For example, in northern Sweden, wolves struggle to establish a long-term presence despite suitable ecological conditions because their presence conflicts with Sami reindeer herding practices.[84] In southern Sweden, wolves face opposition from hunting communities, and are also being used as scapegoats for socioeconomic conditions.[85] From a morphogenetic landscape perspective, the legal protection of wolves hence emerges from the relations between these kinds of socio-cultural, ecological, and material processes within the landscape and regulations such as the Habitats Directive.[86]

Analysing law in similar ways, as emerging through relations between multiplicities of processes in specific landscapes, shifts the focus from strictly legal-technical solutions to more holistic understandings, opening up a more post-disciplinary legal scholarship.

3.4 CONCLUDING REMARKS

Tracing the morphogenesis of law in the landscape entails an approach that focuses on law's becoming as an aspect of landscapes, shaped through interrelated natural and cultural processes. Law is thus understood as a more-than-human phenomenon, co-produced within the same extensive webs of actors and factors that constitute landscapes, rather than as a purely legal or social construct.

This approach thus contributes to discussions on post-anthropocentric legal ontologies.[87] As the climate crisis, biodiversity loss, and the transgression of planetary boundaries continue, we increasingly depart from the only earthly conditions known to support human civilisation.[88] Since much of human activity influences the escalation of environmental crises, and their effects become more apparent, it is increasingly evident that human actions are deeply entangled with non-human phenomena.[89] As Margaret Davies observes:

83 Reinhardt, I. et al. (2019), "Military training areas facilitate the recolonization of wolves in Germany" Conservation Letters, vol. 12, e12635; Jarausch, A. et al. (2021), "How the west was won: genetic reconstruction of rapid wolf recolonization into Germany's anthropogenic landscapes" 127[1] Heredity vol. 127 no. 2; Andersson, L. et al. (2025), Beståndsstatus för stora rovdjur i Skandinavien 1–2025, SLU Viltskadecenter.

84 Dalerum F. (2021), "Socioeconomic characteristics of suitable wolf habitat in Sweden" Ambio vol. 50 no. 6 pp. 1259–1268.

85 Ibid.

86 Stenseke Arup (n 47).

87 See n 6.

88 Planetary Boundaries Science (2025), *Planetary Health Check 2025*. Potsdam Institute for Climate Impact Research (PIK), Potsdam, Germany.

89 E.g. Latour, B. (2017), Facing Gaia, Polity Press, Cambridge, UK.

> The critical task for an ecological understanding of law is to replace law's objectifying and distinguishing strategies with an understanding of law that places it within the relationships that create it (along with everything else physical and conceptual).[90]

Developing a post-anthropocentric understanding of law is therefore not merely an academic exercise for imagining more eco-friendly futures, but a necessary step towards understanding law as a phenomenon in general.

The examples discussed in sections 3.2 and 3.3, the role of socio-ecological processes in Swedish forests for climate law, and the legal protection of wolves, are just two cases of how law emerges as a more-than-human phenomenon through interrelated processes in diverse landscapes. Since all areas of law similarly arise from their environments, shaped by humans, technologies, and other socio-ecological processes, a post-anthropocentric, morphogenetic approach can, in principle, be applied in any field of legal scholarship.

4. CONCLUSIONS

This article has highlighted some of the insights that legal geography can offer legal theory. I have introduced some conceptual discourses from human and legal geography and utilised a morphogenetic approach to understand law in its landscapes. In developing aspects of a process-oriented, relational landscape perspective, the approach seeks to imagine a post-anthropocentric ontology of law. I hope this article can inspire further discussion of legal geography's insights into law in legal theory scholarship in Sweden and be useful in both theoretical and more applied legal studies.

90 Davies, M. (2023), Asking the law question. 5th (ed.) Thomson Reuters, p. 529.