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Understanding Legal Worlds: Reflections on Emily Grabham's Brewing Legal Times

I read Emily Grabham's book, *Brewing Legal Times*, from cover to cover while on holiday on Cornwall last summer. I was gripped from page to page as if reading a novel, being drawn into the various worlds that Grabham describes and, more so, into the conceptual world which this book creates. Taking readers on a beautifully written journey into particular legal worlds, Grabham shows that it is through the everyday practices of lawyers and their clients that legal form materialises: documents, for example, can become 'things' which embody far more than the text they contain, bringing to life legal concepts as they apply to humans, things and matter. Following Marilyn Strathern, one of the key contributions of the book is a troubling of the distinction between objects and concepts, undermining the idea that objects are distinct from their meanings. The book itself is an example of its own argument: it is an object inseparable from the concepts explained on its pages, interpreted by its readers and discussed in forums like this one. In this response I seek to contribute to the world the book creates by writing briefly about how it has helped me reflect and build on my own research.

Grabham has been one of the key legal thinkers fostering the study of time as integral to understanding law in its social and material context. In this book, Grabham puts forward the concept of "brewing" time as a way to understand the process through which legal instruments and practices - which include a wide and sometimes surprising range of actors - materialise distinct temporalities. An attentiveness to the multiple relationships through which legal temporalities are constituted gives new insight into questions of politics and justice. As Grabham argues: "If we understand that our legal actions, arguments, documents, classification systems, mistakes, and innovations have temporalizing effects, and do not merely exist 'in time', we can also understand those temporalities, things, and effects as inherently political because they are world-making, and not merely passive" (Grabham 2016: 15).

My own research has come to engage with concepts of time more recently, an engagement I have found both necessary and difficult after spending years thinking about space. In my previous work I looked at the relationship between space and property, not so much in the sense that property law affects physical space which by now we can take as given, but more in the sense that property, both legal and extra-legal, is dependent on space (Keenan 2015). For example the formal legal title purchased by black homeowners in white neighbourhoods in the US in the 1960s was not enough to meaningfully give them property in their houses, because the white neighbourhood associations hounded them out, making their lives there un-live-able. In theorising property's dependence on space I used Doreen Massey's conceptualisation of space as 'dynamic, heterogeneous simultaneity' or 'the simultaneity of stories so far' (Massey 2006). I realised while doing this work that Massey's conceptualisation is itself temporal – space is defined through its dynamism or *temporal movement* and its simultaneity or difference happening *at the same time*. Space is temporally unfinished: the simultaneity of stories *so far*, stories that have not ended and that might change in the next moment or indeed, could even be changing now.

But while time was crucial to this theorization of space, Massey and most other geographers have not theorized time. In my own legal geography-inspired case studies, I began to see that time was a missing element in my analysis. I have been arguing that property can take politically unexpected forms, because space can. So property does not have to be conservative of hegemonic power structures, it can also be subversive of those structures if it is carved out in radical or otherwise counter-hegemonic spaces. Analysing the property of Aboriginal Australians in deeply impoverished town camps around Alice Springs, I argued that these communities have something that is subversive of the colonial state: a relation of belonging to their land and culture that is locally supported, recognized and encouraged in a way that is different from, and a challenge to, white-dominated Australia (Keenan 2015). The temporality of property, I argued, tends to be long and linear: producing a strong linkage between past, present and future. The subversive property of Aboriginal communities in the Alice Springs town camps had been produced through many decades of surviving and resisting colonial settlement. But since publishing this research I have become concerned with the unanswered question of *when* the relations of belonging in the camps became property. While the temporality of property as a legal concept tends to be linear, individual instances of property must have more diverse temporalities.

Brewing Legal Times offers a methodology which can be used to uncover the heterogeneous temporalities of law. Building on the work of Annemarie Mol, Grabham undertakes 'praxiographies' of law and time: that is, writing stories about practices, which involves "watching for objects to come into being instead of being viewed from different perspectives" (Grabham 22). While I had looked at how particular Acts of parliament, court cases and cultural norms had shaped the town camps into the spaces they are today, a praxiographic approach would have studied the time-making practices connected to law in the camps, and watched for objects/concepts, such as belonging, to come into being. Such an approach would mean following seemingly mundane time-making practices connected to law in the camps, from federal government bureaucrats putting up signs to publicise new legislation, to elders organising community meetings to strategise resistance. These praxiographies would lead to different understandings of how the heterogeneous temporalities of the Alice Springs town camps were brewed, and with those temporalities, the camps' subversive property. Grabham's approach thus takes seriously the importance of empirical research and observation for critical legal scholarship.

Legal temporalities, Grabham argues, have specific effects in dissolving distinctions between law and nature, and in strengthening ontological ties between law and reality. Legal events and the worlds they create and maintain come to be understood as natural and 'real' rather than legally constructed. This naturalising effect is a result of both legal form itself and the techniques adopted by lawyers in daily practice. This observation has been useful for my current work on the temporality of common law land title (Keenan 2016; 2018). In English common law, a linear temporality materialised through the assumption that present title was founded on the past (Pottage 1994), thereby strengthening the ontological tie between legal title and the landed aristocracy. While many other social, legal and economic factors were also at play, the linear temporality produced by common law conveyancing helped to make a social and physical world ordered by class and inheritance.

For obvious reasons, the assumption that present land title was founded on the past was not convenient for land in the colonies, which had a very long past of being effectively owned by those now classified as 'Indigenous', which is as Renisa Mawani argues, a racial-temporal category (Mawani 2014). There could be no ontological tie between historical owners of land and present entitlement to it if colonial "settlement" was to go ahead without indigenous permission. In Australia, a new system of conveying land title was introduced with a new temporal assumption. With the Torrens system of title registration, present title is not based on a long linear past but on the constantly changing present as represented on the register, which actively hides the past (Keenan 2016). Registration can be understood as a legal 'thing', similar to Grabham's understanding of gender transition as a legal 'thing', as explained in Chapter Four of *Brewing Legal Times*. As a thing, registration contributes to a colonial temporality which is constitutive of the world today naturalised as 'Australia'.

Grabham argues that temporalisation (ie the practices that go into making time) 'takes place not merely through human subjective action, but as a result of a wider set of agencies and interactions. It involves understanding human experiences of time in relationship with nonhumans: things or 'vibrant matter' (26). This insight is of relevance to scholars now working on the Anthropocene, as it requires an analysis that takes seriously the agency of the non-human world. In her recent piece on this theme, Margaret Davies argues that 'connectivity between the human and non-human world is ontologically prior to and foundational of human relationality. There is an ethical dimension to this connectivity which is that the goal of long-term human and planetary sustainable flourishing demands a non-exploitative understanding of property, one where objects are not categorized according to who owns them, but in a way which recognizes their significance in an ecology of both living and non-living things' (2016). Davies is identifying an ontological mistake made in Anglo-European political thought, namely that human subjects are distinct from and prior to the non-human objects which we purport to own but which we are in fact both inseparable from and which we owe our material existence to. *Brewing Legal Times* offers a methodological solution to this mistake, through its approach of studying temporalisation in a way that is attentive to the world-making capacities of 'things' and other nonhumans. These examples of how this book will influence my own work are offered here as demonstrations of the book's wide-reaching significance, as its conceptual insights have relevance for all fields of law. There are other immediately clear areas of influence, for instance, the argument that 'things' can become indistinguishable from the concepts they represent has profound implications for all scholars working on issues of representation. This book will be a provocative and generative resource for a wide range of interdisciplinary scholars looking for new ways to understand the worlds which seemingly mundane legal practices create.

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