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INTRODUCTION

A ruralist and an urbanist walk into a bar — or, rather, a conference. That may sound like the opening of a bad academic joke, but it is actually how this Essay began. At a gathering several years ago, we met and found ourselves talking over lunch, only to discover that one of us directs something called the Rural Law Center and the other something called the

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Urban Law Center. What are the chances?! And what, more importantly, could we learn from a mutual commitment to exploring the legal dimensions of very specific, and paradigmatically different, kinds of places?

The conversations that followed sparked reflections on how legal academics engage not just with place — the important, long-standing, grounded work of law and geography — but with paradigms of place, however contested. What value is there in thinking about "rural law" and "urban law"? And what insights might we gain from peering out from across our respective sinecures — Wyoming and New York City, to play to type — and seeing what law and place looks like on the other side?

This Essay, which grew out of our conversations, offers reflections about ways in which the nature of a place shapes law and its application there. How might questions of density and diversity and resources and the like intersect with law? As we discuss below, these aspects of place matter in the types of conflicts that the legal system confronts, which in turn helps shape what is salient in law. Courts, legislatures, and other lawmakers likewise consider relevant characteristics in making and applying the law in context, at times using paradigms of place — heuristic short-hands — to describe patterns of relevant characteristics, identify where certain rules apply, and decide how rules apply in ways that reflect those different kinds of places.

We share a commitment to caution about reductionist stereotypes, recognizing that distinctions blur in many important ways, and there are equally critical differences *within* rurality and urbanism. That said, patterns that define rural and urban paradigms are sufficiently coherent to find value in highlighting what is distinctive about each, particularly because law does sometimes engage them directly. As we understand them today in the United States, then, rural places tend to have relatively smaller populations and less development, which of course means more open space, but also often fewer public and private resources. Critical characteristics in urban places — again, relatively speaking — include the density of the built environment and the corresponding population that facilitates; social realities, such as diversity, anonymity, and mobility; and the cultural resonances that flow from those physical and social conditions. Of course, suburbs and exurbs and other types of places have elements of each of these overly simplified paradigms but starting with polar opposites can shed light on deeper patterns.

Legal geographers have long argued — and we take as a given at this juncture — that "nearly every aspect of law . . . is located, takes place, is in motion, or has some spatial frame of reference."[1] And the discourse on law

1. IRUS BRAVERMAN ET AL., THE EXPANDING SPACES OF LAW: A TIMELY LEGAL GEOGRAPHY 1 (Irus Braverman, Nicholas Blomley, David Delaney & Alexandre Kedar eds., 2014).

and geography recognizes that the "place" of law encompasses not just the bounded nature of jurisdiction in territorial terms, but also the constitutive interplay between legal practice and social reality.[2] Indeed, as Nick Blomley has noted, "the legal and the spatial are, in significant ways, aspects of each other."[3]

For scholars focused on the rural and the urban, then, engagement with the rich geographic, social, and cultural texture of specific types of places can help find shared concerns within disparate strands of legal scholarship. Focus on the rural and the urban invites consideration of how place affects the conflicts that drive legal change; the texture of the resulting legal norms; and the conditions for the structures of authority that create and embody law.

As each of us have found, moreover, situating law in particular paradigms of place can also be an interdisciplinary bridge. So much scholarship in cognate fields, from sociology to economics to geography to history and beyond, finds common ground around the nature of the "urban" and the "rural."[4] Paradigms of place at a high level of generality, perhaps ironically, can thus make legal scholarship more salient to scholars of place in other fields as well as help the legal academy absorb — and challenge — insights from other geographically informed disciplines.[5]

Written by two scholars who share a fascination with the manifold nuances of the places we each call home, but come at that fascination from different ends of the rural-urban spectrum, this Essay is an exercise in finding common ground. It turns out, as we will see, there is a surprising amount of it — in the questions we ask, the answers that emerge, and the traps awaiting the wary and unwary.

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2. *See* Austin Sarat, Lawrence Douglas & Martha Merrill Umphrey, *Where (or What) Is the Place of Law? An Introduction*, *in* THE PLACE OF LAW 1, 5, 7 (Austin Sarat, Lawrence Douglas & Martha Merrill Umphrey eds., 2003).

3. Nicholas Blomley, *From "What" to "So What?": Law and Geography in Retrospect*, *in* 5 LAW AND GEOGRAPHY: CURRENT LEGAL ISSUES 16, 29 (Jane Holder & Carolyn Harrison eds., 2002).

4. *See, e.g.*, DEFINING THE URBAN: INTERDISCIPLINARY AND PROFESSIONAL PERSPECTIVES (Deljana Iossifova, Christopher N.H. Doll & Alexandros Gasparatos eds., 2018).

5. The literature on law and geography provides rich tools for conceptualizing the interplay between place and legal systems, highlighting questions of social relations mediated in space and the grounded exercise of power. *See, e.g.*, SARAH KEENAN, SUBVERSIVE PROPERTY: LAW AND THE PRODUCTION OF SPACES OF BELONGING (2015); THE LEGAL GEOGRAPHIES READER: LAW, POWER, AND SPACE (Nicholas Blomley, David Delaney & Richard T. Ford eds., 2001). Much of this literature is highly specific and detailed, yielding insights about place, space, and law in contextualized ways. This Essay takes a step back to explore one heuristic dyad — rural and urban — to reflect broadly on confluences of doctrinal and structural influences across paradigms of place.

I. THE VALUE AND LIMITS OF RURAL AND URBAN AS PARADIGMS OF PLACE

Before turning to ways in which law broadly intersects with the rural and the urban, we want to pause first to explain how we each approach our respective areas of focus. Paradigms of place in the sense that we are using the concept in this Essay inevitably involve a spectrum of characteristics that defy simple summary, but ideal types describing the ends of that spectrum are useful, nonetheless. Thus, "rural" and "urban" are by no means a hard dichotomy;[6] they overlap, bleed together at the margins, and interact. The categories also risk obscuring the importance of types of places that share elements of each — the suburbs, which is where most Americans live today, most notably.[7] And many friction points that generate legal change take place at the margins — as with nuisance claims where the nature of place as urban or suburban or rural is itself conflicted.[8]

The point is not to have some ur-image of either paradigm, but to recognize that each end of the spectrum can stand as a useful heuristic for certain social, cultural, and geographic facts, and that what constitutes either end has value as a conceptual frame. To name and identify these paradigms for legal scholars is to refine the questions we ask, to link otherwise disparate phenomena through the lens of types of place (crossing scholarly silos through how various domains interact in a context), and to build interdisciplinary bridges to other fields where the focus on place categories is more accepted (rural sociology, urban economics, etc.).

We are not oblivious to the irony of foregrounding sensitivity to place and context while then making arguments based on very general categorizations of places like urban, suburban, and rural, without regard to significant differences in their places and contexts. Reasoning based on place stereotypes can produce error just as much as disregarding the nature of place

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6. *See* John R. Weeks, *Defining Urban Areas*, *in* REMOTE SENSING OF URBAN AND RURAL AREAS 33, 36 (2010) (noting the spectrum of urban to rural).

7. A vein of important scholarship focuses on suburbs and the law. *See, e.g.*, Kenneth A. Stahl, *The Suburb as a Legal Concept: The Problem of Organization and the Fate of Municipalities in American Law*, 29 CARDOZO L. REV. 119 (2008); Nicole Stelle Garnett, *Suburbs as Exit, Suburbs as Entrance*, 106 MICH. L. REV. 277 (2007); J. Peter Byrne, *Are Suburbs Unconstitutional?*, 85 GEO. L.J. 2265 (1997).

8. *See, e.g.*, Spur Indus., Inc. v. Del E. Webb Dev. Co., 494 P.2d 700 (Ariz. 1972) (arising out of a conflict between rural agricultural uses of land and suburban development); Boomer v. Atlantic Cement Co., 257 N.E.2d 870 (N.Y. 1970) (arising out of a conflict over industrial and residential uses). For a fascinating exploration of legal development and contestation in marginal spaces, see David A. Dana & Nadav Shoked, *Property's Edges*, 60 B.C. L. REV. 753 (2019).

can.[9] Such reasoning is tempting because applying a stereotype is easier than painstakingly examining relevant individual characteristics. And often the perception of a place obliterates the reality, as when people make assumptions about urban dysfunction or rural isolation or the like. So, one might question whether categorizing places does more harm than good, given the endless variety of places and the tendency to improperly rely on stereotypes.

But just as with other variables that influence legal rules and legal outcomes, it is still useful to identify common attributes and analyze how they are relevant to legal rules and outcomes. An analysis of the relevance of place to particular issues certainly cannot be complete simply by classifying the place as urban or rural or something else, but those paradigms help draw attention to relevant place characteristics, patterns, and issues. Urban and rural paradigms can help identify legal cases considering similar issues, even though specific place characteristics may differ. These paradigms can help lawmakers consider appropriate laws and policies across a range of places, despite their differences. Paradigms can also help find insights from other disciplines.

Urban places may — and indeed often do — differ from other urban places, and rural places may differ from other rural places, in ways that are relevant to particular legal issues. So, applying an urban or rural paradigm to a locality is a starting point for identifying issues to consider, and a way to identify common patterns across legal issues, but any given legal analysis must consider whatever place characteristics might be relevant.[10]

A. Rural as a Paradigm

Rural places are generally defined by smaller populations. Simple definitions of rural communities, such as for governmental programs, may define a rural town as one with less than a specified maximum population.[11]

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9. *See, e.g.*, Debra Lynn Bassett, *The Rural Venue*, 57 ALA. L. REV. 941, 963 (2006) ("The use of stereotypes, even positive stereotypes, in legal decisions renders the stereotype an absolute — embodying the perception of the facts, serving as an analytical shortcut, and compelling a particular, predestined conclusion. In other words, the mental shortcuts provided by rural stereotypes are so powerful as to risk 'law by stereotype' — the substitution of a stereotype for the scrutiny, reasoning, evaluation, and judgment expected in legal decisionmaking."); Lisa R. Pruitt, *Rural Rhetoric*, 39 CONN. L. REV. 159, 207 (2006) ("[T]he distinctions [many judges] draw between rural and urban are not necessarily accurate assessments or depictions of rural livelihoods, nor of the differences between rural and urban. Judicial decisions are therefore not necessarily sensitive to or reflective of rural realities." (emphasis removed)).

10. *See, e.g.*, Alan Romero, *Rural Property Law*, 112 W. VA. L. REV. 765, 769–70 (2010) (describing such consideration of place paradigms and characteristics in nuisance cases).

11. *See, e.g.*, CORNELIA B. FLORA ET AL., RURAL COMMUNITIES: LEGACY AND CHANGE 11 (5th ed. 2016).

But low population density and distance from urban areas primarily characterize rural places. The U.S. Census Bureau considers population density and distance from urban areas in classifying areas as urban.[12] The Census Bureau also includes in urban areas impervious surfaces with lower population density within a quarter mile of urban areas, such as airports.[13] All other areas are rural.[14]

Since rural generally just means less developed and populated, rural communities vary widely.[15] But while relevant differences certainly must be considered, identifying the general characteristics of rural places can provide a useful paradigm for identifying legal patterns, problems, and solutions.

A smaller and less dense population is not just the defining feature of a rural place; it is itself an important rural characteristic to consider in the formulation and application of law. But so are other characteristics that virtually always or at least typically result from having a smaller and less dense population.

One such characteristic that is a corollary of a less dense population is more open space — more space without people in it. That unoccupied space is also typically undeveloped or less developed than in urban or suburban areas. Undeveloped natural land may be an important part of local values and identity. This aspect of the paradigm not only has obvious implications for property and land use law, but also may be relevant to other laws and policies, such as those concerning roads and transportation.

Having fewer people also generally means having fewer resources. Economic activity is less. Tax revenues and government are smaller. Rural governments therefore may not have the people, expertise, or money to do what governments in larger areas commonly do. Rural areas commonly have

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12. *See, e.g.*, MICHAEL RATCLIFFE ET AL., DEFINING RURAL AT THE U.S. CENSUS BUREAU 3 (2016), https://www2.census.gov/geo/pdfs/reference/ua/Defining_Rural.pdf [https://perma.cc/D5FC-GWFN] (explaining initial identification of urban areas as census blocks with 1,000 people per square mile and nearby blocks with 500 people per square mile).

13. *See id*.

14. *See id*.

15. *See, e.g.*, FLORA ET AL., *supra* note 11, at 7 ("In the twenty-first century, rural communities differ more from each other than they do, on average, from urban areas."); Bassett, *supra* note 9, at 951–52.

fewer attorneys,[16] doctors,[17] and other professionals per capita. Less money often means less education.[18] For example, in 2019, 21% of rural adults 25 and older had a bachelor's degree or higher, compared to 34.7% in urban areas.[19] Fewer doctors and medical facilities mean poorer health care. With fewer resources, less economic activity, poorer education, and poorer health care, rural areas often have higher poverty rates than other areas.[20] In 2018, the rural poverty rate was 16.1% compared to 12.6% in metropolitan areas;[21] strikingly, nearly 79% of high-poverty counties were rural.[22]

With fewer attorneys, law may be less prominent in resolving disputes in rural places.[23] A smaller population may be more inclined to resolve disputes without resorting to legal process even if attorneys are available because of a greater likelihood of personal interactions beyond the subject of the dispute and a culture of neighborliness and other shared community understandings.[24] Norms are certainly important in cities as well, but they

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16. *See, e.g.*, Lorelei Laird, *In Rural America, There Are Job Opportunities and a Need for Lawyers*, A.B.A. J., Oct. 2014, at 36–45; Danielle Paquette, *8,500 Residents. 12 Attorneys: America's Rural Lawyer Shortage*, WASH. POST (Aug. 25, 2014), https://www.washingtonpost.com/news/storyline/wp/2014/08/25/how-do-you-keep-them-down-on-the-farm-once-theyve-passed-the-bar/ [https://perma.cc/PW4K-6FXT]; Lisa R. Pruitt et al., *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL'Y REV. 15, 19–20 (2018); Gary P. Toohey, *Choosing the Road Less Travelled: Reversing the Rural Lawyer Exodus*, PRECEDENT, Winter 2014, at 7.

17. *See, e.g.*, Nat'l Rural Health Ass'n, *About Rural Health Care,* https://www.ruralhealth.us/about-nrha/about-rural-health-care [https://perma.cc/JFX7-75WK] (last visited Oct. 25, 2022) ("The patient-to- primary care physician ratio in rural areas is only 39.8 physicians per 100,000 people, compared to 53.3 physicians per 100,000 in urban areas.").

18. *See* Econ. Rsch. Serv., U.S. Dep't of Agric., *Rural Education* (Apr. 23, 2021), http://www.ers.usda.gov/topics/rural-economy-population/employment-education/rural-education [https://perma.cc/7YNY-LN83] ("A combination of factors could be responsible for the urban-rural college completion gap. Rural household income trails urban household income by roughly 20 to 25 percent, making college relatively less affordable for families living in rural areas.").

19. *Id.*

20. *See, e.g.*, James L. Werth, Jr., et al., *Ethical Challenges of Practicing in Rural Areas*, 66 J. CLINICAL PSYCH.: IN SESSION 537, 538 (2010); Jane M. Mosley & Kathleen K. Miller, *Spatial Variations in the Extent, Causes, and Consequences of Poverty: A Comparison of Rural and Urban Places*, 13 GEO. J. ON POVERTY L. & POL'Y 169, 175–76 (2006).

21. *See* JOHN CROMARTIE ET AL., USDA ECON. RSCH. SERV., RURAL AMERICA AT A GLANCE 1 (2020), http://www.ers.usda.gov/webdocs/publications/100089/eib-221.pdf?v=4038.1 [https://perma.cc/KJ2A-U6TL].

22. *See* Tracey Farrigan, *Extreme Poverty Found Solely in Rural Areas in 2018*, AMBER WAVES (May 4, 2020), https://www.ers.usda.gov/amber-waves/2020/may/extreme-poverty-counties-found-solely-in-rural-areas-in-2018/ [https://perma.cc/PVY3-BW5G].

23. *Cf.* ROBERT C. ELLICKSON, ORDER WITHOUT LAW: HOW NEIGHBORS SETTLE DISPUTES (1991) (exploring social norms as an alternative to law as a means to establish order).

24. *See* Werth et al., *supra* note 20 ("Rural residents tend to 'avoid conflict and discussion of feelings . . . .'" (citation omitted)).

tend to be much more interstitial and small-scale, in part because the legal system is better resourced in cities, but perhaps mostly because cities are paradigmatically mobile places of lots of different kinds of strangers.

Fewer people, and perhaps more mutual awareness of each other, may mean less crime in a rural community. Crime victimization rates in rural areas are lower than urban and suburban rates for both violent and property crimes.[25] The perception of greater safety in rural areas may mean that doors are unlocked, and children may play freely throughout town.

Fewer people and fewer economic opportunities may also mean that others are less likely to move into a rural area. That can make a rural area more stable, traditional, and homogeneous.[26] But, on the other hand, some rural areas have attracted diverse populations over time, so while homogeneity may be a rural tendency, it is certainly not universal.[27] Rural residents are more likely to be long-term residents.[28] Consequently, rural residents are also older; on average, the more rural the area, the older the population.[29]

B. Urban as a Paradigm

Urban places are not simply the opposite of their rural counterparts, but it is possible to reflect on a similar set of physical, social, and cultural markers to describe the broad outlines of the paradigm. As with rural places — which can be wooded or agricultural, high desert plains or rich lowland, awash in natural resources or not, and many other variations — there is a tremendous variety in types and sizes of cities and metropolitan areas that fall under conceptions of the urban. There is also an academic and professional cottage

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25. *See* RACHEL E. MORGAN & JENNIFER L. TRUMAN, U.S. DEP'T OF JUST., CRIMINAL VICTIMIZATION, 2019 16 (2020), http://bjs.ojp.gov/content/pub/pdf/cv19.pdf [https://perma.cc/KVC7-H32Z].

26. *See* Werth et al., *supra* note 20 ("[F]ewer ethnic minority group members live in rural areas . . . . Rural residents emphasize . . . close family and community ties. Rural residents tend to . . . 'have limited tolerance for diversity . . . .'" (citations omitted)).

27. *See* FLORA ET AL., *supra* note 11, at 13 ("When counties are ranked by the extent of ethnic diversity, rural counties are among both the most and least diverse."); Lisa R. Pruitt, *Latina/os, Locality, and Law in the Rural South*, 12 HARV. LATINO L. REV. 135, 163–65 (2009) (describing the impacts of Latina/o migration to rural communities historically made up of predominantly white or Black residents).

28. *See* Kelly Ann Holder et al., *Rurality Matters*, U.S. CENSUS BUREAU: RANDOM SAMPLINGS (Dec. 8, 2016), https://www.census.gov/newsroom/blogs/random-samplings/2016/12/rurality_matters.html [https://perma.cc/JS2N-HS8C] ("[T]he estimates suggest that rural residents more often reside in or return to live in their state of birth over their lifetimes.").

29. *See id.*; Werth et al., *supra* note 20.

industry devoted to the nuances of definition.[30] In general, cities have relatively more people, living closer together, who are often relatively more diverse, with comparatively greater resources, despite significant urban poverty and spatial inequality. Even as those generalities hide significant variation, they do capture some essence of what it means for a place to be urban.

As to population, the roughly 80% of the United States population that live in urban areas are spread out between a handful of extremely large metropolitan regions — with the New York area topping out at about 20 million people — but mostly mid- and small-size cities.[31] Indeed, numerically, many more people live in suburbs than in central cities.[32]

Not surprisingly, those people tend to live in much greater proximity to each other than in rural places, although, again, urban density in the United States varies widely. Although we pack about 2,500 people into every urban square mile on average,[33] densities in what the Census Bureau calls urban areas vary from the L.A.-Long Beach-Santa Ana metropolitan region (with just under 7,000 people per square mile)[34] to Hickory, North Carolina, which has only about 811 people per square mile.[35] The Census Bureau approach also masks pockets of hyper-density at smaller scales — Manhattan being one extreme, with areas that can reach densities of over 42,000 in one square kilometer.[36] Scholars across fields have explored the consequences of such proximity with issues such as reduced transportation costs and the immediacy of many positive and negative externalities.

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30. *See* Sheila R. Foster & Clayton P. Gillette, *Can Micropolitan Areas Bridge the Urban/Rural Divide?*, 24 THEORETICAL INQUIRIES IN L. (forthcoming 2023) (exploring "micropolitan" areas, which are urban clusters in otherwise generally rural areas). *See generally* DEFINING THE URBAN, *supra* note 4.

31. Globally, smaller cities predominate as well. Only 8.4% of the urban population lives in "megacities" — with ten or more million people in their metropolitan area — while 11% live in cities with populations between 100,000 and 500,000. DEMOGRAPHIA WORLD URBAN AREAS 3 (15th ed. 2019).

32. *See* KIM PARKER ET AL., PEW RSCH. CTR., WHAT UNITES AND DIVIDES URBAN, SUBURBAN AND RURAL COMMUNITIES 18 (2018), https://www.pewresearch.org/social-trends/wp-content/uploads/sites/3/2018/05/Pew-Research-Center-Community-Type-Full-Report-FINAL.pdf [https://perma.cc/9P63-SLLS] ("About . . . 175 million [Americans live] in [the nation's] suburbs and small metros [compared to] about 98 million in its urban core counties.").

33. *See Urban Area Facts*, U.S. CENSUS BUREAU, https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural/ua-facts.html [https://perma.cc/TM9A-X2SR] (last visited Dec. 21, 2022).

34. *Id.*

35. *Id.*

36. *See* Garrett Dash Nelson, *What Micro-Mapping a City's Density Reveals*, BLOOMBERG: CITYLAB (July 9, 2019, 8:00 AM) , https://www.citylab.com/perspective/2019/07/urban-density-map-city-population-data-geography/591760/ [https://perma.cc/234K-M2QL].

In our country and historically across the globe, moreover, cities are often relatively more diverse, cosmopolitan environments. Cities often developed as trading nodes, taking advantage of transportation breaks and markets that they facilitated, which has always tended to foster a diversity of residents. In the United States today, cities continue to be hubs for immigration and mobility in general. And the nature of the urban in the United States is inextricably bound up with the reality of racial diversity, which has always been true, but has continued to grow in recent decades.[37]

With more people packed closer together, and more economic activity, cities tend to have comparatively greater resources, although there are certainly many individual cities and urbanized regions marked by deep poverty and spatial inequality (just as there are many rural areas with great economic vitality).[38] That noted, urbanized metropolitan regions generate the overwhelming majority of economic activity; in the United States, on the eve of the COVID-19 pandemic they produced over 91% of real gross domestic product.[39]

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Again, painting conceptions of rural and urban in these very broad-brush strokes can do little more than limn ideal types — necessarily contingent heuristics through which to find commonalities — acknowledging many overlaps, internal differences, and complications in reality. To understand how place and context shape law, however, there is still value in planting flags at either end of an admittedly reductionist spectrum of paradigms of place.

II. PLACE AND CONTEXT IN THE LEGAL SYSTEM

How does the nature of a place, then, shape law in daily life and how law develops? Among other dynamics, the character of a place may affect the substance and application of the law by shaping the conflicts to which law

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37. The fifty largest cities in the United States — home to more than 50 million people — currently have populations that are about 64% non-white, compared to 42% nationwide. William H. Frey, *2020 Census: Big Cities Grew and Became More Diverse, Especially Among Their Youth*, BROOKINGS METRO (Oct. 28, 2021), https://www.brookings.edu/research/2020-census-big-cities-grew-and-became-more-diverse-especially-among-their-youth/ [https://perma.cc/825K-H2G2].

38. *See* Richard Florida, *The Divides Within, and Between, Urban and Rural America*, BLOOMBERG: CITYLAB (Sept. 18, 2018, 1:19 PM), https://www.citylab.com/life/2018/09/the-divides-within-and-between-urban-and-rural-america/569749/ [https://perma.cc/8XRD-UH4U].

39. U.S. CONFERENCE OF MAYORS, U.S. METRO ECONOMIES 1 (2019), https://www.usmayors.org/wp-content/uploads/2019/09/mer-2019-09.pdf [https://perma.cc/J46T-JQF2]. The New York City area alone would be the tenth largest economy in the world if it were an independent country, with gross metropolitan product greater than Russia or Canada. *Id.*

applies, by influencing the substance of the applicable law itself, and by structuring the process of making and applying the law.

A. The Influence of Place and Context on the Nature of Legal Conflicts

Law develops in no small measure as a result of the types of conflicts that the legal system confronts. All kinds of place characteristics may influence the types of conflicts that arise for law to address, both in individual lawsuits as well as policy concerns that generate legislation or regulation. Natural conditions may influence the type and frequency of frictions that result in new legislation, regulation, or legal decisions. An arid place may produce challenges over scarce and desired water, while people in wet and rainy places may struggle with unwanted and harmful water drainage. A place with oil and gas reserves produces conflicts over production of those resources, while other places do not. A hilly place may produce more conflicts about development affecting lateral support of the earth than a flat place might.

Patterns and intensity of land development similarly influence the kinds of legal conflicts a place experiences. An industrial district experiences vastly different conflicts than a suburban residential neighborhood. An older city may experience more conflicts about issues like outdated housing and historic preservation, while a younger city experiences more conflicts about subdivisions and sprawling development. The density of population and development — the urban or rural character of a place — also affects the kinds of legal conflicts the place experiences. Nuisance claims in the city may be quite different from nuisance claims in the country. The type and frequency of crimes may differ between urban and rural places.

And demographic characteristics likewise may influence the nature of legal conflicts. A racially diverse community might deal more frequently with discrimination than a racially homogeneous one, or may experience more conflict with the police, given patterns of law enforcement and the resulting alienation that adhere in some Black and Brown communities.[40] A retirement community will likely experience different conflicts than a university town. A wealthy enclave may experience legal conflicts that are quite different from a resource-starved town. In all of these ways, a seemingly neutral system designed to resolve disputes can be profoundly shaped by the texture of where conflicts arise.

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40. *See* Monica C. Bell, *Police Reform and the Dismantling of Legal Estrangement*, 126 YALE L.J. 2054, 2126–47 (2017) (exploring estrangement from the legal order in many Black communities).

On the urban side of the ledger, then, physical, social, and cultural facts shape interplay with the legal system in a myriad of ways. As Gordon Clark has noted:

> Living in cities is one way of realizing the raw force of law — so many of our peoples are subjects of law. So many of us are confronted with legal apparatus, including police, the courts, lawyers and those who would wish that law was on their side. From the smallest issue of land use and zoning, through to the role and status of race in urban governance, law is sought as a mediator and as a weapon.[41]

Urban space is thus deeply inflected by law and as much as the daily texture of city life requires respecting common norms, the absence of shared culture of a place like rural Shasta County, California, means that formality must do much more constitutive work than informality. Law no less undergirds rural life, but perhaps more at the margins and often in the shadow of community.

B. Place and Context in the Substance of Relevant Legal Norms

Place characteristics may influence not just the conflicts that arise, but also the substance of the legal rules to resolve those conflicts. Legal rules that consider place characteristics will of course result in different applications in different places — what zoning means in an exurb is likely to be fundamentally different than in the heart of a major metropolis. But place characteristics also may result in different legal rules that apply in different places.

One reason the application of a legal rule may vary with place is simply because the rule calls for consideration of place characteristics. Nuisance law exemplifies such a rule. An activity is a nuisance only if it unreasonably interferes with the use and enjoyment of land.[42] The reasonableness of an interference depends on all the relevant circumstances,[43] including the plaintiffs' injury and the value of their use, the value of the defendants'

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41. Gordon L. Clark, *Foreword*, *in* THE LEGAL GEOGRAPHIES READER: LAW, POWER, AND SPACE x, *supra* note 5.

42. *See, e.g.*, RESTATEMENT (SECOND) OF TORTS § 822 (AM. L. INST. 1979) (stating that one is liable for private nuisance if "his conduct is a legal cause of an invasion of another's interest in the private use and enjoyment of land, and the invasion is . . . intentional and unreasonable").

43. *See, e.g.*, 58 AM. JUR. 2D *Nuisances* § 59 (2020) ("The essential element in any nuisance action is that the conduct of the defendant was unreasonable as it is only the unreasonable use or conduct by one landowner that results in unwarranted interference with his or her neighbor that constitutes a nuisance. Stated conversely, the ultimate question in each nuisance cause is whether the challenged use is reasonable in view of all of the surrounding circumstances.").

activity,[44] and the suitability of the defendants' activity in the area.[45] Some kinds of intrusions are common and therefore more appropriate and reasonable in rural areas, such as animal smells and noises and other effects of agricultural activities.[46] Conversely, some intrusions are more common in urban areas, like loud noises, and therefore may more likely be a nuisance in rural areas.[47]

Another example is the Fourth Amendment protection against "unreasonable searches and seizures" of "persons, houses, papers, and effects."[48] That protection extends to the "curtilage" of the house, but not to "open fields."[49] The curtilage is "the area to which extends the intimate

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44. *See, e.g.*, *id.*

45. *See, e.g.*, *id.* § 80 ("[G]enerally, in determining whether acts or conduct constitute a nuisance, the location and surroundings are to be considered with the other circumstances of the case. Conduct, acts, or things that are not nuisances per se may become nuisances in fact by reason of their location and surroundings. What is a nuisance in one locality may not be a nuisance in another.").

46. *See, e.g.*, Arbor Theatre Corp. v. Campbell Soup Co., 296 N.E.2d 11, 14 (Ill. App. Ct. 1973) (holding that mushroom composting operation in rural area was "suitable to the locality" and therefore not a nuisance despite substantial impairment of neighboring property's use and enjoyment); Stottlemyer v. Crampton, 200 A.2d 644, 647 (Md. 1964) (holding that driving cattle along public road was not a nuisance in a rural community and noting that it did not affect property owners' use and enjoyment in any way "other than that which normally should be expected by persons living along a rural road"); Cline v. Franklin Pork, Inc., 313 N.W.2d 667, 670 (Neb. 1981) ("The fact that the residence is in a rural area requires an expectation that it will be subjected to normal rural conditions . . . ."); Neyland v. Schneider, 615 S.W.2d 285, 287 (Tex. Civ. App. 1981) ("We hold as a matter of law that defendant's use of the roadway is not unreasonable. The two tracts of land are located in a rural farming area. Defendant's road is not materially different from the many other caliche gravel roads in the community."); 58 AM. JUR. 2D *Nuisances* § 86 (2020).

47. *See, e.g.*, Alabama Power Co. v. Stringfellow, 153 So. 629, 632 (Ala. 1934); Russell v. Thierry, 2001 WL 1734441, at *2 (Conn. Super. Ct. Dec. 11, 2001) ("[P]laintiffs are subjected to noise which, by city standards, is not loud. However, in the particular setting in which these homes are located there is noise and, more importantly, the noise is unnecessary."); Wieland v. Neal, 2003 WL 1969237, at *3 (Iowa Ct. App. Apr. 30, 2003) ("The neighborhood is primarily agricultural; thus, the Wielands could expect to be subject to the normal uses and sounds of an agricultural area. However, . . . 'the riding of dirt bikes for extended periods of time is not a normal use of agricultural land.'"); Parish of East Feliciana v. Guidry, 923 So. 2d 45, 54 (La. Ct. App. 2005) (holding that motocross track was a nuisance in rural locale and noting that "the ambient noise level for a rural community of this nature would be much lower than that of an urban community"); Frank v. Cossitt Cement Prods., 97 N.Y.S.2d 337, 339 (1950) ("Whereas noise is an inevitable incident to urban life, peace and quiet should be a concomitant of rural life."); Guarina v. Bogart, 180 A.2d 557, 561 (Pa. 1962) ("The person who lives in the middle of a city cannot, of course, ask to be immunized from the effects of the turbulence, traffic and noises which are inevitably part of urban life, but the person who moves into a rural area to escape such turbulence, traffic and noises has the right to ask the law to bar turbulence, traffic and noises from pursuing him.").

48. U.S. CONST. amend. IV.

49. *See* United States v. Dunn, 480 U.S. 294, 300 (1987); Oliver v. United States, 466 U.S. 170, 180 (1984).

activity associated with the 'sanctity of a man's home and the privacies of life.'"[50] Determining the extent of the curtilage in a particular circumstance thus requires consideration of four factors:

> [T]he proximity of the area claimed to be curtilage to the home, whether the area is included within an enclosure surrounding the home, the nature of the uses to which the area is put, and the steps taken by the resident to protect the area from observation by people passing by.[51]

This rule is the same wherever the house and whatever its character, but it calls for consideration of the particular circumstances of the house in question.

Courts have observed that the curtilage of rural homes may extend farther than the curtilage of urban or suburban homes.[52] The Ninth Circuit reasoned that "[t]he realities of rural country life dictate that distances between outbuildings will be greater than on urban or suburban properties and yet still encompass activities intimately associated with the home; this is the nature of the 'farmstead.'"[53] On the other hand, the Supreme Judicial Court of Massachusetts reasoned that:

> In a modern urban multifamily apartment house, the area within the "curtilage" is necessarily much more limited than in the case of a rural dwelling subject to one owner's control. In such an apartment house, a tenant's "dwelling" cannot reasonably be said to extend beyond his own apartment and perhaps any separate areas subject to his exclusive control.[54]

Some legal rules may indirectly require consideration of place characteristics in the process of deciding questions that are not directly about place. For example, dedication of a roadway to the public requires that the landowner indicated intent to dedicate the roadway and that the government accepted the dedication.[55] Some courts have held that simply allowing public use for a long time can indicate intent to dedicate. But some have

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50. *Oliver*, 466 U.S. at 180 (quoting Boyd v. United States, 116 U.S. 616, 630 (1886)).

51. *Dunn*, 480 U.S. at 301.

52. *See, e.g.*, United States v. Johnson, 256 F.3d 895, 902 (9th Cir. 2001) ("[T]he curtilage of a home in a rural area could extend farther than the curtilage of a home in an urban or suburban setting."); United States v. Reilly, 76 F.3d 1271, 1277 (2d Cir. 1996) ("[C]urtilage may reach a larger area in a rural setting."); United States v. Acosta, 965 F.2d 1248, 1256 (3d Cir. 1992) ("[A]lthough the *Dunn* factors also apply to determine extent-of-curtilage questions in urban areas, certain factors may be less determinative in a city setting because of the physical differences in the properties . . . . It seems clear, for example, that 'the configuration of the streets and houses in many parts of the city may make it impossible, or at least highly impracticable to screen one's home and yard from view.'" (citations omitted)); United States v. Arboleda, 633 F.2d 985, 992 (2d Cir. 1980) ("[I]t is doubtful that the curtilage concept has much applicability to multifamily dwellings such as the one involved here.").

53. *Johnson*, 256 F.3d at 902.

54. Commonwealth v. Thomas, 267 N.E.2d 489, 491 (Mass. 1971) (citations omitted).

55. *See* RESTATEMENT (THIRD) OF PROP.: SERVITUDES § 2.18 cmt. e (AM. L. INST. 2000).

reasoned that such evidence is inadequate in rural areas because public use of a rural road is less likely to interfere with rural landowners' use and therefore allowing such use is less likely to indicate intent to dedicate.[56]

Not only may (and should) generally applicable legal rules be sensitive to relevant place characteristics, but such characteristics may differ so much that different rules altogether apply (or should apply) to different kinds of places. Such differences may result from different values or objectives in different kinds of places. Zoning and other land use regulations obviously reflect place differences as they directly regulate place characteristics. A zoning code establishes distinctive rules for land use in given locations to facilitate efficient and harmonious use of land for specific purposes. When first adopted in developed areas, zoning codes commonly limit or prohibit uses that are incompatible with existing land uses in an area, resulting in different rules in different places to preserve their existing character. At the same time, zoning codes allow pre-existing uses to continue for a time or indefinitely, responding to existing differences in how the land has been used.[57] Local governments also consider place characteristics when zoning and otherwise regulating undeveloped land. Hill slopes and stability may result in limitations on permitted development. Development of wetlands and other wildlife habitat may be limited. Proximity to natural and built features may affect applicable regulations.

Water law may also reflect spatial differences in values and objectives. In most states, owners of riparian land have rights in relation to the water that prevail over other non-riparian users, even if those potential non-riparian users might do something more socially beneficial with the water.[58] These states thus conclude that fairness and justice require protecting the natural advantages of riparian land.[59] In some western states, however, riparian owners have no special claim to use water that touches their land.[60] Instead,

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56. *See, e.g.*, Bradford v. Nature Conservancy, 294 S.E.2d 866, 875 (Va. 1982) (noting also that government is less likely to intend to accept dedication of, and thus maintenance responsibilities for, a long-used rural road).

57. *See, e.g.*, PATRICIA E. SALKIN, 2 AM. LAW. ZONING § 12:1 (5th ed. 2020).

58. *See, e.g.*, *Riparian Rights as to Flow and Use of Water—Appropriation for Use on Nonriparian Land or by Nonriparian Owners*, 3 TIFFANY REAL PROP. § 725 (3d ed. 2022).

59. *See* 93 C.J.S. *Waters* § 14 (2020).

60. *See, e.g.*, *Riparian Rights as to Flow and Use of Water—Prior Appropriation*, 3 TIFFANY REAL PROP. § 738 (3d ed. 2022) ("In some of these [prior appropriation] states any person, without reference to whether he is a riparian owner, who first appropriates water from a watercourse by means of a ditch, flume, pipe, or the like, in order to apply it to some beneficial use, and does so apply it, acquires the right to a continuance of such appropriation as against all the world, including the riparian proprietors."); ANTHONY DAN TARLOCK & JASON ANTHONY ROBISON, LAW OF WATER RIGHTS AND RESOURCES § 5:28 (2021) ("Appropriative rights are distinct from riparian rights in that their existence does not depend upon land ownership, but rather on the application of water to beneficial use."); *id*. § 5:26

water rights against others are acquired by first applying water to a beneficial use.[61] The arid conditions in these states led to water laws that reflect different values and objectives: to encourage the productive use of water and make such claims durable so that people would invest in making the land productive in the first place.[62]

Similarly, state laws regarding liability for alteration of surface water drainage have often varied because of a perceived difference in values and objectives in rural and urban places. In their simplest, unqualified versions, the civil law rule makes landowners strictly liable for damage resulting from altering surface water drainage, while the common enemy rule imposes no liability for such damage.[63] Rural states have more commonly applied the civil law rule because, as one court said, "that rule is best fitted to an agrarian society which assumes land as remaining in a natural or near natural state."[64] Urban states, on the other hand, tend to apply the common enemy rule perhaps because preserving a natural condition is not as important a value as facilitating development of land. As another court observed, "[a]s any change in grade, level, or topography might affect natural drainage, the civil law rule cannot reasonably be strictly applied in urban areas. To do so would prevent the proper use, development, improvement, and enjoyment of considerable urban property."[65] Some courts have therefore concluded that the civil law rule should apply in rural areas and the common enemy rule should apply in urban areas.[66]

("Appropriative [water] rights are the opposite of riparian rights. There need be no relationship between the source of water and the locus of use.").

61. *See, e.g.*, Michael Toll, *Reimagining Western Water Law: Time-Limited Water Right Permits Based on A Comprehensive Beneficial Use Doctrine*, 82 U. COLO. L. REV. 595, 601–06 (2011). In fact, a prior appropriator may acquire a water right even if it owns no land at all. *See* TARLOCK & ROBISON, *supra* note 60, § 5:28. Of course, one can't appropriate water by diversion from a watercourse without somehow accessing the water across riparian land. But an appropriator can generally acquire an easement to access the watercourse by eminent domain. *See id.* § 5:26. And in at least some states, the appropriator may acquire a water right even if it trespasses to begin its diversion and appropriation. *See id*.

62. *See, e.g.*, Toll, *supra* note 61, at 607–08.

63. *See, e.g.*, Mitchell v. Makin, 376 So. 2d 684, 685–86 (Ala. 1979).

64. *Id.* at 688.

65. Mulder v. Tague, 186 N.W.2d 884, 888 (S.D. 1971).

66. *See, e.g.*, Kay-Noojin Dev. Co. v. Hackett, 45 So. 2d 792, 794 (Ala. 1950) (noting general rule in Alabama that, while civil law rule applies outside of incorporated towns, within incorporated towns an owner may build structures to deflect surface water that would naturally drain onto his land); Woods v. Inc. Town of State Centre, 85 N.W.2d 519, 525 (Iowa 1957); Village of Trenton v. Rucker, 127 N.W. 39, 40 (Mich. 1910) ("Treating this case as falling within the rural rather than the urban, class, there is no difficulty in holding that the defendant is bound . . . to receive the flow of surface water from the adjacent higher land, coming in substantially its natural amount and condition."); Lunsford v. Stewart, 120 N.E.2d 136, 136–37 (Ohio Ct. App. 1953); *Mulder*, 186 N.W.2d at 889.

While sometimes differences in legal rules in different places reflect different values or objectives, other times different place characteristics simply require different means to accomplish those same objectives. Legal rules adopted to encourage economic development, for example, may differ in urban and rural areas even though they share the same basic objectives.[67] One study found that reformed welfare assistance requirements in Minnesota had significantly different effects in urban and rural counties, thus supporting "efforts to consider regional differences in formulating welfare and employment policies" even though the objectives of such policies may not vary.[68] A Texas statute requires that, in counties of 50,000 people or fewer, dedication of a roadway to the public must be "an explicit voluntary grant" and "communicated in writing" to the county.[69] The objective of the dedication rules is the same in larger and smaller counties: to recognize a dedication to the public when the owner has sufficiently indicated that intention and the government has accepted it.[70] But the Texas statute declares that suffering long public use in smaller counties does not sufficiently indicate intent to dedicate, because of the perception that rural landowners are more likely than other landowners to allow long public use without intending dedication to the public.[71]

Differences in applicable legal rules also may result not from differences in values or objectives or from different needs to accomplish the same objectives, but from place-related differences in how a legal rule affects the mix of the rule's values, objectives, and effects. For example, tort and statutory actions that redress soil contamination from agricultural activities may not be optimal rules in urban settings, not because of less concern about soil quality in urban settings, but because such rules may impair desirable urban agriculture too much.[72] Another example is redemption of property after tax lien sales. Legal rules regarding property tax lien sales aim to capture value to satisfy the tax obligation while fairly protecting the interest of the property owner. A long statutory period after the tax sale during which the defaulting taxpayer can redeem the property helps protect the taxpayer's

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67. *See generally* Stephen R. Miller, *Three Legal Approaches to Rural Economic Development*, 23 KAN. J.L. & PUB. POL'Y 345 (2014).

68. Lisa A. Gennetian et al., *Regional Differences in the Effects of Welfare Reform: Evidence from an Experimental Program in Rural and Urban Minnesota*, 13 GEO. J. ON POVERTY L. & POL'Y 119, 150 (2006).

69. TEX. TRANSP. CODE ANN. §§ 281.001, .003 (West 2020).

70. *See, e.g.*, Las Vegas Pecan & Cattle Co. v. Zavala Cnty., 682 S.W.2d 254, 256 (Tex. 1984).

71. *See* TEX. TRANSP. CODE ANN. §§ 281.001, .003; *supra* notes 55–56 and accompanying text.

72. *See* Steven A. Platt, *Death by Arugula: How Soil Contamination Stunts Urban Agriculture, and What the Law Should Do About It*, 97 MINN. L. REV. 1507, 1529–36 (2013).

interest in keeping the property. The taxpayer has more time to come up with financing or money to redeem, though the longer period may also discourage third-party bidders from bidding on the property and thereby reduce the amount of recovery from tax sales. But in urban settings, this balance of values may be altered by the additional concern that long redemption periods interfere with urban redevelopment. So, a legislature might rationally conclude that the redemption period should be shorter in urban settings or specifically in designated urban renewal districts.[73]

C. Grounded Authority Structures

Not only may place characteristics influence the kinds of conflicts that arise and the rules to address them, they may also influence the structures and processes by which the rules are made and applied. To begin, some places have more resources for such structures and processes. Rural places typically have fewer resources for both making and applying law.[74] That may mean law is less likely to address conflicts at all. Local ordinances may not be adopted to address a particular type of conflict.[75] Lawyers may be unavailable to bring legal claims.[76] People in rural areas may even be less inclined to resort to legal remedies to resolve conflicts.[77]

When laws are invoked to address conflicts, the process may differ depending on the resources available. Alternative dispute resolution may be less available in rural areas, for example.[78] Public defense may be of lower quality in rural areas, with less funding, less defense experience and expertise, and perhaps contracts with private attorneys rather than a dedicated public defender office.[79] Rural prosecution offices with fewer resources likewise may not have the funds for the services of experts,

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73. *See* Andrew S. Olds, Comment, *Saving Alabama's Urban Neighborhoods: Revisions to Alabama's Property Tax Sale Laws*, 44 CUMB. L. REV. 497, 524 (2014).

74. *See supra* Part II.

75. For example, rural places may not have adopted building codes, subdivision codes, or zoning codes. *See* Romero, *supra* note 10, at 780–81.

76. *See generally* Pruitt et al., *supra* note 16.

77. *See* Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 493 (2014) ("Rural areas have long been associated with a relative absence of formal law, although the germinal sources supporting this proposition are now at least two decades old, and it is impossible to know the extent to which this feature of rural livelihoods persists."); *cf.* ELLICKSON, *supra* note 23, at 249 (exploring norms as alternatives to formal law, particularly in rural contexts).

78. *See* Raymond D. Macchia, *The Challenges of Providing Legal Aid in Rural Wyoming*, WYO. LAW., Oct. 2012, at 18, 20.

79. *See* Andrew Davies & Alyssa Clark, *Gideon in the Desert: An Empirical Study of Providing Counsel to Criminal Defendants in Rural Places*, 71 ME. L. REV. 245, 249 (2019); Zachary Cloud, Note, *The Problem of Low Crime: Constitutionally Inadequate Criminal Defense in Rural America*, 22 B.U. PUB. INT. L.J. 403, 421–27 (2013).

investigators, and interpreters and may not be able to provide the same kinds of assistance, like child support enforcement.[80]

Family law reformers advocate integrating mental health professionals in high conflict custody cases, but rural areas may struggle to do so because of lack of resources.[81] The lack of mental health professionals in rural areas is an obvious impediment, but so too are "[t]he absence of a specialized family law bar, the lack of specialized courts or specialization among judges, as well as geographic issues that exacerbate the typical lack of resources."[82]

Place also may influence authority structures because different structures are needed to deal with place characteristics. For example, in metropolitan areas, the inevitable and close interaction between neighboring towns and cities may call for metropolitan and regional bodies to make and administer law, not just city and county governments.[83] It is appropriate to note that scale is as socially constructed as other aspects of legal geography, but scale still reveals important aspects of the mechanics of legal governance that play out across metropolitan fragmentation.[84]

More macroscopically, legal authority — particularly the ability to move policy agendas into law — might reflect differing constituencies that flow from paradigms of place, all the more so in a culture marked by political polarization that is increasingly place-based. Legal scholars and political scientists have documented how the structure of federalism and state-and-local-government law in the United States creates structural advantages for rural voters.[85] The Constitution allocates two senators to each state regardless of population, which means that a state with population centers in urban areas like California gets the same representation in the United States Senate as much more rural states such as Vermont or Wyoming.[86] This is not to say that there are no conservatives in New York City or progressives in rural Wyoming, but that, in general, places in our contemporary political

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80. *See* Lisa R. Pruitt, *Place Matters: Domestic Violence and Rural Difference*, 23 WIS. J.L. GENDER & SOC'Y 347, 381–82 (2008).

81. *See* Elizabeth Barker Brandt, *The Challenge to Rural States of Procedural Reform in High Conflict Custody Cases*, 22 U. ARK. LITTLE ROCK L. REV. 357, 358 (2000).

82. *Id*.

83. *See generally* Janice C. Griffith, *Smart Governance for Smart Growth: The Need for Regional Governments*, 17 GA. ST. U. L. REV. 1019 (2001).

84. *Cf.* Nicholas Blomley, *What Sort of Legal Space Is a City?*, *in* INTERSTICES: THE AESTHETICS AND POLITICS OF URBAN IN-BETWEENS 1, 7–9 (Andrea Mubi Brighenti ed., 2013).

85. *See, e.g.*, JONATHAN A. RODDEN, WHY CITIES LOSE: THE DEEP ROOTS OF THE URBAN-RURAL POLITICAL DIVIDE (2019); Paul A. Diller, *Reorienting Home Rule: Part 1–The Urban Disadvantage in National and State Lawmaking*, 77 LA. L. REV. 287 (2016).

86. The 2020 Census showed that California has a population of 39,538,223, while the state of Wyoming is home to 576,851 residents, and Vermont houses 643,077 residents. U.S. CENSUS BUREAU, 2020 CENSUS.

environment tend on average to reflect common political identities — with direct consequences for the allocation of formal legal power.[87]

III. EMBRACING PLACE: CROSS-DISCIPLINARY AND INTERDISCIPLINARY BRIDGES ACROSS THE URBAN-RURAL DIVIDE

For all the seemingly disparate characteristics that divide urban and rural, legal scholars can benefit from more interaction across these paradigms: indeed, rural legal scholars and urban legal scholars have more common ground methodologically than might appear at first glance. They share a similar general intuition that diving deeply into law's interaction with specific contexts will yield distinctive insights.

Urban insights, moreover, can contribute to rural understanding and vice versa. For example, blight has been primarily and extensively studied as an urban problem.[88] Ann Eisenberg's research on rural blight exemplifies how comparing urban problems and responses can contribute to analysis of rural problems and responses.[89] For example, she examines blight factors in urban settings and considers their counterparts in rural areas, such as how limited local government capacity contributing to blight in cities is different from the limits on government capacity in rural places.[90] She considers urban blight remediation strategies, the challenges of adopting them in rural areas, and how they might be adapted in rural areas.[91] Urban scholarship thus contributed to identifying a rural problem and its causes and analyzing possible responses.

Both urban and rural scholarship, as well as place-based scholarship generally, can help think about causes and solutions even when the problem does not originate from place. For example, employment discrimination may originate from race and ethnicity, but there may be distinctive rural influences to be addressed in a different way in rural places, and urban influences to be addressed differently in urban places.[92] Racial profiling originates from racial bias and prejudice, but rural characteristics like more static and/or homogeneous populations and less anonymity may contribute

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87. *See* Emily Badger, *How the Rural-Urban Divide Became America's Political Fault Line*, N.Y. TIMES (May 21, 2019), https://www.nytimes.com/2019/05/21/upshot/america-political-divide-urban-rural.html [https://perma.cc/Q67R-K5L6].

88. *See* Ann M. Eisenberg, *Rural Blight*, 13 HARV. L. & POL'Y REV. 187, 189–90 (2018); Ann Eisenberg, *Addressing Rural Blight: Lessons From West Virginia and WV LEAP*, 24 J. AFFORDABLE HOUS. & CMTY. DEV. L. 513, 513–15 (2016).

89. *See id.*

90. *See* Eisenberg, *Rural Blight*, *supra* note 88, at 191.

91. *See id.* at 220–39; Eisenberg, *Addressing Rural Blight*, *supra* note 88, at 529–31.

92. *See generally* Luz E. Herrera & Pilar Margarita Hernández Escontrías, *The Network for Justice: Pursuing A Latinx Civil Rights Agenda*, 21 HARV. LATINX L. REV. 165, 186–89 (2018).

to the problem.[93] Within paradigms of place, paying attention to these dynamics can be revealing, and more connections across the divide between urban and rural scholarship can encourage more scholarly consideration of place generally — even when the problem being studied doesn't originate from place and is evident in all kinds of places.

Scholarship should also consider the relationship between urban and rural places and the divide between them. Urban and rural policy interests and preferences may conflict.[94] For example, cities and counties may have different interests in development and regulation of land use just outside city boundaries.[95] Urban and rural places may also compete for resources to address urban and rural issues.[96] So not only may the rural character of a place be relevant to determining appropriate rules and policies for that place, but so too may be the affected interests and needs of urban areas. Zoning a rural area, for example, may require considering not just the rural character of the land and the interests of its rural population, but also the interests and needs of nearby urban people and places.[97]

Both urban and rural legal scholars may also benefit from engaging with scholars in cognate disciplines who also focus on the nature of place: not just, of course, geographers, but also urban and rural sociologists, urban and rural economists, urban and rural political scientists, urban and rural anthropologists, as well as interdisciplinary urban and rural studies scholars who study urban and rural phenomena. Place can be a useful interdisciplinary bridge as well as a bridge for legal scholars focused on different paradigms of place. Place-based legal scholarship obviously can benefit by drawing from the research of other disciplines. It also can benefit by using research methodologies of other disciplines. For example, Thomas Mitchell has described and illustrated how the data of traditional legal

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93. *See* Pruitt, *supra* note 27, at 162–63, 165.

94. *See, e.g.*, James E. Holloway & Donald C. Guy, *Smart Growth and Limits on Government Powers: Effecting Nature, Markets and the Quality of Life Under the Takings and Other Provisions*, 9 DICK. J. ENV'T. L. & POL'Y 421, 424–25 (2001) (describing conflicting rural and urban interests in land use); William M. Salka, *Urban-Rural Conflict over Environmental Policy in the Western United States*, 31 AM. REV. PUB. ADMIN. 33, 34 (2001) (finding that urban voters support environmental protections significantly more than rural voters); Robert Koons, Comment, *How the RAISE Act Promotes Urban America's Economic Growth over Rural America's*, 15 S.C.J. INT'L L. & BUS. 133, 133–34 (2019) (explaining how the RAISE Act prioritizes the growth of urban America's economy over its rural economy while potentially harming the latter).

95. *See generally* Alan Romero, *Extraterritorial Land Use Regulation and Bridging the Urban-Rural Divide*, 87 UMKC L. REV. 867 (2019).

96. *See, e.g.*, Lisa R. Pruitt & Marta R. Vanegas, *Urbanormativity, Spatial Privilege, and Judicial Blind Spots in Abortion Law*, 30 BERKELEY J. GENDER L. & JUST. 76, 97 (2015) (describing urban-rural competition for transportation and other funds and benefits).

97. *See generally* PATRICIA E. SALKIN, 2 AM. LAW. ZONING § 10:1 (5th ed. 2020) (discussing metropolitan and regional planning and zoning).

scholarship — reported cases — is entirely inadequate to study rural Black land loss, but research methodologies derived from other disciplines can produce great insight into the problem.[98]

CONCLUSION

Many legal rules and issues transcend place. The basic, technical elements of murder, and their application, may not vary because of place characteristics.[99] Sometimes the law and the legal system may even intend to neutralize the effects of place, such as procedural rules that are intended to ensure fair trials. But place often is relevant to legal issues, by influencing the conflicts that drive legal change, setting the context for resolution of those conflicts, and even shaping the resulting legal norms.

Legal scholars therefore should seriously examine the influence of place in the law, both generally and in relation to specific legal areas and issues. Scholarship about place and the law can help reveal contexts, patterns, and principles that may contribute to work in other legal disciplines and even non-legal disciplines. And legal scholarship can likewise benefit from drawing on other such work.

Urban and rural paradigms, however simplified, describe place contexts and patterns that can help identify both legal issues and solutions. Scholars can contribute to clarifying and refining those heuristics so that they are useful and do not simply reflect unfounded stereotypes. While urban and rural are on opposite ends of a spectrum, those paradigms may reveal place effects that work similarly in both settings, as well as some place effects that work differently. Either way, the study of one can contribute to the study of the other and the discussions we have been having, which we hope to continue beyond the broad reflections captured in this Essay, show that being grounded while open can bridge not just academics sitting in Wyoming and New York City, but so many conversations that we all need to be having across that bridge.

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98. Thomas W. Mitchell, *Destabilizing the Normalization of Rural Black Land Loss: A Critical Role for Legal Empiricism*, 2005 WIS. L. REV. 557, 580–81, 604–12 (describing empirical research conducted along with research team of two real estate economists and a graduate student in environmental studies with expertise in geographic information systems mapping).

99. Then again, they might, as with laws that in specific places change when the law might find it justifiable to use violence. *See generally* Cynthia V. Ward, *"Stand Your Ground" and Self-Defense*, 42 AM. J. CRIM. L. 89 (2015).