

A Taste of Law and Coffee – From Macrocosm to Microcosm

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Abstract: This article explores various connections between law and coffee. The authors study norms, trends and rituals connected to coffee, and discuss coffee both as a legal phenomenon, as well as a *lifestyle* and a *taste*. The article charts a taste journey and proposes a multitude of connections between law and coffee that could be made, other than just the trade, environment and social aspects that we are used to seeing in the legal context. Exploring these potential additional legal layers, the article reveals unexpected knowledge potential that law ought to be able to access. The authors approach coffee as for example art/cultural heritage, as a focal point for public discussion, as a *lifestyle* and as an addictive *taste* that coffee lovers constantly chase and obsess about.

Prologue¹

"I have come far from across the Omniverse. You shall fetch me your universe's ultimate cup of coffee. Black. You have five Earth minutes. Make it perfect!"²

I – OUT OF SPACE

As spaced out as it may sound, Ziltoid the Omniscient's quest for the ultimate cup of coffee is actually not that far fetched if compared to the earthly ambitions of coffee exporters and experts alike. In *The Coffee Exporter's Guide*, an authoritative United Nations publication for people involved in international coffee trade, it is early stated that:

"Green coffee is graded and classified for export with the ultimate aim of producing the best cup quality and thereby securing the highest price"³ [our emphasis]

Although there is no commonly agreed world standard for grading and classification of coffee,⁴ *taste* is intrinsically involved in the process of finding

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² Devin Townsend, *ZTO, Devin Townsend Presents: Ziltoid the Omniscient*, HevyDevy Records, (2007).

³ International Trade Centre, *The Coffee Exporter's Guide*, Third Edition, (2011), p. 5.

the best cup quality. It ought however be acknowledged already here, that what is sensed is of course part of a subjective, normative, experience in terms of what different people appreciate when it comes to foods and drinks, or conversely what they find unappetising. Further, taste is only one sense *in a set of multiple senses* that humans share and use in experiencing various aspects of that which is eaten or drunk. Within this set of senses, the primary ones for experiencing food are “the chemical senses which encompass *taste*, smell and chemesthesis”.⁵ As has been explained:

“These three distinct systems mediate information about the presence of chemicals in the environment. Taste or gustation detects chemical compounds dissolved in liquids using sensors mostly in the mouth. Smell or olfaction detects air-borne chemicals, both from the external world but also from the internalized compounds emitted from food in our oral cavity. Chemesthesis mediates information about irritants through nerve endings in the skin as well as other borders between us and the environments, including the epithelia in the nose, the eyes, and in the gut. Chemesthesis uses the same systems that inform us about touch, temperature, and pain.”⁶

The sensation of physically perceiving taste, which is of specific relevance for this article, has been described in the following manner:

“Specialized chemoreceptors on the tongue, palate, soft palate, and areas in the upper throat (pharynx and laryngopharynx) detect sensations such as bitter, for example, from alkaloids, salty from many ionic compounds, sour from most acids, sweet from sugars, and umami, or savory, from some amino acids and nucleotides. Each of these taste sensations probably evolved to provide information about foods that are particularly desirable (e.g., salt, sugar, amino acids) or undesirable (e.g., toxic alkaloids). The receptors reside in taste buds mostly located in fungiform, foliate, and circumvallate but not filiform papillae on the tongue. Taste buds, as the name indicates, are bud-shaped groups of cells. Tastants, the molecules being tasted, enter a small pore at the top of the taste bud and are absorbed on microvilli at taste receptor cells”⁷

Returning then to tasting coffee in particular, taste is only one of the many elements involved in experiencing a cup of coffee. In fact, this is also recognised when cup quality is evaluated in competitions like *Cup of Excellence*, where judges delve into additional characteristics connected to the taste of coffee, that involve for instance the *aroma*, *mouthfeel* and *flavour*.⁸ These characteristics interweave and involve more than one human sense. This kind of thinking is further acknowledged in molecular gastronomy,

⁴ *The Coffee Exporter's Guide* lists among other things altitude and/or region where a coffee is grown, preparation process, bean size, imperfections, roast appearance and cup quality, including flavour characteristics, see International Trade Centre, *The Coffee Exporter's Guide*, p. 5.

⁵ Peter Barham, Leif H. Skibsted, Wender L. P. Bredie, Michael Bom Frøst, Per Møller, Jens Risbo, Pia Snitkjær, and Louise Mørch Mortensen, *Molecular Gastronomy: A New Emerging Scientific Discipline*, Chem. Rev. 2010, 110, 2313–2365, (2010), p. 2316, [our emphasis]. Other senses involved in experiencing food are pain, touch, sight and hearing, see p. 2316, same source.

⁶ Barham et al., *Molecular Gastronomy: A New Emerging Scientific Discipline*, p. 2316.

⁷ Barham et al., *Molecular Gastronomy: A New Emerging Scientific Discipline*, p. 2317.

⁸ See the cup quality criteria used in the Cup of Excellence Cupping Form available at <http://www.allianceforcoffeexcellence.org/en/cup-of-excellence/rules-protocols/>. Last accessed 28 January 2013.

where broad notions of the concept of *flavour* are used. One definition explains it as:

“[T]he complex combination of the olfactory, gustatory and trigeminal sensations perceived during tasting. The flavors may be influenced by tactile, thermal, painful and/or kinaesthetic effects and expectations from visual presentation of the product”⁹ [our emphasis]

For connoisseurs, imbibing coffee is thus not just a single sensory experience merely involving taste; it is a conscious multi-modal experience that has become increasingly anchored in scientific perfection. In this article our focus on taste ought therefore not be read in an exclusory manner in any way, nor ought this article be read as understanding the taste of coffee as the *only* interesting aspect and character of coffee that can be explored further and that contributes to the special coffee experience. The experience of coffee is of course a multi-modal and multi sensual sensation, however we find that the taste of it in particular, opens up some interesting research paths, within the setting of Law and Senses. Today, the field of ‘coffee science’ approaches coffee from several academic disciplines such as chemistry, physics, biology and technology,¹⁰ but what about law?

Aside from our mutual love of coffee, we are in no way experts in the field. Still, we have taken the liberty of outlining some of the interlinkages between law and coffee that we find particularly interesting and pertinent. Our intention in writing about law and coffee is however not to attempt to establish a new legal field.¹¹

This is not the first attempt from a legal point of view to approach coffee. However, a topographic audit of previous legal research gives the impression that the bulk of the already conducted research predominantly has explored *trade and market issues* such as export and import of coffee, international coffee agreements, Intellectual Property law and branding.¹²

⁹ Barham et al., *Molecular Gastronomy: A New Emerging Scientific Discipline*, p. 2319.

¹⁰ See BeanScene Magazine, *Joseph Rivera The Coffee Scientist*, online edition, June (2010). Other aspects that are concerned in the field of coffee science are tropical soil, plant science and post-harvest storage of green coffee beans, see Shawn R. Steiman, *Shade coffee in Hawai'i - quality, physiology, and biochemistry*, Thesis (Ph.D.), University of Hawai'i, (2008), and Flávio Meira Borém, Fabiana Carmanini Ribeiro, Luisa Pereira Figueiredo, Gerson Silva Giomo, Valquíria Aparecida Fortunato, Eder Pedroza Isquierdo, *Evaluation of the sensory and color quality of coffee beans stored in hermetic packaging*, Journal of Stored Products Research Volume 52, January (2013).

¹¹ Regarding the establishment of new legal fields, a mention of the infamous “Law of the Horse” is certainly warranted. After all, as Easterbrook argues, “Teaching 100 percent of the cases on people kicked by horses will not convey the law of torts very well. Far better for most students--better, even, for those who plan to go into the horse trade--to take courses in property, torts, commercial transactions, and the like, adding to the diet of horse cases a smattering of transactions in cucumbers, cats, coal, and cribs. Only by putting the law of the horse in the context of broader rules about commercial endeavors could one really understand the law about horses”, see Frank H. Easterbrook, *Cyberspace And The Law Of The Horse*, 1996 U. Chi. Legal F. 207, (1996) p. 1. Duly noted. The most sensible manner in which to obtain an understanding of how to deal with specialised legal problems is to try to identify the applicable general rules, if any. Just because strands of legal issues and reasoning in terms of law and coffee can be found and bundled into new intriguing areas, this does not necessarily mean that there is such a field as a *law of the coffee*. Also, there is a risk, if conclusions are being jumped to, of ending up with superficial results that overlook the important overarching principles. Thus, the aim of this article is to make certain unusual connections between law and coffee visible to law and to initiate a discussion, without for that sake jumping to any hasty conclusions.

¹² See P. Brian Bartels, *Preventing Coffee Cooperation From Grinding To A Halt: An Institutional Analysis Of The International Coffee Agreements And Recommendations For Achieving Long-Term Cooperation In The International*

This focus is perhaps not very surprising given the important position and value of coffee in the global economy and trade.¹³ Following the trade and market issues are *environmental aspects* such as biodiversity and water use in coffee production,¹⁴ as well as *social issues* surrounding coffee, for instance the health hazards the coffee farmers are exposed to in their work environment caused by for instance exposure to chemicals and pesticides.¹⁵

All the same, the purpose of this article is neither to focus on trade, environmental nor social legal issues. Our journey from macro to micro in the coffee universe can instead be placed in the general discussion of how law deals and can deal with senses, exploring specifically the *taste* of coffee. In that vein, we approach the experience of coffee as art, craft and ritual, and explore how it can be connected to the notions of intangible cultural heritage, the public sphere and production of knowledge. It seems to us that as of yet, all of these latter aspects have been only marginally explored within the legal setting.¹⁶

So, we ask, what is it to law if coffee is deemed to be more than just trade?

"- *Commander!*

- *Yes, Captain Ziltoid?*

- *Have the humans delivered their ultimate cup of coffee?*

- *I have it right here Sir.*

- *Yes. *drinks loudly**

Coffee Trade, 42 Creighton L. Rev. 279, (2008-2009), Carol Robertson, *The little book of coffee law*, American Bar Association, (2010), Jill Draeger, *Perking Up the Coffee Industry Through Fair Trade*, 11 Minn. J. Global Trade 337, (2002), Seth W. Shannon, *Economic Stimulation: The History and Hope of Coffee in Development*, 18 Transnat'l L. & Contemp. Probs. 169, (2009), and Daphne Zografos Johnsson, *Using Intellectual Property Rights To Create Value In The Coffee Industry*, 16 Marq. Intell. Prop. L. Rev. 283, (2012).

¹³ Many sources about coffee make the claim that coffee is the second largest commodity traded in the world, after oil. While coffee definitely has an important position in the world trade as a commodity, after a closer scrutiny, and depending on the factors being taken into account when commodities are ranked as most traded in the world, it is apparent that this claim becomes quite difficult to defend, see Mark Pendergrast, *Coffee second only to oil?*, Tea & Coffee Trade Journal, April (2009).

¹⁴ See Denis A. O'Connell, *Shade-Grown Coffee Plantations in Northern Latin America: A Refuge for More than Just Birds & Biodiversity*, 22 UCLA J. Envtl. L. & Pol'y 131, (2003-2004) and Grace H. Brown, *Making Coffee Good to the Last Drop: Laying the Foundation for Sustainability in the International Coffee Trade*, 16 Geo. Int'l Envtl. L. Rev. 247, (2003-2004). For an interesting discussion, albeit from a non-legal point of view, concerning coffee and water production see: A. K. Chapagain, A. Y. Hoekstra, *The water needed to have the Dutch drink coffee*, Value of Water Research Report Series No. 14, UNESCO-IHE Institute for Water Education, August (2003), pp. 7 and 21. Here, the concept of "virtual water content" is presented and used for expressing the total volume of water needed to produce a commodity. It is a measurement that gives an idea of how much water the commodity-importing countries *indirectly* use in the countries producing a certain commodity. A standard cup of coffee in, for instance, the Netherlands has been estimated to demand 140 litres of "virtual water" for every 125 millilitres of coffee.

¹⁵ Frederick A. Veitch III, *Brewing Up a Storm: The Potentially Cataclysmic Effects of Industrially Grown Coffee*, 13 Colo. J. Int'l Envtl. L. & Pol'y 211, (2002), Grant E. Helms, *Fair Trade Coffee Practices: Approaches For Future Sustainability Of The Movement*, 21 Ind. Int'l & Comp. L. Rev. 79, (2011), Jeremy Weber, *Fair Trade Coffee Enthusiasts Should Confront Reality*, 27 Cato J. 109, (2007).

¹⁶ See however Desmond Manderson, Sarah Turner, *Coffee House: Habitus and Performance Among Law Students*, 31 Law & Soc. Inquiry 649, (2006), where a different perspective is taken that includes analysis of the ethnography of a social space in a major law school and exploration of its socialisation of the students during their visit at a weekly "Coffee House" event.

- *Fetid! How dare they present this to me! Foul! They hide their finest bean! Prepare the attack!*¹⁷

II – SAVOURING THE RITUAL

Rules governing coffee do not just concern the abovementioned regulations of the trade of coffee, its production, its effects on the environment and the social issues connected to coffee labourers and their working conditions. We have all heard the *other type of rules* tied to drinking coffee that go something to this effect: You may only drink cappuccino, caffè latte, latte macchiato or any milky form of coffee in the morning before 10 a.m., and never after a meal. You may not use the word espresso, this is a technical term in Italian, not an everyday one. A single espresso is simply known as *un caffè*. Coffee should arrive at a temperature at which it can be drunk immediately, but it should generally be brewed at a temperature within the span of 195-205°F or 90-96°C.¹⁸ Some hard-core coffeenistas even go so far as to suggest that certain rules are far more important than other rules; these are the *golden rules*¹⁹ that must be adhered to no matter what.²⁰

And then there are the rituals and lifestyles connected to the said rules: the meeting that takes place over a cup of coffee, the rich history of for instance coffee houses and the exchange of opinions that took place there, the significance of coffee in popular culture,²¹ the speciality coffee that is an integral part of the 21st century's so called "hipster" culture.²² Each of these can be viewed as paradigms with associated spaces and trends. Although overlapping and not clean-cut, each of these paradigms have given and still continue to give rise to new lifestyles, such as one of the more recent ones that is connected to the hipster culture. The sets of rules connected to each

¹⁷ Devin Townsend, *By your command, Devin Townsend Presents: Ziltoid the Omniscient*, HevyDevy Records, (2007).

¹⁸ <http://www.telegraph.co.uk/travel/destinations/europe/italy/6246202/Italian-coffee-culture-a-guide.html>. Last accessed 26 January 2013. General brewing instructions from <http://www.coffeeresearch.org/coffee/brewing.htm>. Last accessed 26 January 2013.

¹⁹ 1. Get your coffee from a professional roaster, 2. Buy your coffee every 1-2 weeks, 3. Buy your coffee in whole bean form, 4. Use a burr grinder, 5. Keep your coffee beans in an airtight container at room temperature, 6. Invest in a French press or a good drip brewer - your gear is as important as your coffee, 7. Keep everything clean (Golden rules taken from: <http://makegoodcoffee.com/rules>. Last accessed 26 January 2013)

²⁰ Interestingly and ironically enough, some world leading baristi are confident in changing or ignoring some of their predecessors' given rules. One barista for instance says that "the only way to learn and present anything new" is to take a "no rules" approach to coffee", see Trish R Skeie, *Norway and Coffee* in *The Flamekeeper: Newsletter of the Roasters Guild*, Spring (2003), p 3.

²¹ Other than Ziltoid and his antics, that serve as a travel-guide for this article, there are countless references to coffee in popular culture, to name but few very obvious ones: Jim Jarmusch film *Coffee and Cigarettes*, (2003), Blur song *Coffee and TV*, (1999), Cranberries song *Wake up and smell the coffee*, (2001), the coffee addiction of Special Agent Cooper in the David Lynch TV series *Twin Peaks*, (1990-1991), Bob Dylan's *One More Cup of Coffee*, (1976), etc., etc.!

²² From an American perspective, both a matured specialty coffee industry and a so-called hipster-coffee culture has been associated with coffee's "third wave", "when coffee has gotten really expensive and is treated less like a commodity and more like wine, something for connoisseurs to palate and philosophers to mull". The previous waves have also been described: "the first was when espresso arrived on our shores; the second was when Starbucks brought us expensive specialty coffee", see Macy Halford, *The Coming of Coffee's Fourth Wave?* in *The New Yorker Online*, 1 July 2011. <http://www.newyorker.com/online/blogs/books/2011/07/coffee-fourth-wave-stumptown-stubbies.html#ixzz2OHSIm8JG>. Last accessed 2 April 2013. For a slightly different and less US centric description of the waves of coffee, see Skeie, *Norway and Coffee*.

coffee paradigm, or *wave*, are not legal rules, yet they govern our relationship to the ritual of experiencing and drinking coffee.

It is notably also in the setting of examining coffee from the perspectives of craft, art and ritual, that some interesting normative aspects appear. Coffee, and the knowledge and practices that surround it, especially in the third wave of coffee and its reaction to coffee's commodified second wave, can be viewed as a culinary art.²³ This culinary art as a practice makes up an edifice erected on the importance of incredible care and craftsmanship that is put into each step of for instance sourcing the coffee beans, the roasting process and the cuppings (tastings) in order to make sure that it is perfect. In this way, the coffee and its taste are elevated to the status of a cultural artefact, but its exclusivity also makes it a work of art. Taken together, the knowledge, craftsmanship as well as scientific knowledge being produced is in turn able to affect *what is sensed*. Carefully chosen coffee beans, that are also meticulously prepared, *combined* with (scientific) knowledge about our senses and what we are looking for in a cup of coffee, can affect its taste and what we sense, like in the case when someone learns to appreciate wine by refining their knowledge and sharpening their senses.

Coffee as craft, art and ritual - The question of cultural heritage

Today, the love of coffee has turned into a quest for the most perfect and refined cup of coffee. It is an obsessive pursuit that only the initiated seem to fully appreciate; yet anybody who enjoys a good cup of coffee, even if it is a take-away on the run, can understand this obsession. Finding the ultimate cup of coffee sometimes even includes hunting down the rarest and most perfect coffee beans that gain their exclusivity from having been grown in very specific regions or that have been processed in unusual ways, *or both*. In the unusual process category, the so-called animal processed coffees are found.²⁴ Among these, the most famous one is probably the Indonesian *Kopi Luwak*. This is a coffee made from beans that have been processed, chemically and by fermentation, in the gut of the common palm civet (*Paradoxurus hermaphroditus*)²⁵ and which are then excreted, cleaned and roasted like ordinary coffee.²⁶ Not only does this processing method result in a coffee that is among the top contestants for the world's most expensive coffees, it is also said to end up in a unique coffee with "rich, heavy flavor with hints of caramel or chocolate" and that is "earthy, musty and exotic. The

²³ See Skeie's description of some 'second waver's' entrance into the coffee world in Skeie, *Norway and Coffee*, p. 1. As is noted here, "Whether we began our careers in the late 60's or mid-1990's, we tend to have a common philosophy. Our entrance was *artisan driven*. Someone turned us on to coffee origins and roasting styles. We looked to the wine industry for inspiration in defining goals and strategies. We started destination shops with small roasting operations and fine tea selections. Pretty soon we were serving espresso and taking trips to Italy and producing countries", [our emphasis].

²⁴ Kenneth Davids, *Animal-Processed Coffees: The Latest Contender*, June (2009), <http://www.coffeereview.com/article.cfm?ID=160>. Last accessed 26 January 2013.

²⁵ An animal that in vernacular terms may be described as a South Asian skunk, anal scent glands and all.

²⁶ See <http://www.kopiluwak.org/new/about.htm>.

About the Common Palm Civet, see <http://www.iucnredlist.org/details/41693/0>. Both links last accessed 26 January 2013.

body is almost syrupy and it's very smooth".²⁷ The exclusive *Kopi Luwak* is however not the only animal processed coffee on the market. Other examples are Brazilian *Jacu Bird Coffee*,²⁸ Indian *Rhesus Monkey Coffee*²⁹ and Thai *Elephant Arabica Coffee*³⁰. Yet, the world's most exclusive coffees are not only found among these extraordinary animal processed ones, but also among those grown in special regions and that have unique flavour characteristics. One example, equally considered to be among the world's most exclusive and expensive coffees, is coffee from the "Gesha" or "Geisha" trees.³¹

Reading this and everything else about coffee today is almost like reading about art. There is the *exclusivity* issue. The more exclusive and rare the cup of coffee is deemed to be the more coveted it will be. Then there is the *provenance issue* that is equally and fervently debated in coffee circles as in any art circle. Which farmer does each coffee stem from appears to be as pertinent of an issue as the provenance discussions surrounding cultural heritage or indeed which geographical place a work of art stems from. The same goes for which (latte) artist has created a prize winning decorative cup of cappuccino.³² The "*coffee guys*"³³ talk about "clean" coffee the same way we lawyers talk about clean artefacts of cultural heritage, that is, something that has not been looted, illegally exported, or counterfeited. The coffee guys, as frequently as art historians, seem to be asking the question: Have any dirty hands been involved in acquiring the product, are we buying that which we are being promised? Who made this? Are there any authenticity certificates? Is this a *fake*?

Michaele Weissman's very entertaining and informative book *God in a Cup*, describes those involved in the specialty coffee business in the following manner:³⁴

²⁷ <http://www.kopiluwak.org/new/about.htm>. Last accessed 26 January 2013.

²⁸ <http://www.ineedcoffee.com/08/jacu-bird-coffee/>. Last accessed 26 January 2013.

²⁹ <http://www.washingtontimes.com/news/2008/jul/24/exotic-coffee-is-monkey-business/#ixzz2FK8e8GwF>. Last accessed 26 January 2013.

³⁰ <http://newsfeed.time.com/2012/10/30/most-exclusive-coffee-in-the-world-elephant-feces/>. Last accessed 26 January 2013.

³¹ Varieties of Gesha or Geisha coffee have reached a kind of cult status in the specialty coffee world, especially the ones from Panama. It is sold in very small amounts and even at prices surpassing those of the Cup of Excellence coffees. Its flavour is often described as having intense floral tones, including jasmine. See e.g. http://www.coffeehunter.com/articles/what_it_about_geisha%3F

and a Gesha bean review at <http://www.coffeereview.com/review.cfm?ID=3084>. Both links last accessed 2 April 2013.

³² For an unexpected merger of Latte and sound art, see <http://vimeo.com/23936975>. Last accessed 26 January 2013. In his project "Electro-acoustic café", James Brewster, a professional barista and sound-artist operates a mobile espresso-bar which doubles as an interactive sound-installation. Via contact microphones attached inter alia to the espresso machine, the coffee-grinder and the milk-frothing jug, Brewster's coffee-making becomes a unique live sound performance.

³³ Michaele Weissman, *God In A Cup, The Obsessive Quest for the Perfect Coffee*, John Wiley & Sons (2008), p. xiv

³⁴ The meaning of specialty coffee is broad and it includes a chain of actors such as farmers, buyers, roasters, baristas and consumers. The Specialty Coffee Association of America for example describes it in the following manner: "Specialty coffee can consistently exist through the dedication of the people who have made it their life's work to continually make *quality their highest priority*. This is not the work of only one person in the lifecycle of a coffee bean; specialty can only occur when all of those involved in the coffee value chain work in harmony and *maintain a keen focus on standards and excellence from start to finish*. This is no easy accomplishment, and yet because of these dedicated professionals, there are numerous specialty coffees available right now, across the globe, and likely right around the corner from you" [our emphasis], see <http://www.scaa.org/?page=resources&d=what-is-specialty-coffee>. Last accessed 28 January 2013.

"These are elite '*craftsmen*' coffees grown with special care by farmers using traditional agricultural techniques..."³⁵

"The beautiful thing about speciality coffee is that it rewards obsessiveness. It uses our *talents*. It fosters the development of lost kids like me."³⁶

"My baristas are trained in a three-month certificate-granting program, they *make all our espresso drinks by hand*, and they *pour beautiful latte art*."³⁷

"Lindsey 'is greatly admired by her colleagues for her honesty, her genuine understanding and sympathy for coffee growers and their challenges and achievements, and for the sort of deeply original personal engagement with coffee that *transcends her profession and approaches art*'"³⁸

"Geoff liked the rich, viscous Viennese coffee, a semi-extracted cross between espresso and drip coffee, almost as much as he *liked the ceremony and ritual associated with it*."³⁹ [our emphases throughout]

Understanding the exclusivity, provenance, passion, craft and the ritual involved in producing and enjoying the best cup of coffee obviously shares a very similar type of discourse with the exclusivity, craft and passion involved in making and appreciating the premium work of art. So, if making the perfect cup of coffee can be an art form in itself, and if the act of drinking coffee can be described as a ritual of sorts, then have we been looking at it all too narrowly when we have tried to understand the legal implications of it? Have we missed something? Arguably, there is much more to coffee than meets the eye,⁴⁰ more to it than just trade, environment or sustainability issues, legally speaking. It is certainly connected to rules and norms, but also to other issues such as meetings, creativity, aesthetics, discussions, tastes and lifestyles.

In cultural heritage terminology, intangible cultural heritage is described in the following manner:

"The "intangible cultural heritage" means the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and *cultural spaces associated therewith* – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity."⁴¹ [our emphasis]

³⁵ Weissman, *God In A Cup, The Obsessive Quest for the Perfect Coffee*, p. xiv.

³⁶ Weissman, *God In A Cup, The Obsessive Quest for the Perfect Coffee*, p. 2.

³⁷ Weissman, *God In A Cup, The Obsessive Quest for the Perfect Coffee*, p. 19.

³⁸ Weissman, *God In A Cup, The Obsessive Quest for the Perfect Coffee*, pp. 118-119.

³⁹ Weissman, *God In A Cup, The Obsessive Quest for the Perfect Coffee*, p. 21.

⁴⁰ Do however see <http://vimeo.com/45092819> about Gerry Leary, a blind man roasting coffee 'in the dark'. Gerry roasts coffee only according to what he hears and smells, and he dreams of having an 'in the dark cupping' where experiencing coffee would be stripped from visual influence. Last accessed 26 January 2013.

⁴¹ 1970 UNESCO *Convention For The Safeguarding Of The Intangible Cultural Heritage*, I General Provisions, Art 2.

Coffee and the practices surrounding its preparation, its representation, where it is enjoyed, and more, could therefore arguably be construed as intangible heritage within this UNESCO definition. The intangible cultural heritage consists of five overlapping areas: 1) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage, 2) performing arts, 3) social practices, rituals and festive events, 4) knowledge and practices concerning nature and the universe and 5) traditional craftsmanship. Here, coffee can thus be connected to at least three of the five UNESCO areas: number 3 – as a social practice with strict rituals as we saw in the beginning of this section, namely the social practice of how coffee must be brewed and at what temperature, how it should be stored, and when and where it ought to be drunk. Number 4 that can be connected to the coffee bean and how it is treated from soil to cup, and/or to number 5 which we have already touched upon when we looked at how Michaela Wiessman describes it as *craftsmanship*. All of these factors are related to coffee in general. However, in particular they also affect its taste.

As with the tangible cultural artefacts, each year UNESCO adds new cultural heritage to their list⁴² of what they deem to be intangible cultural heritage transmitted in an immaterial form from generation to generation. Interestingly, in one of the 2011 entries to the list of World Intangible Heritage we found *Viennese Coffee House Culture*⁴³, defined in the following manner:

“The tradition of the Viennese Coffee House Culture goes back to the end of the 17th century and is given distinction to by a very specific *atmosphere*. Typical for Viennese Coffee Houses are marble tables, on which the coffee is served, Thonet chairs, boxes (loges), newspaper tables and interior design details in the style of Historicism. Guests can choose from the selection of meals and drinks from early morning at 6am until midnight, while sometimes also enjoying readings and musical soirées. The coffee houses are a *place* where time and space are consumed, but only the coffee is found on the bill.⁴⁴ [our emphases]

Coffee could therefore fall within the sphere of intangible heritage, but UNESCO has so far only singled out the Viennese Coffee House Culture. What is however very interesting is that UNESCO is linking the experience of coffee with the atmosphere and place in which it is enjoyed, namely the coffee house or the *café*.

Indeed, if coffee can be cultural heritage, what we would like to propose here, is that it is arguably connected to many more cultures than just the Viennese one, such as the Italian, French, Turkish, Ethiopian, to name but a few.⁴⁵ Furthermore, when approaching coffee as heritage, we obviously ought to pay more attention to the cultural spaces where it is being enjoyed and

⁴² The full list can be found here <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011>. Last accessed 2 April 2013.

⁴³ <http://nationalagentur.unesco.at/cgi-bin/unesco/element.pl?eid=71&lang=en> Last accessed 2 April 2013.

⁴⁴ <http://nationalagentur.unesco.at/cgi-bin/unesco/element.pl?eid=71&lang=en> Last accessed 2 April 2013.

⁴⁵ This article may come across as slightly Eurocentric, that is not to say that the coffee cultures of e.g. the Americas and other continents are unimportant. Quite the contrary. The Eurocentric tilt is merely a result of our own background and knowledge.

which it is associated with. We shall therefore return to the spatial in the discussion below.

The linkage between coffee and cultural heritage may thus firstly appear not to be an obvious one, but when made, it demonstrates even the potential to connect cultural heritage to the *taste of coffee*. If something is deemed to be cultural heritage that is included on the UNESCO list, it becomes recognised and *protected*, and as such it may for instance not be looted, or illegally exported. But what does that mean when we are discussing the taste of coffee as intangible heritage?

When it comes to export of tangible cultural artefacts the discussions surrounding their proper export, where they ought to be kept and how they participate in the production of national and international identities are not unusual or unexpected. What we are exploring here are very similar issues, but we have placed our discussion within the realms of intangible cultural heritage extending it also to the taste of coffee. So what happens when taste is exported, who can claim it as his/her own, and how does it participate in the creation of identities? The intangible cultural heritage seems to take on an unrecognisable form, and it is not always straightforward as to how it can be connected to for example the production of the public sphere, or generally the production of knowledge. When it comes to export of intangible cultural heritage, in the case of the taste of coffee,⁴⁶ is law able to understand the entire export process and everything that it entails, and if not what does it do instead?

In acknowledging Viennese coffee house culture, UNESCO included a small fragment of coffee culture in intangible heritage, but could we widen their concept, could we for instance talk about a 'hipster coffee and intangible cultural heritage' or a 'coffee connoisseur's intangible cultural heritage'? These potential other types of heritages transcend traditional national boundaries that the UNESCO definition requires, but they function as identifiable unities in their own right, with their own sets of rules and norms. As such they are also transmitted from generation to generation as well as they also produce their own spaces, their own public spheres that they are associated with and their own types of knowledge. Moreover, put in the perspective of climate change, protection of the taste of coffee is perhaps not that far away. A recent study has shown that many of the wild species of the world's most important coffee type (*Coffea Arabica*), are facing extinction because of rising temperatures. The wild species are an important gene pool for the world's cultivated Arabica coffees, which are also very climate sensitive. Anyone who has tasted a cup of coffee predominantly made from the less sensitive breed (*Coffea robusta*) would agree that the taste is entirely different. Perhaps the exclusive taste of

⁴⁶ Here both the bean itself and the preparation of it, how coffee ought to be made and enjoyed would then be part of that very heritage.

Arabicas will be but a distant memory in the future if it is not somehow directly or indirectly protected?⁴⁷

Associative spaces – The taste of coffee and the production of the public sphere

“When the family lost its link with the world of letters, the bourgeois *salon* that had complemented and partly also replaced the reading societies of the eighteenth century also went out of fashion. *In this development 'the disappearance of alcohol often played the opposite role to the introduction of coffee in the seventeenth-century Europe which simulated sociability.* Gentlemen’s societies and associations died out, drinking groups were dissolved, and clubs went into eclipse; the notion of social obligation that had played such a great role became hallow.’ In the course of our century, the bourgeois forms of sociability have found substitutes that have one tendency in common despite their regional and national diversity: abstinence from literary and political debate...”⁴⁸ [our emphasis]

In *The Structural Transformation of The Public Sphere* Jürgen Habermas makes this very apt connection between the world of letters of the bourgeois art salons and coffee houses. UNESCO’s description of the Viennese Coffee House Culture provides us with a link to exploring this further and connecting cultural heritage to space. A number of articles have already been written on the topic of public spaces and coffee houses⁴⁹ but as far as we have been able to see, not many of them do expressly explore the linkage *coffee-intangible cultural heritage-public sphere-law*. Following this line of reasoning where the taste of coffee is described as intangible cultural heritage, which is enjoyed in spaces where public debate can take place, we discover legal implications.

Coffee seems to always have been tied to sociability, conversations, exchange of ideas, which in turn are often tied to public literary and political debates. This ultimately ties it all to spaces where freedom of expression and public discourse can be exercised. The connections between all of these (law, coffee and public discourse) are thus not often expressly made, particularly not in conjunction with the legal research and the notion of the public spheres, but they do exist here and there, in a scattered manner, and could be assembled and studied further.

⁴⁷ See Amanda Fiegel, *The Last Drop? Climate Change May Raise Coffee Prices, Lower Quality Wild Arabica coffee could go extinct in 70 years, study warns* in *National Geographic Online* <http://news.nationalgeographic.com/news/2012/11/121108-climate-change-coffee-cofea-arabica-botanical-garden-science/>. Last accessed 2 April 2013.

⁴⁸ Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger with the assistance of Fredrick Lawrence, Cambridge, MA: Polity, MIT Press, (originally published in German in 1962), (1992), p. 163

⁴⁹ See e.g. Manderson, Turner, *Coffee House: Habitus and Performance Among Law Students*, Chris Philo, *Of Public Spheres And Coffee Houses*, published by the Department of Geography & Geomatics, University of Glasgow at: <http://web2.ges.gla.ac.uk/~elaurier/cafesite/texts/cphilo016.pdf>, (2004), Tanya Toft, *Mapping The Social Public Spheres Of Coffee Shops*, <http://www.tanyatoft.com/research-projects/coffee-shop-project> (ongoing research project), Brian Cowan, *Mr. Spectator And The Coffeehouse Public Sphere*, <http://cerisia.cerosia.org/articles/cowan.coffeehouses.pdf> North American Conference of British Studies in Toronto (2001) and ISECS in Los Angeles (2003). All links last accessed 26 January 2013.

Habermas went on from the quote above that deals with the general disappearance of salons and coffee houses and what that meant for the democratic public sphere, to discuss mass culture and consumer goods that were packaged as private entertainment, which replaced the literary and political debate that thither had taken place in the salons and coffee houses. He thus made a connection between the changing public spheres and the commodification process, which affected the experiences integral for the public debates and the free exchanges of ideas.

The experience of coffee today is certainly a commodified one. Even the so-called "green" or "fair trade" coffee has been subject to the commodification process: it has been packaged, and is marketed as such – to adhere to the rules and norms of commerce. Slavoj Žižek for instance claims that the "fair trade" cup of coffee is packaged in such a way that what we are in fact being sold is a product that offers only the commodified experience of coffee, stripped away from its lexis potential, but in return for consuming it, we are being promised repair and redemption. This is what Žižek refers to as the "New Spirit of Capitalism", namely a leaner type of capitalism that is no longer Fordist in nature, but one that has taken the earlier critique of capitalism seriously and to some extent incorporated a response to the same critique into its new appearance. Drinking commodified fair trade coffee has become a *lifestyle* within the paradigm of the new spirit of capitalism, where even the lifestyle itself has become commodified. Žižek writes:

"The 'cultural' surplus is here spelled out: the price [of a cup of coffee] is higher than elsewhere since what you are really buying is the 'coffee ethic' which includes care for the environment, social responsibility towards the producers, plus a place where you yourself can participate in communal life [...] This is how capitalism, at the level of consumption, integrated the legacy of '68, the critique of alienated consumption: *authentic* experience matters."⁵⁰ [original emphasis]

Law seems to have been blind to all the traits of coffee that are not within the paradigm of its commodified, packaged nature, as Žižek describes it. Firstly, only understanding coffee in this way, within the "new spirit of capitalism", law also inadvertently enables a new type of commodification of lifestyles to take place, a perhaps violent act, which in many ways remains invisible. Secondly, even within a commodified culture of coffee consumption, we still encounter a manic production of additional rules pertaining to how coffee *should* taste/be made/look like/smell. These are aesthetic issues that create, define and guide lifestyles, but that also seems to remain invisible to law.

But let us go back to Habermas for a second, in order to continue to explore the potential connection between law and coffee and the public sphere even further. The interesting point here is that Habermas has identified an intriguing issue, in showing that salons and coffee houses had a public purpose as a focal point for the exchange of ideas. When he later arrives at the consumer culture-centred cafés, the significance of coffee

⁵⁰ Slavoj Žižek, *First as Tragedy, Then as Farce*, London: Verso, (2009), pp. 53-54.

houses has changed, and gradually the public discourse that took place in these spaces waned as coffee houses as a phenomenon firstly diminished in number, and eventually completely disappeared. The public debates that had occurred in these spaces thus became transformed into a private activity of drinking, what would with the advent of Starbucks in the 1970's become, *branded coffee*. Even if the experience of the taste of coffee still is often enjoyed in relatively "public" places⁵¹ it does not necessarily involve the same type of public discourse. Evidently, today the enjoyment of coffee is rather linked to the singular experience, one that people need to buy into, one that is packaged, sold and commodified as a lifestyle.

Nonetheless, Markman Ellis, in the book *The Coffee House, A Cultural History*,⁵² shows that there is a constant link between coffee and communication even in the aftermath of the death of the coffee house. Ever since the Westerners encountered the ritual of coffee drinking in the Ottoman Empire during the 16th century up until today in the age of Internet cafés, multi national chains that sell coffee, the stock market exchange of coffee, cyber cafés, Wi-Fi enabled cafés, there is a constant aspect of communication connected to drinking it.

Ellis ends his long historical exposé in the espresso bars of 1950's London, concluding that these, like coffee houses before them, became the new *associative spaces*⁵³ where a new type of public consciousness was forged. These places could not be understood by political theory or "Establishment culture", Ellis writes. Rather they were public spaces that escaped regulation and control.⁵⁴ The spaces, in which coffee has been enjoyed, have arguably always escaped regulation and control. Maybe that is why legal codification only concerns itself with coffee as a commodity, and law does not seem to grasp the further aspects of coffee aside from trade, environment and social issues. But, as we saw with the discussion above, and particularly how UNESCO dealt with the Viennese Coffee House Culture, it is possible to link coffee to intangible heritage while at the same time acknowledging the space in which coffee is enjoyed and experienced, and then link them both to law via a legal document that is the Convention on Intangible Heritage.

Habermas had a rather narrow view of the public space and associated the coffee house to the emersion of the physical public sphere. UNESCO makes the same narrow connection between coffee culture and the Viennese coffee houses. However, if the sensational experiences of coffee, such as its *taste*, is added on, may we then challenge the notion of only seeing the

⁵¹ In the digital information society this also involves celebrities being photographed by paparazzis when carrying branded cups of coffee, and these images are then wired out across the world.

⁵² Markman Ellis, *The Coffee House, A Cultural History*, Orion Publishing, (2004).

⁵³ The associative space that was the coffee house, unlike the art salon, often excluded women. On the role of the coffee-house vis-à-vis the emancipation of women, and the phallo-centric nature of science, see e.g. E. J. Clery, *Women, publicity and the coffee-house myth* in *Women: A Cultural Review*, 2:2, 168-177, (1991), Mary Maynes *Women in Salons* in *Culture and Society*, vol:15 iss:2 p:80, (1978), eds. Elizabeth Eger, Charlotte Grant, Cliona O'Gallchoir and Penny Warburton, *Women, Writing and the Public Sphere, 1700-1830*, Cambridge University Press, (2001).

⁵⁴ Ellis, *The Coffee House, A Cultural History*, p. 245.

public sphere as a physical space and move further still, into an intangible experience of *being-in-a-coffee-house*? Could the whole multi-sensational experience of coffee, including taste, connect coffee to heritage that in turn connects it to (trans-generational) communication?

Habermas' focus on the physical public sphere, the anaesthetised, *numb* gathering spots, where rational communication occurs, overlooks the sensational aspects of coffee and their link to the communication that is connected to intangible and non-physical realms. We argue that it is not just about having a space to gather such as a coffee house, the sensual experience of the coffee and even the *taste* itself must also be examined as to how it participates in the production of communication. For instance, it was because of the nightly discussions of the oriental *samar* tradition, of being awake throughout the night and talking, *Thousand and One Nights* was transmitted orally and remembered. Coffee kept the participants awake and alert. But this is of course only one of as it were thousands of examples that connect the drinking of coffee, its invigorating character and its addictive taste to writing, literature and communication. It has for instance been recorded in several biographies that it was the addiction and love of coffee that enabled Marcel Proust to write *In Search of Lost Times*.⁵⁵ The writer Doron Rabinovici declared that without coffee and the places in which it was enjoyed, literature would have no shelter.⁵⁶ Baudelaire wrote that the experience in the coffee house was unique, it was a mixture of being outside and being at home, being able to see people, feeling like being in the centre of the world while at the same time remaining hidden from it.⁵⁷ These meetings and encounters enabled him and other people to develop their own thoughts, inspired them to write their works, communicate with others, participate in the production of knowledge.

In a rather comical comment on coffee, production of literature and their connection, Micheal Coh writes about an incident when he was discussing authors who are addicted to drinking coffee with an energy drinks spokesperson, to which the latter supposedly quipped:

"You have to understand that this is an epidemic, [...] Coffee is extremely hazardous to your health. Don't you know how Shakespeare died? From drinking coffee. The French Revolution? Coffee. The fall of the Han Dynasty? Coffee. Do you know how people can tolerate Dane Cook?"

⁵⁵ "Hot coffee helped him breathe more easily and he was inclined to drink a great deal of it." (*Marcel Proust: A Biography* by Richard H. Barker)

"...he had to prepare himself by drinking coffee-- seventeen cups of it, he said..." (*Marcel Proust: A Biography* by Richard H. Barker)

"Previously he'd dosed himself with caffeine only in preparation for an outing, but now he started using it when he wanted to write..." (*Proust: A Biography* by Ronald Hayman)

"Why had coffee survived as his only food? I never asked him. I didn't like to ask questions." (*Monsieur Proust: A Memoir* by Celeste Albaret). All quotes taken from <http://zacker.info/pst/coffee.html>. Last accessed 2 April 2013.

⁵⁶ "Doron Rabinovici déclare que 'sans les [...] la littérature serait sans abri". Quote taken from Béatrice Gonzales-Vangell, *Le Kaffeehaus, lieu de modernité* in *Germanica* 43 (2008), p. 2.

⁵⁷ Charles Baudelaire: "on est hors de chez soi et pourtant on se sent chez soi, on voit le monde, on est au centre du monde et on reste caché au monde". Quote taken from Gonzales-Vangell, *Le Kaffeehaus, lieu de modernité*, p.2

Coffee. I can go on! Coffee makes people unnecessarily giddy. It's a menace. There's no other explanation."⁵⁸

True or exaggerated for emphasis, this entire discussion connects coffee to action, the production of the public space and the lexis that takes place there. Thus, far from only being a commodity tout suite, it is also an addictive substance, a *drug*.⁵⁹ The energy drink spokesperson was right in claiming that it makes people giddy. Quite what it is a menace to is unclear, but it is doubtlessly powerful. In sum, what makes coffee powerful in relation to the public sphere largely seems to be its stimulating⁶⁰ and addictive effects, that make people want to return to a place where they can interact and communicate. Further, whether a cup of coffee merely would pass as drinkable, however much invigorating it might have been (as may have been the case in the early coffee houses compared to today's standards), or exquisite in presentation and in taste (a culinary art form which it is today), it can make people addicted to its intoxicating sensation, even its taste,⁶¹ leaving them energetic, ready to write, talk, dance and communicate.

However, all this seems to have fallen within law's blind spot. Law does not seem to be able to see all these dimensions of coffee. But, is an absence of law always a good thing? If law is absent, or blind to these occurrences, it means that it will not be able to participate in the production of the constantly emerging discussions that take place in new public spheres, whether they are physical, virtual or abstract. Further, law will not be present in the production of knowledge that happens there, which is connected to coffee, its ritual, its taste, and where the entire coffee experience taken together makes up a post modern type of global, iterant, intangible cultural heritage.

III – THE TASTE OF SCIENCE / THE SCIENCE OF TASTE

Addressing a legal blind spot means revealing additional links that can be made between law and coffee, about making certain things, *visible*. Traditionally and dogmatically, blind spots have been described as that which is deemed to fall *outside*, as opposed to *inside*, of the law and the legal sphere. However, all these connections that we explore in this article could very well be made visible to jurisprudence. So far we have attempted to make visual the sensation of the taste of coffee as an intangible cultural heritage.

⁵⁸ Michael Coh, *Coffee: The Writer's Addiction* in *Thought Catalogue*. <http://thoughtcatalog.com/2012/coffee-the-writers-addiction/>. Last accessed 2 April 2013.

⁵⁹ On drugs and coffee shops and law see e.g. Peter Cluskey, *New Cannabis Law Hits Dutch 'Coffee Shops'*, *The Irish Times* 10 Oct (2011). That coffee is both a drug that enables creativity as well as an addictive substance is an interesting point to be made here. Coffee could be read as a *pharmakon* in the Platonian sense, see e.g. Michael A. Rinella, *Pharmakon: Plato, Drug Culture, and Identity in Ancient Athens*, Lexington Books, (2011).

⁶⁰ The stimulating effects of coffee may be traced as far back as to the mythical narrative of how coffee was 'discovered', when the Ethiopian goatherd Kaldi found his goats 'dancing' after having munched on the coffee beans in the field, see e.g. Bennett Alan Weinberg and Bonnie K. Bealer, *The World of Caffeine – The Science and Culture of the World's Most Popular Drug*, Routledge, (2002), pp. 3-4.

⁶¹ Here we think especially about coffee *aficionados*, although probably lesser in number, who not only look for an energetic kick from coffee, but who are also equally willing to return to a special place (where they potentially communicate), just for the unique *taste* of a coffee.

We have argued, that just as with the artefacts of tangible heritage, and how they can constitute identities, the same type of argumentation may be conducted when discussing the intangible heritage of coffee and perhaps even ultimately its taste. On the one hand coffee is part of the cultural heritage of a community, but with its historical global appeal and character it has always been shared and exported. Places that initially did not have a strong coffee culture imported it and with time it became *their own*. Thus, the coffee and indirectly its taste has always been mobile, iterant, and even nomadic, it travels and escapes its places of origin. This very movement is what Deleuze and Guattari refer to as *detrterritorialisation*.⁶² We have argued that coffee and perhaps even its taste could fall within the definition of deterritorialised intangible cultural heritage and as such it participates in the national as well as international production of identities, lifestyles, and ultimately in the production of the global public sphere. However, this article does not end here.

In the course of export and import of intangible heritage, we have also shown how it is simultaneously becoming commodified on the international global market, how it constantly becomes subject to the rules of capital. The capitalist machine understands the deterritorialising movements and does not only decode them (transforming the deterritorialised coffee into a commodity, *first wave*) but then it reterritorialises the movement (transforms it into large scale exploitation by global coffee companies as Starbucks, *second wave*). Starbucks coffee then becomes over-exposed on the market, prompting the rise of smaller, niched, local, 'authentic' alternatives that deterritorialise the Starbucks paradigm (*third wave*). And then the smaller, more authentic alternatives, including coffee with very specific tastes, that sprung up as a reaction to Starbucks become deterritorialised in their turn, as some become more trendy than others (potential *fourth wave?*), and so on. This is the neo-capitalist perspective that Žižek rises. This means that in the evolving public sphere, coffee and even the taste of coffee constantly participates in producing new waves of how coffee is and can be enjoyed, but that the waves are also constantly being 'chased' by privatisation, which is in turn constantly challenged by ever-emerging coffee cultures and the lifestyles connected to them.

"The basic principle [...] is that society is always *en fuite*, always leaking and fleeing, and may be understood in terms of the manner in which it deals with its *lignes de fuite*, or lines of flight"⁶³ [original emphasis].

Law has, much more so than capitalism, struggled to understand this societal leakage, these lines of flight. Law becomes a patchwork that has to somehow be sown together (trade, environment, social issues) so as to keep up with the rapid lines of flight generated both within the capitalist sphere

⁶² See generally Gilles Deleuze and Félix Guattari, *A thousand plateaus: capitalism and schizophrenia*; translation and foreword by Brian Massumi, London: Athlone, (1988) and Gilles Deleuze and Félix Guattari, *Anti-Oedipus: capitalism and schizophrenia*, translation and Robert Hurley, Mark Seem, and Helen R. Lane, foreword by Michel Foucault, Continuum (2004) (originally published in 1972), see also Philip Goodchild, *Deleuze and Guattari: An Introduction to the Politics of Desire*, Sage Publications, (1996).

⁶³ Frédéric Vandenberghe, *Deleuzian capitalism* in *Philosophy Social Criticism* 2008 34: 877, p. 878

and in society in general. Capitalism has proven that it is quite able to cope and adapt more easily to such changes, to catch the lines of flight that deterritorialise given structures, while law always treats lines of flight that occur in a society *en fuite* as unimagined encounters. This means that “[t]here is always something that flees and escapes the system, something that is not controllable, or at least not yet controlled”.⁶⁴

The science of it all – The taste of coffee and the production of knowledge

Already in the introduction of this article it was stated that coffee production, consumption and the knowledge around it increasingly has become anchored in various scientific endeavours. According to Joseph Rivera, who is arguably one of the world’s leading coffee scientists, one reason for the augmenting need of scientific approaches to coffee started with the issues related to quality in coffee trade. Fraudulently labelled coffee that had caused a scandal in the United States in 1998 needed to be analysed with reliable scientific methods.⁶⁵ This rise in the need for coffee science seems to date even further back than this particular occurrence from 1998. Another example where scientific approaches to coffee were called for was the 1979 introduction of the “Swiss Water Process”, a method used in order to decaffeinate coffee.⁶⁶ The need for the Swiss Water Process had been triggered by the rising anxiety concerning the implications on health that could be connected to drinking coffee and the intake of caffeine, an unease that reined in the United States as well as in many other countries.⁶⁷

Today, a quick glance at some contemporary specialist coffee sites gives an idea about just how far the scientific analysis of coffee has now come. For instance, under the heading of “lab equipment” one site among other things offers the “JAVALYTICS - Roast Color Analyzer” for infrared analysis of the degree of roast in ground and whole bean coffee. The site also offers “technical kits” and “accessories” like a “Coffee Acidity Taste Kit” and “Caffeine Test Strips”.⁶⁸ Furthermore, DNA and isotope ratio analysis of coffee are also present in the science of coffee.⁶⁹ Some scientists have even ventured down the path of finding out whether the molecular constituents of the notorious *Kopi Luwak* really are special and affect the flavour.⁷⁰ The scientific approaches to coffee have thus gone molecular.

⁶⁴ Vandenberghe, *Deleuzian capitalism* in *Philosophy Social Criticism* 2008 34: 877, p. 878

⁶⁵ See *BeanScene Magazine*, *Joseph Rivera The Coffee Scientist*.

⁶⁶ The Swiss Water Process was however not the first commercially available decaffeination method. Already in 1908, German scientists, among them Ludwig Roselius, were granted a patent for a process to decaffeinate coffee building on chemical extraction of caffeine from coffee beans, see http://worldwide.espacenet.com/publicationDetails/biblio?CC=US&NR=897840&KC=&FT=E&locale=en_EP. Last accessed 28 January 2013.

⁶⁷ See Mark Pendergrast, *Uncommon Grounds – The History Of Coffee And How It Transformed Our World*, London: Texere, (2001), p. 278.

⁶⁸ See the online shop available via <http://coffeechemistry.com/>. Last accessed 26 January 2013.

⁶⁹ See *BeanScene Magazine*, *Joseph Rivera The Coffee Scientist*.

⁷⁰ See Massimo F. Marccone, ‘Composition and properties of Indonesian palm civet coffee (Kopi Luwak) and Ethiopian civet coffee’, in *Food Research International*, vol. 37, no. 9, (2004).

If we can accept that human senses as we know them are to some extent mouldable and can be affected by sociocultural and technological changes, a relevant question here is: can our subjective perception of taste be normatively influenced by delving into more scientific detail?

We do not have a definite answer to this question, but we would at least like to maintain that the production of scientific knowledge in the area of coffee has influenced both the quality of coffee, the art, craft and ritual of making and enjoying it, as well as the associative space where coffee is consumed.⁷¹

As natural sciences have successfully been making all these multitude of connections between coffee and the production of new scientific knowledge, our attempt here has been to show that law as a social science, certainly could be able to do the same. The scientific projects that involve coffee seem to be exploding with potential. This means that we need to broaden our horizons in terms of what we “see” and what we manage to incorporate into our respective fields of research as knowledge. In order to do that we have attempted to open up new dimensions – new dimensions of taste that also involve the wider concept of *flavour*, in which *aroma* and *taste* intertwine, new dimensions of law that also involve associative spaces and public discourse, new dimensions of coffee that not only involve the taste and ritual of drinking it, but also the science of it all, which incorporates production of new knowledge.

Waking up in the cup - The price of it all

Waking up in the cup alludes to waking up by drinking coffee. By “entering” the coffee cup through drinking it, we find a state of awakening at the bottom of the cup.⁷² A journey has been taken, on a quest for knowledge that began in the Omniverse, took a detour in foreign lands, history, and mythology and finally arrived in the cup of coffee. All this in order to locate the ramifications of the concept of taste as a legal phenomenon. All presented levels and dimensions that are addressed here affect the issues of science,

⁷¹ I.e. the quality of coffee has for instance changed in the sense that scientific methods have developed to detect ‘fakes’ and frauds. The art, craft and ritual of making and enjoying coffee has arguably changed, notably with the ‘third wavers’ using inspiration from wine artisans and then re-evaluating how coffee should be prepared, how it should be evaluated, how it should optimally be served etc. The associative space where coffee is consumed has also been reshaped. Coffee is made by other means today than before. For example, the switch from a simple brewing device to an expensive centrepiece of a big espresso machine that can almost be seen as a grand (coffee making) piano in a café. Further, the exclusivity and the artisanal attitude towards coffee in the third wave have also created other original and small spaces that can be regarded as *exclusive connoisseur’s havens* when compared to the commodified spaces that are typical for bigger café chains.

⁷² As is stated in some philosophical and Buddhism-inspired reflections on waking up/ being reborn by drinking coffee, “Reflecting on this transition into caffeine-conditioned wakefulness that occurs every morning, it’s easy to think of the pre-coffee self as being at best an impoverished version of the post-coffee self, or even as being a rudimentary proto-self that manages (with the help of coffee) to spawn the more wide-awake self that goes about the rest of my day. The more fully functioning, post-coffee me isn’t there at the start of the day; he’s only on the clock after coffee kicks in.”, see Steven Geisz, *Samsāra in a Coffee Cup – Self, Suffering, and the Karma of Waking Up in Coffee Philosophy for Everyone: Grounds for Debate*, Edited by Scott F. Parker and Michael W. Austin, John Wiley & Sons Ltd (2011).

law and coffee. But in the process new knowledge is constantly being produced, as well as it flees and challenges that which we already know.

So can law understand the sense of taste? Can jurisprudence, as we know it, have a taste?

This article has attempted to awaken law to coffee and its taste, to show that it is possible for law to understand coffee not just merely as a packaged, commercial, private, experience, a commodity, but that it is also possible to open up law to other aspects of it as well, to see the experience of coffee and its taste and be able to incorporate it within its own sphere. We addressed something that appeared as a legal blind spot and demonstrated how law tends to lose sight of valuable knowledge when certain things are being confined outside or to the outskirts of law.

Coffee has evolved from having been an ingredient in the public debate to a commodity, from a public activity to a private enjoyment, from experience to consumerism, from a ritual of sorts to a multitude of global lifestyles. Thus, we arrive at the response to the question what it is to law if coffee is more than just trade. The notion of what coffee is, is being reproduced within the legal sphere. By challenging law to see further than the commodified notion of coffee, by for instance linking it to cultural heritage and the public spaces, new discussions can be initiated and further dimensions that law could latch on to could be introduced.

What remains to be addressed in this article, is the menacing cloud that looms over this discussion namely what is the price of that which we are proposing here? What does it mean if we impose a (normative) legal framework and even grant the taste of coffee legal promotion and protection, as for instance intangible cultural heritage? Will that be a new line of flight that will eventually be reterritorialised and then the taste of coffee will then become (re)commodified? If law was to become present, seeing, *omniscient*, and if the taste of coffee became visible as intangible cultural heritage, would that also mean a form of territorialisation in its own right, or just yet another type of disciplining of space and knowledge in a Foucauldian sense? The answer to that question is, once again, that *we do not know*. But we think that we ought to continue this discussion, each one of us making our own connections and linkages between coffee, its taste and law.

We began this article by following Ziltoid the Omniscient's rather Sisyphian quest for the perfect cup of coffee, but in the end we arrived at a question we do not know the answer to, and what we seem to be left with appears to be a similar (bitter?) aftertaste, a realisation that humans after all, may never be able to *deliver the ultimate cup of law*.

EPILOGUE

"[Man:] - ...And the greys float our memories, in the long haul...

[Boss:] - Hey Slacker! Wake up! We got people standing here in line; you're sitting there daydreaming. C'mon we got two veggie white chocolate moccha's, a tall Americano and a Grande cappuccino! Get your butt in gear! C'mon!

[Man:] oh...sorry...sorry...sorry. OK, two um...

[Customer:] Excuse me.

[Man:] Grande...frappe...shit...

[Customer:] Excuse me.

[Man:] Yeah, yeah.

[Customer:] Excuse me sir, I believe I ordered a decaf, non fat, no whip, sugar free, vanilla flavoured latte...

*[Boss:] Hey slacker! C'mon, get to work! We got people lined up out the door over here, C'mon; we got two veggie white moccha's, a Grande cappuccino and a tall latte! Let's go! Move it!*⁷³

⁷³ Devin Townsend, *Tall Latte*, *Devin Townsend Presents: Ziltoid the Omniscient*, HevyDevy Records, (2007).