

The Westminster Law &  
Theory Lab

Non Liqueur  
[The Westminster Online Working Papers]

Law and the Senses  
Series

TASTE

May, 2013

*Non Liquet* [The Westminster Online Working Papers] 'Law and the Senses Series' is an online publication of the new series of papers critically reflecting on law and the senses. The series encompasses five issues dedicated to each sense: taste, smell, hearing, touch and vision.

Citations:

The Editors, 'Introduction: Law and Taste', *Non Liquet: The Westminster Online Working Papers Series, Law and the Senses Series: The Taste Issue*, 2013, 3-10.

Bruncevic, Merima & Linné, Philip, 'A Taste of Law and Coffee – From Macrocosm to Microcosm', *Non Liquet: The Westminster Online Working Papers Series, Law and the Senses Series: The Taste Issue*, 2013, 11-30.

Brigenti, Andrea Mubi 'Remarks for a Territoriology of Wine Tasting', *Non Liquet: The Westminster Online Working Papers Series, Law and the Senses Series: The Taste Issue*, 2013, 31-39.

Masciandaro, Nicola, 'The Sweetness (of the Law)', *Non Liquet: The Westminster Online Working Papers Series, Law and the Senses Series: The Taste Issue*, 2013, 40-60.

### **The Westminster Law & Theory Lab**

University of Westminster  
School of Law  
4-12 Little Titchfield Street  
London  
W1W 7UW

### **The Editors**

Danilo Mandic  
Caterina Nirta  
Andrea Pavoni  
with Andreas Philippopoulos-Mihalopoulos

### **Assistant Editors**

Victoria Brooks

## Table of contents

Introduction: Law and Taste <i>The Editors</i>	3
A Taste of Law and Coffee – From Macrocosm to Microcosm <i>Merima Bruncevic &amp; Philip Linné</i>	11
Remarks for a Territoriology of Wine Tasting <i>Andrea Mubi Brighenti</i>	31
The Sweetness (of the Law) <i>Nicola Masciandaro</i>	40

# Introduction: Law and Taste

The Editors

## 1.

What is Law's relationship to senses?<sup>1</sup> In a sense, law is constantly engaged in numbing the senses into commonsense by manipulating, channelling and controlling the sensible; inserting properties and forbidding contacts; dissimulating violence, regulating sounds, defining taste. Law constructs its meaning (its sense, its direction) by orchestrating the senses in three ways: by categorising them; by controlling when they should be kept apart and when blended; and by inverting their 'sense', their direction, thereby constructing the sociocultural parameters of 'good taste', commonsense and sensibility from which law's dealing with senses supposedly emerges. This three-way sensorial orchestration means that the law operates, at least in part, as an anaesthetic: first, the law 'names' the senses, puts them into categories, thereby adding to their moral weight of the sensorial judgement; second, the law encourages synaesthesia (namely coalesced sensorial modalities that encourage the attribution of one sensorial stimulation to another sense), or anaesthesia, depending on the way the law adjusts its universal teleology to the particularity of the situation. In so doing, the law dissimulates the fact that these senses are blended or anaesthetised by something other than the individual herself. In other words, the law maintains an illusion of phenomenological perception and evaluation of senses, while on another level the law works hard to build socio-political and cultural receptacles of sensorial taste construction that dissimulate the fact that the law is behind all this, deftly orchestrating both senses and its very own apparent absence of involvement. Finally, third, the law elevates the phenomenology of senses to the corollary of the liberal individual's sense of personal freedom: what best exemplifies freedom than sensorial taste of food, colouring, odours, materials? The law manages to fool us by allowing us to think that we own our senses in full phenomenological immersion. While, all along, the law inverts the direction of senses by constructing their origin and facilitating a fake causality from senses to atmosphere, rather than from the legally constructed, preconscious atmosphere *in which* senses come to be perceived as individually owned.

This is occasionally complicated by the fact that senses are not static. Rather, they are shifting and elusive qualities, constantly reshuffled by socio-cultural and technological changes, always dislocating law's normativity towards new potentialities. In this other sense, law emerges from the senses, and whereas senses are a constant arena of legal machinations, they are also law's constant blind spot

<sup>1</sup> We are not the first to deal with this. See Lionel Bently and Leo Flynn (eds), *Law and the Senses: Sensational Jurisprudence*, London: Pluto Press, 1996; Bernard J. Hibbitts, 'Coming To Our Senses': Communication And Legal Expression In Performance Cultures', 41 *Emory Law Journal* 41 (4), 873-955, 1992; Emily Grabham, 'Shaking Mr Jones: Law and Touch', *International Journal of Law in Context*, 5 (4), 343-353, 2009; Davina Cooper, 'Reading the State as a Multi-Identity Formation: The Touch and Feel of Equality Governance', *Feminist Legal Studies*, 19 (1), 3-25, 2011.

and inescapable excess. In this capacity, the law allows the proliferation of the sensorial, encourages playfulness and creativity and protects sensorial intangibility from becoming unattached from its original creative source. The law also exhibits a sensorial flexibility, especially when erecting legally constructed boundaries to the affective transmission of senses, especially at times and places when one wants to be protected from it. Intellectual property law provides plenty of examples for the former, whereas planning and property law for the latter. This means that the connection between law and the senses is not one of straight-forward oppression or control of the latter by the former. Rather, the connection ought to be conceptualised as a surface on which sensorial law (law folding into senses) and legal senses (senses folding into law) are reciprocally affected, and on which surface each fold pursues its own mythology of origin, meaning, direction, teleology. This is what we are trying to do with the Law and the Senses issues of online papers.

## 2.

This first issue of the Law and the Senses series deals with the relation between law and perhaps one of its least obvious companions: taste. Indeed, their affinity is evident: law and taste primarily share the same core mechanism: judgement. Perhaps differently from other senses, taste is *always* an act of judgement. Those who have a 'good taste', they say, are those able to discern and appreciate the good and the beautiful in a painting, a city, a *bourguignon*. To taste is always to embark into a discrimination over what is good and what is not. As a consequence – again, betraying its affinity with law – the act of tasting always carries a 'moral aftertaste'.<sup>2</sup>

Law's relentless juridification of the world, i.e. the reduction of the world into legal categories, could indeed be understood as a digestive process according to which law ingests its 'outside' (that is, what law *presupposes* as its outside) by *tasting* it, and emitting moral judgements accordingly. The 'aftertaste' can only be savoured in particular conditions, when the hyperaesthetic attack of the nouvelle cuisine has passed, and one is left with one's own judgement. Awareness of aftertaste is rare and quickly dismissed. This is law's dissimulation at work: once the sensorial is put into categories and its sense directed, the law only needs to deal with the after-effects which often appear as light post-moral sedimentation. The fact that law *appropriates* the world through senses is at the same time necessary and absolutely problematic for the law itself. If law, as argued above, emerges from the materiality of senses, at the same time law constantly seeks to immunise itself from the elemental, affective and unhuman materiality to which the sensorial exposes it.<sup>3</sup> Law's ingestion of the world must not betray any pleasure, compromise or indulgence. Distance, immunity, sterility: law's experience of taste must be anaesthetised and abstracted from its materiality. This is how law deals with the world: it *includes* it *de jure* as re-presentation, by *excluding* it *de facto*, as sensorial materiality. It is by reducing the world to speech, text and language that law

---

<sup>2</sup>Gilles Deleuze, *Spinoza: Practical Philosophy*, City Lights Publishers, 2001; p. 24: "one must be wary of the word law, which has a moral aftertaste".

<sup>3</sup>The violation of one of the intimate corporeal cavities, the mouth, points to an undesired reduction of distance between the body and the world" Andreas Philippopoulos-Mihalopoulos, "Atmospheres of Law: Senses, Affects, Lawscapes", *Emotion, Space and Society*, 2/6, 2013

manages to ingest the world whilst 'anaesthetising its mouth'.<sup>4</sup> Law's jurisprudential dissimulation includes defecation: in the positivist law tradition, morality remains outside the judgement; in natural law, morality is at its core. In both cases, morality dissimulates the sensorial, just as the sensorial dissimulates law's not-always-tasteful moral underpinnings.

In the history of philosophy, taste has always been posited as inferior with respect to the aural and the visual – i.e. the senses of intellect and reason –, since deemed much too close to the animal, the elemental, the corporeal. For this reason, taste has to be controlled, disciplined and moderated, to avoid it turning into a capital vice (gluttony). Most desirable is then the reduction of taste to an intellectual, i.e. abstract representation, an "aesthetic taste [which] transcends the sensory pleasures of eating and is communicated in language",<sup>5</sup> 'detached from any material urgency and corporal need'.<sup>6</sup> Yet taste stubbornly refuses to be abstracted, numbed and disciplined. Taste is *testing*: i.e. tentative and tactile exploration.<sup>7</sup> Taste is *temptāre*, i.e. trying, guessing, but also tempting and being tempted, corrupting and being corrupted. Taste has to do with the blurring of distinction, the crumbling of certainly, the collapse of distance, the erosion of immunity. It signals the entering into an uncertain zone of synaesthetic immersion where the boundary-making machine begins to tilt.

It is no surprise then that the only law which weighted over Adam and Eve in the Garden of Eden was the one concerning the prohibition to eat the forbidden fruit. Again, taste was apparently concealed from the equation: the prohibition concerned the 'truth' which eating the fruits of the 'tree of knowledge' would have disclosed.<sup>8</sup> In other words, the sensory experience of taste was transcended and anesthetised into a metaphor of intellectual hubris. Yet, could not we argue that what was at stake was indeed a prohibition of tasting *as such*? If this is the case, beneath its representational reduction into a mere *means* towards a higher, transcendent truth, would lie concealed the fact that taste itself *is* the material 'truth' from which Adam and Eve were sought to be kept away. Taste, i.e. *sapor*, is itself knowledge, *sapere*, and thus wisdom, *sapientia*. By eating the fruit Eve and then Adam were to know/taste the immanent truth of their own materiality. For this reason, this was the one and absolute prohibition, as well as inescapable source of temptation: *not to taste was their test*. Through taste we experience ourselves as matter, bodies among other bodies, unavoidably 'complicit with anonymous materials' in a 'continuity of material transformations of decomposition and regeneration' whose immanence radically denies any transcendent God or Law.<sup>9</sup> The

---

<sup>4</sup> Michel Serres: *The Five Senses: A Philosophy of Mingled Bodies*, Bloomsbury Academic, 2009: p. 153

<sup>5</sup> Christopher Turner, "Leftovers / Dinner with Kant. The taste of disgust" *Cabinet Magazine*, Issue 33 Deception, 2009, available at <http://cabinetmagazine.org/issues/33/turner.php>

<sup>6</sup> Nicola Perullo, *Il Gusto come Esperienza*, Slow Food Editore, 2012: p. 31 (my translation)

<sup>7</sup> The etymological kinship with the term coming from the Latin *tastāre* or *taxitāre* – i.e. touching tentatively something to guess its shape, as when blindfolded – testifies for the close relation between taste and touch, evident in the fact that in order to taste something, a contact must unavoidably occur.

<sup>8</sup> The Genesis does not mention what kind of fruit was the forbidden one. Successive iconography, probably influenced by other mythological sources (e.g. the Garden of the Hesperides), popularised it as an apple.

<sup>9</sup> See Reza Negarestani, *Cyclophopedia, Complicity with Anonymous Materials*, re.press, 2008. Eating, like dying, means to enter a continuum where there is no place for a transcendent God (see Eugene Thacker, "Spiritual Meat: Resurrection and Religious Horror in Bataille", in *COLLAPSE VOL. VII: CULINARY MATERIALISM*, ed. Reza Negarestani and Robin Mackay, Urbanomic,

first bite established the “materiality continuum”<sup>10</sup> between the non-human and the human, and allowed the collapse of the boundary between the unmirrored inside and the unexplorable outside, facilitating the move from an Edenic humanism to an earthly posthumanism. This is the paradoxicality of the senses: that, although steeped in humanism, they move us away from the empty effigies of humanism and closer to the continuous surface of a vibrant posthumanism, by allowing the former to ally with an apple-zealous divinity, while liberating from the latter to start sensing its own geology.

Guha and Thacker suggest that our relation to food is a threat to ‘somatic integrity’, insofar as it challenges and indeed dismantles the integrity of the subject of law, by dissolving once and for all the legal illusions on which it rests: distance and immunity.<sup>11</sup> Therefore, rather than God banishing the Human from the Garden of Eden, it was the very act of tasting the fruit that immediately engendered the collapse of the Garden itself, projecting humankind into the materiality of a world devoid of the hopes and fears of a transcendent beyond. This is our sapid knowledge:

We were too quick to forget that homo sapiens refers to those who react to sapidity, appreciate it and seek it out, those for whom the sense of taste matters – savouring animals - before referring to judgement, intelligence or wisdom, before referring to talking man ... Sensation, it used to be said, inaugurates intelligence. Here, more locally, taste institutes sapience.<sup>12</sup>

The significance of this point cannot be overestimated, since it radically problematises the image of the world disseminated by ‘digestive philosophies’ resting on the ruminations of the cogito, the subsumption of judgement, the assimilation of dialectics and other mechanisms of consumption.<sup>13</sup> By tasting we enter a world of other objects which can never be fully assimilated, subsumed, digested. The awareness of this question is already present in Kant’s reflections on disgust and the power of the ‘disgusting object’ in annihilating “the distancing power of representation ... [insisting] on being enjoyed in its crude materiality”.<sup>14</sup> Something is never fully assimilated. Something is never fully digested. This is something to which its ‘all-ingesting’ hubris always exposes law: the fact that each ingestion carries an irreducible remainder, that is, that each ingestion *is* indigestion. Yet it is not only through the traumatic experience of disgust or distaste, but also through the potential pleasure of taste that, by penetrating and being penetrated by other

---

2011). This is perhaps the reason of the forbiddance: tasting the fruit was to taste the absence of God, through the tasted evidence of an immanent material continuum. Is not the holy communion seeking to reassert a transcendence within this continuum, to make clear that the only and holy unity is that between human and god, sanctioned by the holy theophagy?

<sup>10</sup> “...the establishment and maintenance of system boundaries – including those of living beings- presuppose a continuum of materiality that neither knows nor respects those boundaries” Niklas Luhmann, *Theory of Society, Vol 1*, Stanford, California: Stanford University Press, 2012 p. 54

<sup>11</sup> See Eugene Thacker, *op. cit.* and Manabrata Guha, “Vague Weaponizations, or The Chemistry of Para-Tactical Engagements”, in *COLLAPSE VOL. VII: CULINARY MATERIALISM*, ed. Reza Negarestani and Robin Mackay, Urbanomic, 2011

<sup>12</sup> Michel Serres, *op. cit.*, p. 154

<sup>13</sup> Jean Paul Sartre defined that of Descartes a ‘digestive philosophy’, according to which “Spidery Mind trapped things in its web, covered them with a white spit, and slowly swallowed them, reducing them to its own substance”, J.P. Sartre, “Intentionality: A Fundamental Idea of Husserl’s Phenomenology”, trans. Joseph P. Fell, *Journal of the British Society for Phenomenology*, 1970, Vol 1, no. 2, pp. 4-5

<sup>14</sup> “the disgusting object annihilates the distancing power of representation and, in Kant’s words, “insists on being enjoyed” in its crude materiality”, Christopher Turner, *op. cit.*

bodies, the immunitary illusions of separation, isolation and abstraction are dismantled.

Today, taste is reduced to a merely personal and subjective matter, “nothing more than sensations, without considering social material consequences”,<sup>15</sup> a bourgeois vice which is not worth elaborating too much. Yet, understanding taste beyond these reductionisms – i.e. disengaging taste from its direct phenomenological relevance and enabling it to appear as a gateway to an immanent, ecological understanding of the world in which we are – opens up to its *use* as a promising tool to investigate the materiality of law’s relation to the world, as well as to force law into a different mode of dealing with the world: one which is tentative, tempting, reflexive and uncertain, a mode of *tasting*, that is, which sanctions the impossibility for law to avoid the inescapable fact of its own materiality.

The three essays which constitute this contribution are as much attempts to *taste* law<sup>16</sup> as well as to force law into *tasting*, opening up its sensorial materiality through sociological, geographical and philosophical means. In their extremely different forms, styles and approaches, the three essays converge in a common attempt to deal with taste beyond its reduction onto a merely personal and individual matter, rather approaching it as what connects us to a material continuum of spaces, ideas, objects and practices. Taste thus appears as a tool whereby pushing law beyond the narrow confines into which it perceives itself; to rethink the fundamental question of our relation to objects and space; to reformulate the question of judgement as tentative, processual and contextual tasting; to open up law from inside, disclosing the geo-philosophical fact of its openness to justice in the here and now.

### 3.

In their contribution, Merima Bruncevic and Philip Linné seek ‘to awaken law to coffee and its taste’ with an insightful exploration of cultural, geographical, commercial and legal aspects of one of the most widely drunk liquid in the world. To do so, they investigate norms, trends and rituals of its making and consumption, mapping the multiple relations, spaces and tastes which coffee can disclose to legal thought, beyond the reductive compartments into which ‘legal studies’ have usually dealt with the issue: i.e. trade regulations. Coffee, they argue, is not to be seen ‘just merely as a packaged, commercial, private, experience, a commodity ... 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.’ Elaborating on the notion of ‘intangible cultural heritage’, the authors argue for an understanding of coffee (as a set of practices, knowledge, rituals, places) as taking place within, and

---

<sup>15</sup> John Cochran, “Object-Oriented Cookery”, in *COLLAPSE VOL. VII: CULINARY MATERIALISM*, ed. Reza Negarestani and Robin Mackay, Urbanomic, 2011

<sup>16</sup> Incidentally, Perullo notes how in Italian the word *saggio* (i.e. *essay*) is directly linked to *assaggio* (the noun *tasting*) and thus *assaggiare* (the verb *to taste*), *op. cit.*



co-constituting, different cultural milieus, geographical locations and social atmospheres. The taste of coffee itself could be understood in this sense, beyond its mere reduction to a subjective experience, and rather in its immanent relations with traditional practices, legal protections, climate change issues, associative spaces and so on. Coffee is thus explored in its 'material' potentialities, as a fuel propelling thousand and one discussions, as a stigmatised and widely (ab)used drug, a drink inseparable from its spatiality – the multisensorial, 'intangible experience of *being-in-a-coffee-house*' – which played enormous significance through history in providing both shelter and 'brewing ground' for political and artistic development. The evolution of coffee-houses, on the one hand into the hyper-commodified deterritorialisation of 'Starbuck' and on the other into the reterritorialisation into 'smaller, niched, local, 'authentic' alternatives', exemplified by the ever-growing phenomenon of independent cafés, is the way through which the authors set up to explore the current wave of coffee-consciousness. For instance, by observing the ever-growing normativity which this entails in terms of the precise rules and savoirs which discipline the way in which coffee is to be prepared and tasted, or the geographical awareness of the places in which coffee is produced, both fostering interest into various and remote coffee varieties, as well as a form of 'coffee ethics' in which questions of fair trade, environment and social responsibility begin to emerge. Is this phenomenon to be hailed as a positive insertion of ethical concern within a commodified system or, as Žizek seems to contend, is secretly complicit with the "new spirit of capitalism" and its systematic incorporation and thus neutralisation of 'radical' tendencies into its smooth logic?<sup>17</sup> The paper does not pretend to give definite answers to these multiple questions, and also aware that any attempt to 'awaken law' runs the risk to aliment the ever-lasting myth of an 'omniscient' law, widening its scope and thus suffocating other potentialities, it rather seeks to unfold lines of flight through which coffee and taste could open up 'further dimensions' of legal sensibility.

In his contribution, Andrea Brighenti deals with another drink which shares with coffee the characteristics of being globally consumed, having a relevant socio-cultural and geographical value, and being a 'drug': wine. His exploration moves from the highly normative role played by the professional wine-taster, i.e. the sommelier, analysing the written and unwritten rules and savoirs constituting the profession, and the implicit definition of taste as an 'encounter between a subject and an object that should be resolved in favour of the latter': its inherent quest for objectivity, and the capacity to surgically split the realm of subjective impressions from that of scientific objectivity, is what characterises the professional approach to wine-tasting, and its relation to the market. Yet, beyond subjectivity and objectivity, taste is indeed what puts these very notions into question. Developing his argument from the thought of Tarde, Simondon and Deleuze, Brighenti warns against reducing wine to an inert object, proposing to understand it as an 'expressive material that fundamentally exists in the dimension of becoming'. A moving, vibrant and alive substance which destabilises the controlled, calculated and reductionist approach which professional wine-tasting produces. Taste is an encounter that occurs, as Hennion observes, in 'a zone of contact in which the objects and its effects the

---

<sup>17</sup> Slavoj Žižek, *First as Tragedy, Then as Farce*, London: Verso, (2009), pp. 53-54.

amateur and its pleasure, are simultaneously realised'.<sup>18</sup> Building on his extensive studies on 'territorology',<sup>19</sup> Brighenti thus argues for understanding taste as a territory, that is, as a multiplicity in which multiple elements come-together. The well-known and often misunderstood connection between wine and *terroir* allows him to push this argument further: as he puts it, 'the importance of territory with respect to wine should be doubled: not only is wine a territorial product, the product of a given territory or *terroir*, the unique ensemble of terrain and climate (pedo-climatic conditions); it is also a territory in itself, better, it contains the affordances that might enter into a range of territorial compositions with the taster. If we look at wine as the product of a territory, we are led to describe it as an *object*; but if we look at it as a territory in itself, we might begin to appreciate it as an *environment*.' Tasting emerges as a dimension of proximity and intermingling, which simultaneously implies a reflexive attempt to 'make sense' of this proximity by drawing boundaries and expressing judgements, and a 'capacity to articulate a territory' which simultaneously territorialises the wine with respect to its *terroir*, and de-territorialises it by putting the singular tasting encounter 'into a series of virtual encounters with all wines'. Brighenti's modestly titled 'remarks' are indeed an extremely insightful reflection of the relevance that a 'spatial' approach to tasting can play in simultaneously debunking the sterilising weight of professional normativity, as well as in opening up taste, beyond its subjective experience, to its socio-material dimensions.

Perhaps more ambitious is the aim of Nicola Masciandaro, whose essay leads us into a vertiginous journey through mystical, visionary and biblical sources, complemented with extensive footnotes which offer the possibility of a parallel reading of the text, digging through its numerous references and following the line of flight opened by them. *Law as such is inseparable from the world*, this is the crucial point which Masciandaro reformulates, expands and deepens in order to offer a way to think anew the crucial 'relation' that law entertains with justice. A sentence by the Indian mystic Meher Baba, 'the perennial spring of imperishable sweetness is within everyone', is the pretext to launch, as Masciandaro puts it, 'an intellectual attack upon everything in us that rises in revolt against this statement, against all that would dismiss out of hand the reality of its truth and confine its meaning to the realm of sentimental metaphysics'. One of the five categories in which taste is canonically split, i.e. sweetness, is for him the gateway to unfold the dimension of law's immanence to life. As he contends, 'to know this real sweetness of a life in direct and practical terms, to taste and see its reality rather than fall into theoretical imagination of it, it is necessary to sense the sweetness (of law) in the most literal terms, to find the actual point of contact between sweetness and the law.' Opposing this logic is the tendency to perceive law as fundamentally 'bitter' (a tendency which he explores in particular through a close reading and exegesis of the biblical episode of the 'waters of Marah'), *separated from* and *imposed on* the world, on life, as a necessary sacrifice to be undergone in the metaphysical hope that things 'will be otherwise', in some other transcendental 'beyond' where justice will finally occur.

---

<sup>18</sup> Antoine Hennion and Geneviève Tiel, "L'attività riflessiva dell'amatore. Un approccio pragmatico al gusto", RASSEGNA ITALIANA DI SOCIOLOGIA / a. XLV, n. 4, ottobre-dicembre 2004: p. 17 (my translation)

<sup>19</sup> See Andrea Mubi Brighenti, "On Territorology: Towards a General Science of Territory", *Theory, Culture & Society* 2010, Vol. 27(1): 1-21

This is what he frames as the bitter and indeed 'illegal' logic of worry, i.e. of 'negatively project thinking away from the present by means of concern for the inexistent past or future', as an unwillingness to deal with the world and its materiality. The search for a 'higher law' thus culminates in the unfolding of an ordinary, immanent law, a law which is not separated from life but rather immanent to it, a sweet law which carries 'the impossible yet inevitable taste of eternal justice.' Masciandaro's 'intellectual assault' could be read as an attempt to refuse any dichotomical, dialectical or pseudo-dialectical juxtaposition of the notions of law and justice, as well as any yearning for a justice 'beyond' law, instead opening law itself to the absolute fact of a justice which is here and now. From this point of view, the Garden of Eden is not as a transcendent place out of this world, but rather is this very world, "just a little different."<sup>20</sup>

## §

The Law and the Senses series encourages the trans-disciplinary convergences which these three essays unfold. We think that this is the only sensitive way to deal with senses, so as to release the potential they encapsulate to rethink law and its relation to its pre-supposed outside, and to problematise this very presupposition as well. We hope this issue will constitute a valid starting point for this journey.

---

<sup>20</sup> Giorgio Agamben, *The Coming Community*, University Of Minnesota Press, 1993: p. 52.

# A Taste of Law and Coffee – From Macrocosm to Microcosm

Merima Bruncevic & Philip Linné\*

**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.

---

## Prologue<sup>1</sup>

*"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!"<sup>2</sup>*

## 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"<sup>3</sup> [our emphasis]*

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

---

\*M. Bruncevic & P. Linné: Department of Law, University of Gothenburg, Vasagatan 1, Box 650, 405 30 Gothenburg, Sweden. E-mail: [merima.bruncevic@law.gu.se](mailto:merima.bruncevic@law.gu.se); [philip.linne@law.gu.se](mailto:philip.linne@law.gu.se)

<sup>1</sup> We would like to express our gratitude to Mr. Torkel Hultén at da Matteo Café and coffee roastery and Mr. Per Nordby who kindly provided us with information, fact-checks and opened up the world of Gothenburg's specialty coffee for us. We would also like to thank our colleagues professor Håkan Gustafsson, Mr. Erik Björling and Mr. Erik Sandin for reading the initial draft of the article and giving us valuable comments, as well as the two anonymous reviewers of this article that gave us further vital suggestions and inspiration. Any mistakes in the article are of course our own. Lastly, we would like to thank café Viktors Kaffe for being the perfect *space* in which we could meet, talk and enjoy several of the 94 cups of coffee consumed during the writing process of this article.

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

<sup>3</sup> 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”.<sup>5</sup> 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.”<sup>6</sup>

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”<sup>7</sup>

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*.<sup>8</sup> These characteristics interweave and involve more than one human sense. This kind of thinking is further acknowledged in molecular gastronomy,

---

<sup>4</sup> *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.

<sup>5</sup> 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.

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

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

<sup>8</sup> 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”<sup>9</sup> [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,<sup>10</sup> 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.<sup>11</sup>

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.<sup>12</sup>

---

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

<sup>10</sup> 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).

<sup>11</sup> 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.

<sup>12</sup> 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.<sup>13</sup> Following the trade and market issues are *environmental aspects* such as biodiversity and water use in coffee production,<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup>

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).

<sup>13</sup> 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).

<sup>14</sup> 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.

<sup>15</sup> 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).

<sup>16</sup> 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!*<sup>17</sup>

## 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.<sup>18</sup> 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*<sup>19</sup> that must be adhered to no matter what.<sup>20</sup>

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,<sup>21</sup> the speciality coffee that is an integral part of the 21<sup>st</sup> century's so called "hipster" culture.<sup>22</sup> 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

---

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

<sup>18</sup> <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.

<sup>19</sup> 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)

<sup>20</sup> 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.

<sup>21</sup> 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.!

<sup>22</sup> 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.<sup>23</sup> 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.<sup>24</sup> 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*)<sup>25</sup> and which are then excreted, cleaned and roasted like ordinary coffee.<sup>26</sup> 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

---

<sup>23</sup> 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].

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

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

<sup>26</sup> 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".<sup>27</sup> The exclusive *Kopi Luwak* is however not the only animal processed coffee on the market. Other examples are Brazilian *Jacu Bird Coffee*,<sup>28</sup> Indian *Rhesus Monkey Coffee*<sup>29</sup> and Thai *Elephant Arabica Coffee*<sup>30</sup>. 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.<sup>31</sup>

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.<sup>32</sup> The "*coffee guys*"<sup>33</sup> 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:<sup>34</sup>

---

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

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

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

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

<sup>31</sup> 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](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.

<sup>32</sup> 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.

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

<sup>34</sup> 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..."<sup>35</sup>

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

"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*."<sup>37</sup>

"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*'"<sup>38</sup>

"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*."<sup>39</sup> [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,<sup>40</sup> 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."<sup>41</sup> [our emphasis]

---

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

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

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

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

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

<sup>40</sup> 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.

<sup>41</sup> 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 list<sup>42</sup> 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*<sup>43</sup>, 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.<sup>44</sup> [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.<sup>45</sup> Furthermore, when approaching coffee as heritage, we obviously ought to pay more attention to the cultural spaces where it is being enjoyed and

---

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

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

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

<sup>45</sup> 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,<sup>46</sup> 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

---

<sup>46</sup> 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?<sup>47</sup>

## **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...”<sup>48</sup> [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 houses<sup>49</sup> 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.

---

<sup>47</sup> 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.

<sup>48</sup> 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

<sup>49</sup> 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."<sup>50</sup> [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

---

<sup>50</sup> 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" places<sup>51</sup> 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*,<sup>52</sup> 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 16<sup>th</sup> 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*<sup>53</sup> 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.<sup>54</sup> 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

---

<sup>51</sup> 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.

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

<sup>53</sup> 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).

<sup>54</sup> 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*.<sup>55</sup> The writer Doron Rabinovici declared that without coffee and the places in which it was enjoyed, literature would have no shelter.<sup>56</sup> 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.<sup>57</sup> 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?"

---

<sup>55</sup> "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.

<sup>56</sup> "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.

<sup>57</sup> 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."<sup>58</sup>

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*.<sup>59</sup> 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 stimulating<sup>60</sup> 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,<sup>61</sup> 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.

---

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

<sup>59</sup> 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).

<sup>60</sup> 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.

<sup>61</sup> 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*.<sup>62</sup> 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"<sup>63</sup> [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

---

<sup>62</sup> 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).

<sup>63</sup> 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”.<sup>64</sup>

### **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.<sup>65</sup> 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.<sup>66</sup> 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.<sup>67</sup>

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 “JVALYTICS - 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”.<sup>68</sup> Furthermore, DNA and isotope ratio analysis of coffee are also present in the science of coffee.<sup>69</sup> 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.<sup>70</sup> The scientific approaches to coffee have thus gone molecular.

---

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

<sup>65</sup> See *BeanScene Magazine*, *Joseph Rivera The Coffee Scientist*.

<sup>66</sup> 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](http://worldwide.espacenet.com/publicationDetails/biblio?CC=US&NR=897840&KC=&FT=E&locale=en_EP). Last accessed 28 January 2013.

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

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

<sup>69</sup> See *BeanScene Magazine*, *Joseph Rivera The Coffee Scientist*.

<sup>70</sup> See Massimo F. Marcone, ‘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.<sup>71</sup>

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.<sup>72</sup> 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,

---

<sup>71</sup> 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.

<sup>72</sup> 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!*<sup>73</sup>

---

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

# Remarks for a Territoriology of Wine Tasting<sup>1</sup>

Andrea Mubi Brighenti

**Abstract:** This piece submits some remarks and ideas about the relationship between wine and territory. Such relationship is not only an *external* one (wine as a product of territory) but also an internal one: wine as a territory on its own account. To illuminate this fact, it is sufficient to consider the expertise and practices of sommeliers. Advancing toward a territoriological analysis of wine tasting calls for leaving behind the image of wine as a mere object upon which a certain analytical activity is performed. Wine is neither a subject nor an object, rather, a *mode* or a *matter of expression* that emerges in the context of the practice of tasting. A *mode* can also be described as the result of an *encounter*, a meeting of agents (for example: wine-glass-nose-mouth...), a complex composition of distributed variables within a continuum of heterogeneous elements that extend into each other according to series of nexuses and links that are neither casual nor causal. All the rules and protocols that guide tasting are but tentative tools to provides us with a compass for *sailing in the sea of wine*: wine is a veritable *environment*.

---

'During a nice dinner in the company of friends, a glass of wine can create a moment of merry conviviality. Wine tasting, however, is a different thing.' Such an austere remark, written almost in the register of an admonishment, can be found in the opening page of a classic tasting textbook by the Italian Sommelier Association. Similar, more or less explicit, remarks are not uncommon among sommeliers. The simple reason is that they need to distinguish themselves from people who merely 'enjoy wine'. Yet some sort of enjoyment is certainly involved in tasting, too. At first, one might be tempted to oppose the company of a 'merry glass of wine' and the activity of 'wine tasting' as one would oppose convivial pleasure, on the one hand, and intellectual pleasure, on the other. While this view is not entirely wrong, for it to make sense, the phrase 'intellectual pleasure' must be understood correctly.

First, we are not dealing with the difference between a social and a solitary activity, since tasting is always a social activity. Early on in his/her training, the neophyte taster is recommended never to taste alone. This is essentially for two reasons: an aesthetic-moralistic one – 'it is not nice' – and an epistemological one – 'exchange of views is necessary.'

Second, here intellectual activity is not to be understood in a loose everyday sense, that is, as an alias for non-manual occupations at large. Rather, it is taken as pertaining to a practice specifically related to the production of *judgments*. In other words, what characterizes wine tasting is the expression of taste judgments. On the one hand, judgment is certainly tied to a whole universe of publicness, visibility, and accountability; as such, it is intimately linked to the whole universe of legal discourse, as well as the production of justifications, and the recourse to repertoires of justification. As soon as one describes a wine, s/he becomes accountable to an extended series of protocols, rules etc. One can best feel the weight of judgment

---

<sup>1</sup> I wish to thank one anonymous reviewer for nice comments and insights. Gratitude goes above all to Andrea Pavoni for the always engaging discussions we have on, *inter alia*, wine and territories.



when, as a novice, is asked to present a wine and comment upon it. On the other, judgment also place tasters in the domain of a semiotic investigation: indisputably, wine emits signs; what do they mean? How to make sense of them? Therefore, these judgments are simultaneously normative, technical, and, more amply understood, legal.

But interestingly, sommeliers tend to reject all terms related to 'judgment'. Why is it so? The fact is that they are running a campaign for 'objectivity'. Tasting, sommeliers argue, should not be a matter of personal taste, but the 'objective analysis of the sensations' produced by wine on one's sensory apparatus. In the technical vocabulary developed by sommeliers, the evaluative aspects, such as the formulation of judgments concerning the quality, harmony and evolution of a wine, must play a subordinate role and, above all, they must only be formulated *after* a complete and accurate description and analysis of the tasted wine has been carried out.

Certainly, organoleptic or 'sensory' analysis is different from chemical analysis, also known as 'instrumental' analysis, i.e. analysis conducted with technological means of detection, such as for example a gas chromatography. Sommeliers know quite well that by making use of their sense organs they can only hope to achieve measures that are necessarily quantitatively less precise than those made by a technical device. However, they do not regard this fact as a source of decreased objectivity, or as an impediment. On the contrary, they make a distinction between, on the one hand, a list of quantitative elements and, on the other, the ability to spot and express the unity or quality of a certain wine (sometimes also referred to as its 'atmosphere'). An often heard refrain in the community is that, after all, it is humans, not machines, who eventually drink the wine: consequently, producing an ensemble of quantitative measurements can only have industrial application, but is not enough to produce a true analysis, that is, to claim to have 'understood' a certain wine. In this sense, recognizing the presence of a subject and admitting its importance to organoleptic analysis are not seen by sommeliers as hampering well-balanced analysis – at least, they say, to the extent that the subject is not 'prevaricating' by producing 'idiosyncratic' statements. In short, professional sommeliers conceptualize the activity of tasting as an *encounter* between a subject and an object that should be resolved in favor of the latter: what counts, in their view, is the object, and the revelation – or the appearing, the becoming-explicit – of its features.

However, this image, pivoted around the relationship established between an investigating subject and an investigated object is not entirely adequate to account for the practice of wine tasting as a social undertaking. Indeed, by describing wine as a mere object upon which a certain analytical activity is performed, one would not be able to understand much of sommeliers' professional working practices. The image of wine as an object misleads us into a kind of determinist conception which would ground our understanding into either a causal mechanism of chemical molecules combinations, or on the contrary – but with comparable reductionist outcomes – a radical social constructivism where an equally simplistic activity of truth construction by consensus is envisaged. Even the reversed image of wine as a subject might incur into several mistakes: not only and perhaps not so much

fetishism – which, however, is never completely removed, especially when dealing with highly prestigious, almost worshipped wines – but in the first place a grave underestimation of the specific differences between the involved players, that is to say, an overlooking of the actual ways and specifications through which wine itself has ‘a saying’ in the activity of tasting.

Therefore, it would more accurate to say that wine is neither a subject nor an object, rather, a *mode* or a *matter of expression* that emerges in the context of the practice of tasting. A *mode* can also be described as the result of an *encounter*, a meeting of agents (for example: wine-glass-nose-mouth...), a complex composition of distributed variables within a continuum of heterogeneous elements that extend into each other according to series of nexuses and links that are neither casual nor causal. Such nexuses and links are created by the ‘grip’ or ‘catch’ that certain elements exercise upon others, and they endure only until these grips are effectuated. This happens until agents act upon each other and react to each other by selecting and capturing certain qualities to be appropriated. In short, a mode is a social sphere that entails a whole territorial production, articulation, and stabilization.

Such a conception we could call the *modalization* of wine. Its usefulness lies in overcoming the dichotomy we have encountered above between *analysis* and *judgment*: each moment in the description and analysis of a wine entails an exercise of judgment, although not intended as a statement of personal preferences. Here, the distinctive aspect of judgment is to be found in its *public* nature. In other words, judgment is addressed to an audience, it is meant to be visible, ostensible, social, not as a further accidental determination (judgment is produced and then made public) but as an intrinsic aspect (publicity is the element in which judgment is produced). Then, judgment represents here the largest category, into which wine analysis falls, and the preoccupation of sommeliers can be appreciated as the requirement to distinguish between two types of judgments: a structured, ‘categorized’ judgment, on the one hand, and an unstructured, idiosyncratic judgment, on the other.

Sociologically speaking – as well as from a strict lexical point of view – we can apply the notion of *taste* judgment to wine tasting because taste is not a simple set of preferences and appreciations but rather a complex social relationship, even a large-scale one. The name of Pierre Bourdieu is often associated with the thesis that differences – not only in consumption styles and patterns, but also in taste preferences – are employed as items or affordances of class distinctions. The subjective correlate of this view is that taste works as sixth sense, or a *cultural orientation* sense: by recognizing ourselves in certain schemes of perception and appreciation, we recognize ourselves as belonging to a certain class. Although not entirely wrong, this interpretation of Bourdieu’s work is, to say the least, partial. In fact, Bourdieu’s habitus-field theory envisaged to take into account not only the *structural* but also the *generative* dimension of taste. For Bourdieu<sup>2</sup> ‘classification systems would not be such crucial stakes were they not also contributing to shape classes themselves, adding to the effectiveness of the objective mechanisms the

---

<sup>2</sup> Bourdieu, Pierre, *La distinction. Critique sociale du jugement*. Paris: Minuit, 1979: 474.

confirmation that derives from the images structured in ways that are consistent with classification'. Between linguistic and symbolic structure, on the one hand, and the structure of the distribution of capital, on the other, there is always an interplay, an *interstice*, a space where 'the strategies designed to take advantage of the discordance between the real and the nominal, to appropriate words in order to appropriate the things they designate, or to appropriate things waiting to obtain the words that record them, make their appearance'<sup>3</sup>. Insofar as we are concerned here, the structuralist thesis essentially identifies *positions* on the basis of *oppositions*. As in Saussure's classic notion of *langue*, from this perspective a taste option is seen as a position that makes sense only insofar as it is distinguished and opposed to other options: you can only tell good taste on the basis of its difference from both common taste and bad taste – or, more accurately, good taste is nothing but *that which* is opposed to something else known as common, trivial, etc.

Yet research inevitably puts us before the evidence that, even keeping in mind the genesis of taste dispositions, taste cannot be explained as *solely* a matter of social distinction. This insight has gained ground in sociology over the last decade. French sociologists such as Antoine Hennion and Geneviève Teil<sup>4</sup> have criticized the structuralist view on taste for its lack of recognition of the positive role that *materiality* plays in it. The 'new' sociology of taste has pointed out that the act of engaging with a material 'object' – in activities as diverse as wine tasting, listening to a piece of music, or opening a new climbing path on a rock wall – cannot be reduced to the positional differentiation of a subject from others. The differentiating function assigned to taste by the structuralist view is only one among many, and probably not even the most important one. Indeed, what matters most is not taste as opposed to lack of taste, but taste as a plurality of ways that are solicited or stimulated by a single material object, taste as the ways in which we engage in matters. 'In the difficult transition from *taste* to *tastes*, the issue is of course, more than ever, the contact with the object, but an object that opens up and becomes plural. Between a bunch of music notes and a work of art, between the physical wine and tasted wine, you pass through a sort of flaking, a series of mediations, you never swing over a dividing binary line. Tastes invite us not to turn away from the object and go looking for the real causes elsewhere, but to rethink the object that is in front of us as a possibility, as an attempt and a temptation, rather than as a sum of its parts'<sup>5</sup>. Such an argument is certainly not meant to lead us back to naive determinism: 'the object – continue Hennion and Teil – does not "contain" its effects, as well known in aesthetics: taste is revealed precisely in uncertainty, variation, and the deepening of the effects that the product creates at the time and in the circumstances of its use.'

Here, the term 'object' must be placed strictly in quotation marks. As we look closely, we begin to recognize that in practical activities such as wine tasting, music listening and rock climbing, there is no such thing as an object that stands in opposition to a subject. Rather, we are faced with a whole *Gestalt*, a configuration

---

<sup>3</sup> Ibid: 475.

<sup>4</sup> Hennion, Antoine and Teil, Geneviève, 'Le goût du vin. Pour une sociologie de l'attention', in Véronique Nahoum Grappe and Odile Vincent (Eds.) *Le goût des belles choses*. Paris: Éditions de la MSH, pp. 111-126, 2004.

<sup>5</sup> Ibid.

we might also call a *terrain, region* or *territory*. It is upon this terrain, in this region or territory that we can define what is the actual *focus* of a practice or, one might even say, what is its problem field, its *problématique*, or even – we might venture – the *interest* of that given practice. What I am proposing here is that the importance of territory with respect to wine should be doubled: not only is wine a territorial product, the product of a given territory or *terroir*, the unique ensemble of terrain and climate (pedo-climatic conditions); it is also a territory in itself, better, it contains the affordances that might enter into a range of territorial compositions with the taster. If we look at wine as the product of a territory, we are led to describe it as an *object*; but if we look at it as a territory in itself, we might begin to appreciate it as an *environment*.

Why is wine tasting a 'problem field'? Etymologically, the word 'problem' refers to something that is thrown before or carried along. In this sense, the note of caution often recalled by sommeliers, according to which 'in tasting, you can never generalize,' refers precisely to a dynamic of knowledge that proceeds by problems, as opposed to a different type of knowing that is deductive, or more widely syllogistic. Such a problem-orientation does not prevent the existence of a series of guidelines for correct tasting, just as there are operative norms and preferential options. These guidelines determine the existence of a series of marked *versus* unmarked choices, whereby certain judgments are accepted as 'going without saying', less contestable and less surprising than others. However, sommeliers' training proceeds largely by examples and cases, to the point that one could never overstate the importance of experience and habit. Even before defining a specific professional knowledge, experience and habit create an essential horizon of *familiarity* for the encounter, a veritable *taste for taste*.

On the basis of what said so far, the wine to be tasted could be characterized as a 'sensory problem'. Indeed, all five perceptual senses are involved in tasting, so that in this context the sense of taste stands, by synecdoche, for a complete multi-sensorial practice. This can be proved easily. The sense of hearing must be attentive to capture how wine falls into the glass; sight must be able to describe the limpidness, color, thickness or effervescence of wine; smell must grasp the intensity, persistence, complexity, quality and bouquet description of wine; taste and touch must interrogate its softness, hardness, texture, balance, intensity, persistence and quality, while all the senses must work together to determine evolution and harmony. The rich sensorium that is involved in and stimulated by tasting leads s/he who is exercising and improving his/her abilities as wine taster towards a progressive sensory refinement. More and more refined abilities are proportionally called for in order to 'deal with' more and more refined and complex wines. It is not just a matter of dispositional subjective qualities, rather, of capacities to articulate the problem field in subtler ways, abilities to create new encounters and new modes, to liberate new expressive materials and introduce new visibility thresholds between phenomena.

To improve as a wine taster means, in other words, to make wine *visible*, or make visible as many of its qualities as possible. It means – following Gabriel Tarde's

methodological recommendations <sup>6</sup> – to move from ‘similarities and repetitions of complex and confused masses to similarities and repetitions of detail, more difficult to grasp, but more precise, elementary and infinitely numerous as infinitesimal.’ I would also like to remark the fact that all these similarities and repetitions, and above all these differences, are fully *social*, insofar as they are *material* rather than simply *structural* (or ‘distinctions’ in Bourdieu’s sense). The social would not be possible without all these acts that inscribe, project and extract certain intensities (or, if one wants, meanings) into and from materials.

It is likewise noticeable that the phrase ‘matters of expression’ refers to the existence of a non-hylomorphic *mode*. In the doctrine of hylomorphism, as classically conceptualized by Aristotle in his *Physics*, matter is unformed, whereas substance is conceptualized as formed matter. Matter is therefore located outside of the game of form and formalization and, as such, regarded as something that is without either expression or content. Simondon<sup>7</sup> famously criticized hylomorphism for failing to take ontogenesis into account; thus, hylomorphism would assume the individual as a fact while ignoring the dimension of individuation, or the process of becoming-individual. Beside its failure in taking into account the dynamic perspective, we could more generally state that the hylomorphic model is suitable to describe a range of crafts such as working with clay or baking, i.e., activities involving inert materials. It in fact derives from a type of society where these craftsmen were more noticeable. On the contrary, the hylomorphic model is not suitable to account for the existence of active materials, materials that have an expression in themselves, such as metals. A liquid such as wine also falls into this category. A veritable ‘material semiotic’ of wine reveals it as being closer to metals than water: wine is a matter of expression whose articulation defines territories and encounters.

It would be blind to overlook the fact that sensory abilities also grow with the ability to articulate feelings, the ability to ‘speak of wine’ – another advice that is often repeated to novices. Speaking of wine calls for not only the proper use of the conventional tasting vocabulary, but also the development of the ability to move within the problem field with a certain familiarity (*nonchalance* and *savoir-faire* are but consequences of such an ability). The good sommelier is such because the *nonchalance* and *savoir-faire* (both untranslatable French words) with which s/he speaks of wine reveals his/her familiarity with and proximity to a certain expressive material. At the outset, we have discussed tasting as an ‘intellectual pleasure’. Now we are perhaps better placed to see that, in fact, pleasure comes from accepting a judgmental challenge, which proves willingness to enter into the game. The game of tasting also outlines a style issue. We know, for instance, that wine descriptors are, more or less explicitly, evocative rather than referential. And the evocative dimension of judgment is not a neutral medium of the tasting experience. On the contrary, it always stands out in comparison with the more – but usually, less – developed skills of perception possessed by the public.

---

<sup>6</sup> Tarde, Gabriel, *Les lois sociales*, 1898 : 47 (edn. 1999 Paris: Synthelabo).

<sup>7</sup> Simondon, Gilbert, *L’individuation psychique et collective: à la lumière des notions de forme, information, potentiel et métastabilité*, 1958 (edn. 2007 Paris: Aubier).

The sommelier is not simply making a personal experience with wine: s/he is also acting as a guide for others into the experience of tasting. Such an idea of the sommelier as an expert in 'wine communication' is meeting increasing success. When we look at guided tasting session we notice how the sommelier, acting as an officiant and a veritable *medium*, leads the other drinkers into a territory whose characteristics are outlined through the descriptions that are elaborated and provided. These are often blind tasting session, organized increasingly also as tourist attractions and territorial marketing purposes (for instance, you may land in Rome and easily end up at a tasting session where a sommelier, making his best to speak in English, presents you a portrait of Italy and its territory through a series of four most renown wines). In any case, here lies the specific nature of the encounter with a matter of expression, here lies its double articulation, always simultaneously material and expressive. Even without substituting the scientific nominalism that is required by the social science (that is, without resorting to medieval philosophical realism) it is impossible to fail to notice that the words chosen and used by sommeliers cannot be considered at all neutral or ineffective in their impact on the practice of tasting. For example, once a cherry flavor has been evoked, named, and publicly declared, it will be in most cases recognized even by a novice. In other words, getting used to 'speak of wine' means to test oneself, learning to move in a field that exists at the crossroads between uniqueness and repeatability of the encounter. The otherwise evanescent term 'style' corresponds precisely to the trajectory each time drawn by this movement of expression through the material.

The paradox of wine tasting probably lies in the fact that a beginner fails to effectively describe a wine, not because s/he does not pay enough attention, but because s/he pays *too much* attention. In other words, the neophyte surrenders completely to the singleness, fullness and uniqueness of his/her sensory experience. S/he is literally flooded by sensations and fails to introduce lines of discontinuity, descriptions, classifications, that would enable him/her to establish and draw significant thresholds of differential visibility. Tasting is all about creating a certain *distance* from wine, the correct distance that is necessary to make it thoroughly visible. Such a visibilization of wine can only be obtained thanks to the introduction of certain *a-priori* in the uniqueness of experience. The sommeliers' tasting sheet (but the scoring sheet is not different) is, from this point of view, a small Kantian masterpiece. 'Transcendental' in a precise technical sense, the tasting and scoring sheets indicate the sets of dimensions the encounter is necessarily bound to have, so that the only thing that remains to be done is to make them *relevant* and actual in the activity of tasting.

Tasting is made possible by attention or, more precisely, by a strategy of visibilization of perceptions and sensations. Rather than with perceptions, tasting is thus concerned with *apperception*, perceptions made relevant on a threshold of awareness. Wine tasting involves listening to your body and its reactions. It is necessary to pay specific attention to how your eye, nose and mouth react during the encounter with this or that specific wine: how, for instance, clarity and color are revealed by tilting the glass at forty-five degrees; how perfumes reach your olfactory mucosa directly through a short, sharp aspiration that creates a vortex of olfactory

molecules; how the saliva in your mouth reacts with the acidic components of wine, and so on. This is how an encounter with wine can be explored, and the technical objects sommeliers employ – such as a decanter, or a glass shaped in a specific way – work as tools for apperception, sensory amplifiers that enable to magnify the visibility of the features we are trying to grasp. The overall situation cannot be reduced to a Cartesian horizon, since what we are exploring in tasting is not simply our personal private encounter with wine: someone else's encounter is also always involved. Certainly, since tasting is a social activity, issues of authority and consent are pervasive. But, it would be unfair to regard them as merely omnipotent. It is simply not true that, just because no naïve objectivity can be attained, provided that one sounds rhetorically convincing everything and anything can be said about a certain wine. Tasting involves the capacity to articulate a territory, detailing its features and defining its constitution.

Authority and consent are certainly part of the process, but the activity of tasting concerns the specification of the areas and the limits within which authority and consent are relevant. It is thus necessary to bring sensations and judgments into a shared public territory. Tasting is a kind of territorialization, a territorial encounter in an actual ethological sense. Encounters are characterized by their contingency and uniqueness. Encountering this or that wine is not necessary (it may not be), nor is it necessarily protracted (it may interrupt soon). Sensory analysis entails the apparently unfulfillable requirement according to which a unique meeting (which may not be repeated) must be repeated (i.e., traced back and compared to former encounters). Tasting brings the encounter with this wine at hand into a series of virtual encounters with all wines, thus defining a peculiar tension between factual unrepeatability, on the one hand, and the axiological need of repetition, on the other.

The territorial aspect of the tasting experience becomes evident as soon as judgment divergences between tasters appear. Given the experiential richness of tasting, and given the number of variables entailed in an encounter, such differences are actually quite common. Unlike more hierarchical contexts in which a single sommelier guides newbies, when a group of sommeliers who are basically peers make a joint tasting session, there is a general trend towards recomposing judgment differences after they have arisen, in a joint effort towards unanimity. In other words, by attempting to converge on shared views or, at least, articulating and disaggregating the elements of disagreement, sommeliers try to 'modalize' themselves, that is, to build (or regain) a shared mode, thereby re-territorializing themselves. While only rarely do trained sommelier diverge in the evaluation of certain basic or simple aspects of wine, such as softness and hardness, more subtle assessments, such as nose-mouth correspondence, evolutionary state, and harmony, might turn out to be more difficult to recompose. There are several ways to get out of an interpretive impasse and try to reconcile judgment divergences. Naïve scientist realism, which assumes the existence of an independent external truth which judgment might or might not mirror, does not certainly apply here. At the other extreme, it is likewise not enough to define a simple truth by consensus formation. A mode must be modulated by tasters using the same materials and puzzling along similar issues.

Let us briefly consider two fundamental reasons that prevent us from accepting the naïve scientist-realist image of taste judgment as a mirroring process. In the first place, wine is not an object, but expressive material that fundamentally exists in the dimension of becoming. This fact precludes that it can be assessed in the same manner in which an object or tool (i.e., a glass) may be appraised. Especially when we face an aged wine or an otherwise important wine, wine is a material *in evolution*. Immediately after pouring it, the bouquet is often too 'closed', and needs time to 'open up'. A equally crucial effect is played by the temperature of service, which makes the apperception of qualities range widely. These two variables define the encounter with wine not as precise a point in time, but as an unfolding process. With Bergson<sup>8</sup>, it is necessary to locate ourselves, not the order of time, but in the order of *duration*.

Furthermore, not only is wine dynamic along a diachronic axis. It is dynamic also synchronically. It often happens that, during a sufficiently large tasting session, all tasters believe they are drinking exactly 'the same wine'. True, they are drinking the same type of wine, produced by the same manufacturer in the same year etc. As a consequence, by and large, hypothetical disagreements are assumed to be caused by substantively diverging judgments. But, it may turn out that, although the wine is indeed of the same type, tasters are drinking from *different bottles* – and, as well known, each bottle is 'an entirely different story' (in terms of evolution, temperature etc.). A myriad of further details, such as different glasses, uneven lighting of the room and so on, can produce additional differences outcomes.

These different assemblages of singular items that converge in the single experience of tasting determine different and unique encounters for each taster, in each micro-location, at each specific moment in time etc. Modes, in other words, proliferate beyond control. All the rules and protocols are tentative tools to provides us with a compass for *sailing in the sea of wine*. Since, as said, wine cannot be reduced to an object, perhaps one way of appreciating it at best is to regard it as a veritable *environment*. We are not facing wine, nor are we merely sailing on it; in fact, we are *immersed in it*. As for every other passion, who ingests what remains to be seen. In this sense, to turn again to Bergson, but this time to the later Bergson<sup>9</sup> of *Matière et mémoire*, it is perhaps possible to conceptualize wine as a *multiplicity*. Wine is the multiplicity that results from a heterogeneous material impossible to reduce to either a numeric set or a degree on a numeric scale from one to many. Wine is not a multiplicity of discontinuous, atomic, divisible states, but a multiplicity of continuous flow taken in the range of a unifying *memory*: "The qualitative heterogeneity of our successive perceptions of the universe – writes Bergson – is linked to the fact that each of these perceptions stretches for a certain lapse of duration, as well as to the fact that memory condenses an enormous multiplicity of stimulations which appear to us all together, albeit they are in fact successive".

---

<sup>8</sup> Bergson, Henri, *Essai sur les données immédiates de la conscience*, 1889 (edn. 1967 Paris: Presses universitaires de France).

<sup>9</sup> Bergson, Henri, *Matière et mémoire. Essai sur la relation du corps à l'esprit*, 1896 (edn. 1968 Paris: Presses universitaires de France).



# The Sweetness (of the Law)

Nicola Masciandaro

**Abstract:** This essay undertakes an analysis of the logical and phenomenal relation between sweetness and law in order to argue for the universal ontological *illegality* of worry. Through a close reading and exegesis of the bitter waters of Marah (Exodus 15: 25) in light of medieval mystical ideas about the immanence of paradise, it demonstrates the essentially inversive and secretly intimate link between these terms. At the still point or moment of identity that forms the crux of the law/sweetness relation, one finds the highest analogical sense of law, the impossible yet inevitable taste of eternal justice.

---

The perennial spring of imperishable sweetness is within everyone.

– Meher Baba, *Life at its Best*

This essay launches an intellectual attack upon everything in us that rises in revolt against this statement, against all that would dismiss out of hand the reality of its truth and confine its meaning to the realm of sentimental metaphysics. Likewise, it stands in defense of everything that already feels and knows this statement's correctness, not as concept, but as immanent fact: *the universal fact of essential sweetness*. I will pursue this two-fold aim by investigating the relation between sweetness and the law, because it is precisely via a stimulation and vexation of our sense of law that the statement of the universal fact of essential sweetness impresses us.

## UPSIDE DOWN SWEETNESS

The sense of law, which always bifurcates between the ethical and ontological poles of law's idea, between law as what ought to be and law as what is, is the intimate term of our simultaneous intuition of and resistance to this fact of sweetness, the substance of the taste of its inevitable impossibility. Consider how in hearing of it—if facile or reactive assent/dissent is evaded—one is legitimately caught in conundrums of thinking that such sweetness should be, yet is not and/or that such sweetness is, yet should not be.<sup>1</sup> The statement of this sweetness brings law into negative relief, shadowing law forth as the inversion or negative transposition of sweetness, a category at once depending upon and contradicting it in all respects. Because there is real sweetness, there is law—because there is law, there is no real sweetness. Like other

---

<sup>1</sup> For example, thought may oscillate as follows. On the one hand, the very possibility of law as true, as something more than ideological fraud, and with it the possibility of a real ethics (of being/doing/becoming *right*), requires this sweetness, demands the existence of a universal and fathomless savory con-science, an immanent neither-subjective-nor-objective zone wherein will and reason are primordially reconciled. On the other hand, the actuality of law, both as archaic necessity and as ideological fraud, i.e. all the realities of law-in-the-world, indicates, if not the inexistence, at least the irreparable deficiency of this sweetness, the operative absence of a profound relation between reason and will wherein the possibility of being/doing *wrong*, the space of law's negation, infinitely persists.

transcendent/immanent dyads, sweetness and law appear as *joined* by an impossibility of being the same, oppositionally fastened together around an infinitesimal point—the still moment of inversion—where they are impossibly one (the gate to paradise).

This inersive relation between law and sweetness is generically intelligible in connection with the classical triad of truth, goodness, and beauty. Where law is all about regulating the distinctions between the true, the good, and the beautiful<sup>2</sup>—a regulation that modernity pursues to the point of aporia, consigning these principles to separate domains—sweetness occupies their indistinction, the place of affective yet absolutely real movement wherein truth, goodness, and beauty are synthesized in delight. Sweetness in this ancient sense is rooted in the intuition of the immanence of perfection, in our idea of an existent and realizable truth wherein law *is* without persuasion or restraint, that is, without law as such, an eternally free enclosure where law is escaped through itself.<sup>3</sup> In the context of modern philosophy, such intuition is exemplified by Schopenhauer's non-dualist theory of eternal justice, according to which, owing to "the unity and identity of will in all its phenomena," law is meta-temporally and always already accomplished both generally and individually: "in all that befalls [every being], indeed can ever befall it, justice is always done to it . . . the world itself is the court of justice."<sup>4</sup> And in the mystical tradition that especially informs my

---

<sup>2</sup> See K. N. Llewellyn, "On the Good, the True, the Beautiful, in Law," *Chicago Law Review* 9 (1941/2): 224-65. Llewellyn formulates law's regulation of these three principles in terms of a functional "knitting" wherein, for instance, "determination of the True becomes . . . an inherent part of search for the Beautiful" and law is produced generally as a "field in which the three great ultimates . . . clearly merge" (247). The 'sweetness' of law, as the synthetic effect of such knitting, is touched upon by Llewellyn in connection with the aesthetics of the rule: "Consider the single legal rule. Its esthetics are functional, in the strictest sense. It has room for not one jot of ornament; and the measure of its beauty is the measure of its sweetness of effect . . . That is the rule of law. In it, a waste word is not waste only; it is peril" (249).

<sup>3</sup> "The sweetness of the law [*dharmā*] exceeds all sweetness; the delight in the law exceeds all delights" (*Dhammapada*, ed. Max Müller [Oxford: Clarendon, 1881], XXIV.354). "I am also the sweet [*punya*] fragrance in the earth; I am the brilliance in the fire, and the life in all beings" (*Bhagavad Gita, with the Commentary of Sankaracarya*, trans. Swami Gambhirananda [Calcutta: Advaita Ashrama, 1991], 7.9). "O taste and see that the lord is sweet" (Psalms 33:9, Vulgate). "[T]he ordinances of the Lord are true, and righteous altogether . . . sweeter also than honey and drippings of the honeycomb" (Psalms 19:9-10). Biblical citations, unless otherwise noted, are from *The New Oxford Annotated Bible* (New York: Oxford University Press, 1977). The essential idea to be emphasized here is that of sweetness as a fundamental and first property of things and thus a primary term for the sensing of the divine beyond which pervades and encloses them: "He is Sweetness, and of this Sweetness the infinitude of creatures are enjoying but an atom. Who would have moved, who would have breathed, if this Sweetness had not pervaded all space?" (Mohini M. Chatterji, *The Bhagavad Gita or The Lord's Lay with Reference to the Christian Scriptures* [New York: Causeway, 1960], 6). To this may be compared the Islamic concept of Breath of the All-Merciful (*nafas al-rahman*) as the divine Cloud which surrounds all being and forms the Barzakh or isthmus between God and creation, on which see William C. Chittick, *The Sufi Path of Knowledge: Ibn Al-'Arabi's Metaphysics of Imagination* (Albany: State University of New York Press, 1989), 125-32. Cf. "My Mercy encompasses all things" (*The Koran*, trans. N. J. Dawood [New York: Penguin, 1988], 7:156).

<sup>4</sup> Arthur Schopenhauer, *The World as Will and Presentation*, trans. Richard E. Aquila and David Carus, 2 vols. (New York: Pearson, 2008-11), I.409-415, §63-4. Cf. "The law of *Karma* is, in the world of values, the counterpart of the law of cause and effect . . . *The moral order of the universe is sustained through the systematic connection between cause and effect in the world of values*. If the law of *Karma* were subject to any relaxation, reversals or exceptions, and if not strictly applicable in the domain of values, there would be no moral order in the universe . . . *The law of Karma might be said to be an expression of justice or a reflection of the unity of life in the world of duality*" (Meher Baba, *Discourses*, 6<sup>th</sup> ed., 3 vols. [San Francisco: Sufism Reoriented, 1967], III.90-1). The coincidence of eternal justice with causality is succinctly expressed by Ibn Arabi: "He [God, Reality] directs it [the Cosmos] only by itself, or by its form" (*The Bezels of Wisdom*, trans. R. W. J. Austin [New York: Paulist 1980], 253). The traditional view of cosmic justice is no less theological than physical, as shown in Dante's vision of "l'amor che move il sole e l'altre stelle" [Love which moves the sun and the other stars] (*Divine Comedy*, trans. Charles S. Singleton, 3 vols. [Princeton: Princeton University Press, 1975], *Paradiso* 33.145). Jane Clark addresses Ibn Arabi's theory of causality in relation to modern science in "He Governs the World through Itself" – Ibn 'Arabi on Spiritual Causation" (<http://www.ibnarabisociety.org.uk/podcasts/archives/1008/clark.mp3>). On physics and Schopenhauer's theory of justice, see Raymond B. Marcin, *In Search of Schopenhauer's Cat: Arthur Schopenhauer's Quantum-Mystical Theory of Justice* (Washington: Catholic University of America Press, 2006).

investigation, this state is exemplified by the “sweet country” described by Marguerite Porete as that in which “the Soul is above the Law / Not contrary to the law.”<sup>5</sup>

Not seeking to discursively produce or prove this perfect sweetness *from* or *for* something other than it, the method of what follows is instead to penetrate its truth as axiomatic and proceed *inside* the position that all counter-arguments only affirm it, to stay on *this side* of sweetness as the only one. Thus I follow the *inversely* logical method whereby Pierre Sogol discovers earth’s ultimate alp in René Daumal’s *Mt. Analogue*: “assuming the problem solved and deducing from this solution all the consequences that flow logically from it.”<sup>6</sup> Like the ur-mountain of this perfectly unfinished novel, a mountain that analogically *must* exist and be accessible precisely through the earthly “ring of curvature” whereby “everything takes place *as if* [it] did not exist” (54), the universal fact of essential sweetness represents an ultimate sweetness that is analogically evident and accessible exactly through its seeming inexistence, the essential form of which is the fact of law. That there is law is the general index, not of a deficiency, but of the invisible yet accessible supreme *excess* of sweetness in the world.<sup>7</sup> Correlatively, that there is sweetness is a property of the highest and profoundest law, a paradisaical or supremely enclosing sweetness-beyond-sweetness identical with love as the ultimate rule of things, the inexorable principle which binds and attracts the law-governed finite universe to its beyond, curving like inescapable gravity all laws around the whim of the lawless Infinite.<sup>8</sup>

<sup>5</sup> Marguerite Porete, *The Mirror of Simple Souls*, trans. Ellen L. Babinsky (New York: Paulist, 1993), 142, 196. Cf. “. . . the sweet country, in which country courtesy is Law, and Love moderates, and Goodness in the nourishment. The sweetness draws me, the beauty pleases me, the goodness fills me” (143); “for the Soul lives by the peace of the gifts given to her above the Virtues—not contrary to the Virtues, but above” (178). Cf. “When one escapes ‘law’, and merges in God who is beyond law, he becomes God. There is no binding . . . Law cannot touch him, but he touches law, grasps law, acts like an ordinary human being and uses power to make others free from law” (Meher Baba, *God to Man and Man to God: The Discourses of Meher Baba*, ed. C. B. Purdom [London: Gollancz, 1955], Chapter 33).

<sup>6</sup> René Daumal, *Mt. Analogue: A Tale of Non-Euclidean and Symbolically Authentic Mountaineering Adventures*, trans. Carol Cosman (New York: Overlook Press, 2004), 56.

<sup>7</sup> This excess is shadowed in the forms of fundamental taboo, for example, in the legendary sweetness of human flesh (see Karl Steel, “How Delicious We Must Be,” in *How to Make a Human: Animals & Violence in the Middle Ages* [Columbus: Ohio State University Press, 2011], 118-35) and in the idea of incest as excessive love, as Ovid says of Myrrha’s lust for her father: “he kisses her. She takes too much delight / in this; and when he asks what kind of man / she’ll have her husband be, she answers: ‘One / like you’” (Ovid, *Metamorphoses*, trans. Allen Mandelbaum [San Diego: Harcourt, 1993], 340). That Myrrha means ‘bitterness’ accentuates the sweetness/law in relation to the way the form of her desire exacerbates the law, its being a desire that both mysteriously knows its own wrongness and exposes the pure logical arbitrariness of law (339). The mystery of the taboo correlates with the impossibility of mystical desire. As Myrrha says, echoing the creature/Creator relation, “since / I’m his, he can’t be mine” (339). Or as David Williams observes of Tereus’s asking the whereabouts of the son he whose body he is consuming: “the answer he receives . . . is, significantly, the same as the mystic’s response to the search for God: he whom you seek is within you!” (*Deformed Discourse: The Function of the Monster in Mediaeval Thought and Literature* [Montreal: McGill-Queen’s University Press, 1999], 149).

<sup>8</sup> In a similar fashion, Hegel identifies *attraction* as the summit of law, that which binds together and opposes all other law: “The unification of all laws in universal attraction expresses no further content than just the bare concept of the law itself . . . In contrast, then, with determinate law stands universal attraction, or the bare conception of law . . . the pure conception of law transcends not merely the law . . . but also transcends law as such” (G. W. F. Hegel, *The Phenomenology of Mind*, trans. J. B. Baillie [New York: Dover, 2003], 86). The overall vision I intend to evoke in this essay is of cosmos as an infinitely systematical order of laws within laws grounded in eternal spontaneous Reality: “The mystery of the universe is hierarchic in structure. There are graded orders, one supervening upon the other. The spiritual panorama of the universe reveals itself as a gradient with laws upon laws. Superimposition of one type of law over the other implies elasticity and resilience of lower laws for the working out of higher superseding laws. Instead of lawlessness, it means a regime of graded laws adjusted with each other in such a manner that they all subserve the supreme purpose of God” (Meher Baba, *Beams from Meher Baba on the Spiritual Panorama* [San Francisco: Sufism Reoriented, 1958], 33). My understanding of the identity of divinity and reality, which necessarily bears on the relation of freedom to necessity and the ultimate sweetness of law, is as follows: “Reality is divine. Let us call this the Thesis of Universal Betrayal. The truth of it needs no other means, no reason nor revelation. It is as obvious as it is beyond assertion and denial. It is true through its

From this perspective, as per Agamben's understanding of the inverse intimacy of the divine and the profane,<sup>9</sup> it is precisely the felt absence of justice in the world that shadows forth the fact of eternal or infinite justice—a fact hiding nowhere save in our ignorance of the nothingness of experience, of world as we know it: "all experience is in 'nothing'. There is no suffering. When I say this, you grouse. Since you do not know the law of nothingness, you think there is nothing like justice."<sup>10</sup> Just as the proverbially 'sweet' satisfaction we feel in seeing a causer of suffering proportionally suffer is, as Schopenhauer explains, really a material distortion of eternal justice, a sensing of its immanence "misunderstood and falsified" by separative identity or consciousness "caught up in the *principium individuationis*,"<sup>11</sup> so our general sense that there is no real justice, that things are not governed by the strictest and most supreme moral laws, is really a willfully unconscious twisting of the sense that they are, an identitarian or self-dramatizing sophistry that perverts an overwhelming universal truth into a wieldable albeit self-mangling personal weapon. The sense of injustice, inseparably bound to its own saccharine delight, is a photographic negative of the real, incomprehensible sweetness of eternal justice. As usual, our pattern of thinking, hypnotically curved within the confined interests of its finite *cogito*, confesses the inadmissible and radically immanent fact of the matter in inverse form.

The fraudulent correlational condition proceeds thus: inwardly I sense and intuit—via law of cause and effect, awareness that "every disorder of the soul is its own

---

own principle, which is to *be* its own principle, to betray everything for its own truth by *being* true. The being-divine of reality and the being-real of the divine are a two-faced double-dealing expression of one unnamable *spontaneous univocal causality*. That which is its own principle is divinely real and really divine. Reality is divinity causing itself to be real. Divinity is reality causing itself to be divine. On one side, the real's being its own principle carries the sense of what truly is, of what is anywhere despite everything (necessity). What is necessary does not possess necessity – it *is* necessity. On the other side, divinity's being its own principal carries the sense of what is absolutely independent, of what is everywhere itself (freedom). What is free does not possess freedom – it *is* freedom. Reality is real in being divine (free, unconditioned, absolutely itself). Divinity is divine in being real (necessary, conditioning, absolutely existent). Divinity and reality define a doubly necessary freedom, a doubly free necessity. A vortexical entity for whom freedom *is* necessity and necessity *is* freedom. The mood of the vortex, of the divinely twisting real, is interest without concern: being not *in*, but *the* middle (inter-esse) of the truth of the real and the enjoyment of divinity" (Nicola Masciandaro, "Gourmandized in the Abattoir of Openness," in *Leper Creativity*, eds. Ed Keller, Nicola Masciandaro, and Eugene Thacker [Brooklyn, NY: punctum, 2012], 189-90). Such is the identity of divinity and reality, freedom and necessity, that is realized at the summit of existence: "Here there is no longer any way because for the just man there is no law, he is a law unto himself" (John of the Cross, *Collected Works*, trans. Kieran Kavanagh and Otilio Rodriguez [Washington: Institute of Carmelite Publications, 1991], 111, from the top of the drawing of Mt. Carmel).

<sup>9</sup> "The world—insofar as it is absolutely, irreparably profane—is God . . . The proposition that God is not revealed *in* the world could also be expressed by the following statement: What is properly divine is that the world does not reveal God. (Hence this is not the 'bitterest' proposition of the *Tractatus*)" (Giorgio Agamben, *The Coming Community*, trans. Michael Hardt [Minneapolis: University of Minnesota Press, 1993], 89-90). Referring here to a response by Ingeborg Bachmann (see *Werke*, ed. Christine Koschel, Inge von Weidenbaum, and Clemens Münster, 4 vols. [Munich: Piper, 1978], 4.22), Agamben negatively opens the sweetness of the proposition by inversely formulating its negativity toward the apophatic, the production or bringing into presence of God via the negation of the not-God. Put directly, that God is not revealed in the world is a property of God, and that is sweet, both for world and for God. Or more bluntly, thank God the world is not God. The negative sweetness of the proposition is a unitary-dual sweetness, one that properly synthesizes God and world and also preserves each from the other. God is saved from containment by the world, remains sacred or true, and the world is saved from showing God in itself, remains profane or false—which is precisely the condition for their mystical or hidden unity: "Not *how* the world is, is the mystical, but *that* it is" (Ludwig Wittgenstein, *Tractatus Logico-Philosophicus*, tr. C.K. Ogden [Mineola, NY: Dover Publications, 1998], 6.44. Speculative food-artist Edia Connoles similarly touches on sweetness as joint of identity between sacred and profane in relation to medieval confection: "Sugar is . . . the common substance conjoining the sacred and the profane, the singular locus of a precious, transcendent enjoyment. It is not surprising, then, that for victims of the ashy pest that swept through Europe in the 14th century, sweetmeats and sugar became the last taste of a sickly joy before death, perhaps even a foretaste of the sweetness of heaven" ("P.E.S.T. (Philiat Epidemic Strategy Tryst) II," *Mouth*, <http://mmmouth.wordpress.com/p-e-s-t-philiat-epidemic-strategy-tryst-ii/>).

<sup>10</sup> Meher Baba, *God to Man and Man to God*, Chapter 33.

<sup>11</sup> *World as Will and Presentation*, I.416, §64.

punishment,<sup>12</sup> etc.—that there is justice . . . and *I am afraid*, for myself. A fear of which the only way out is instantly to install myself as arbiter, as judge of whether there is justice in the world or no. This fear, at its root, is not a calculative fear of anything, not a fear of any narratable, self-perpetuating implications of eternal justice. It is not a fear for me. Rather it is absolute auto-ontological fear, a fear that I *per se* am wrong, a direct perception of the wrongness that I am for which nothing, neither God nor base materiality, nothing other than myself itself, is to blame.<sup>13</sup> A fear identical to my fear of fear, a problem identical to my problem with problems. Analogous to the terrors of boredom and silence, wherein one faces the horror of being no one, the *putative* vacuum of not being oneself, this fear is of a piece with the direct perception that *you*—the so-and-so you ‘know’ yourself as—cannot survive (and has never properly existed within) the strict lawful order of the vast cosmos-machine. As the *Dies irae* tradition demonstrates, the infinitely systematic universe, the self-recording book “in quo totum continetur” [in which all is contained], is fundamentally terrifying to the ‘self’, which constitutively cannot face or afford the prospect of its absolute perforation by omniscience.<sup>14</sup> Vision of the totality in which everything is always already worked out impossibilizes *personal* free will. This is why, in order to be someone, one must: 1) worry, or negatively project thinking away from the present by means of concern for the inexistent past or future; and 2) consider oneself as a mysterious *mixture* of good and bad, an obscure combination of virtue and vice, truth and falsehood. Where the first keeps oneself a special kind of thing, a person, the second keeps oneself a special kind of authority, a criminal-judge or victim-avenger virtually capable making and breaking law. Enslaved to these two rules or strictures of selfhood, one enjoys the illusory freedom of an entity existing in the margin of law in its double sense, orbiting within an elliptical projection that is always at once in touch with and apart from what is and what should be. Such is the weird transgression lying at the core of the cry for justice, from the slightest critical remark to the most monumental collective wailing, the pure evil—a kind of inverse auto-murder—of refusing the sweetness of being “neither oneself nor someone else”<sup>15</sup> and choosing the bitterness of not permitting “the day’s

<sup>12</sup> Augustine, *Confessions*, trans. F. J. Sheed (Indianapolis: Hackett, 2006), I.12.19.

<sup>13</sup> “Every individual discomfort leads back, ultimately, to a cosmogonic discomfort, each of our sensations expiating that crime of the primordial sensation, by which Being crept out of somewhere . . .” (E. M. Cioran, *The Trouble with Being Born*, trans. Richard Howard [New York: Ceaver, 1973], 16). The problem can also be put more bluntly, without reference to any vague primordial Being: “You cannot fear anything outside of yourself. Fear is a state in you, which you, in order to keep the whole life-delusion going, attribute to something in time, something outside of yourself, or to another human being. Very simply: when you are afraid, *who* is afraid?” (Vernon Howard, “I Don’t Want You to be Afraid,” *Titled Talks: Volume 3*, audio CD published by Mark Butler). Similarly, the physical sciences, in understanding the laws of things, can narrate human identity only via the fiction of a virtual ‘we’. “What has to be explained,” observes Thomas Nagel, “is not just the lacing of organic life with a tincture of qualia but the coming into existence of subjective individual points of view—a type of existence logically distinct from anything describable by the physical sciences alone” (*Mind and Cosmos* [New York: Oxford, 2012], 44). Meister Eckhart understands the necessity of overcoming the subject’s apparent secondness or createdness according to its fundamental impossibility: “To preserve a place is to preserve distinction. Therefore I pray God to make me free of God, for my essential being is above God, taking God as the origin of creatures. For in that essence of God in which God is above being and distinction, there I was myself and knew myself so as to make this man. Therefore I am my own cause according to my essence, which is eternal, and not according to my becoming, which is temporal” (Meister Eckhart, *The Complete Mystical Works*, trans. Maurice O’C Walshe (New York: Crossroad Publishing, 2009), 424). On the inseparability of subject and cosmos, see Nicola Masciandaro, “Mysticism or Mystification?: Against Subject-Creationism,” *English Language Notes* 50 (2012): 253-8.

<sup>14</sup> See Eugene Thacker, “Day of Wrath,” *Glossator* 6 (2012): 89-120.

<sup>15</sup> Pseudo-Dionysius, *The Complete Works*, trans. Colm Luibheid and Paul Rorem (New York: Paulist Press, 1987), 137. Traditional injunctions against worry, criticism, judgment and related forms of psychic negativity, unlike their modern counterparts, have far less to do with mood management than with metaphysical error, specifically, the mistake of adumbrating the unknowable whole

own trouble [to] be sufficient for the day" (Matthew 6:34). Such is the torment of a domain where nothing escapes personalization, i.e. hell: the sheer *identity* of not seeing God and being oneself forever.

That this is at once immense good news and precisely what *you* do not want to hear on this subject is exactly the point. As Porete warns her readers at the opening of the *Mirror*, "I pray you by love, says Love, that you hear me through great effort of the subtle intellect within you and through great diligence, for otherwise all those who hear it will grasp it badly."<sup>16</sup> Accordingly, just as it is the mystic's antinomian claim of the radical immanence of paradise that elicits her judicial execution for heresy—a murder that decides, in the name of law, the fallenness of this world—so will I directly rank all that refuses the universal fact of essential sweetness under the heading of the human *hatred of paradise*. This hatred, which by definition is hardly admissible as hatred, is what one shares with Milton's Satan and Dante's infernally sullen. It is simply the covert privative will of narrow self-love that lies within your desire *not* to exit ourselves—"Which way I fly is Hell; myself am Hell" (*Paradise Lost* IV.75)—and to remain "tristi . . . ne l'aere dolce che dal sol s'allegra" (*Inferno* VII.121-2) [sad . . . in the sweet air that is gladdened by the sun]. Among its main symptoms is the weird assumption that justice might be satisfied in a world that ought to be otherwise.

Loving to mask itself with nostalgia for Eden and/or hope for a better tomorrow, the hatred of paradise is marked by hypocritical fidelity to the law, a pseudo-faith which believes in and worships law as both cause and remedy of the world's non-paradisical nature. The hatred of paradise says that law has poisoned the world and will make it sweet again (whether by law's creation, preservation, or destruction), that the problem and the solution resides with law. Neither keeping nor abandoning the law, the hatred of paradise feeds on law as a dead power, a rotting lion-carcass out of which flows the false honey of its own bitterness, the insufficiency of its semi-sweet life.<sup>17</sup> The common, naturalized force of this hatred is evident in our too-easy sympathy with the speaker of William Blake's "Garden of Love" from the *Songs of Experience*:

---

with self-centered or merely correlational reactions. As Stephen Hirtenstein notes with regard to Iban Arabi's teachings, "our mentioning of the negative goes against our real nature and the fundamental nature of things" ("O Marvel!: A Paradigm Shift Towards Integration," *Journal of the Muhyiddin Ibn 'Arabi Society* 46 [2009], <http://www.ibnarabisociety.org/articles/rosegarden-thorns.html>). Julian of Norwich states that looking at another's sin obfuscates reality by causing "as it were a thick mist afore the eye of the soule" (Julian of Norwich, *The Writings of Julian of Norwich*, ed. Nicholas Watson and Jacqueline Jenkins [University Park, Pennsylvania: University of Pennsylvania Press, 2006], 363). For Meister Eckhart, the annihilation of the will in God, which is conceived in terms of spiritual birth, is marked not only by the absence of grief, but the realization of a truth that rules even God: "cast out all grief so that perpetual joy reigns in your heart. Thus the child is born. And then, and if the child is born in me, the sight of my father and all my friends slain before my eyes would leave my heart untouched . . . It is a certain and necessary truth that he who resigns his will wholly to God will catch God and bind God, so that God can do nothing but what that man wills" (*Complete Mystical Works*, 75-92). Alternately, separative identity entirely depends upon something being *wrong*.

<sup>16</sup> Marguerite Porete, *Mirror of Simple Souls*, 80.

<sup>17</sup> The allusion to Samson's dead lion here serves well as a spontaneous figure for the fatal lack of spiritual courage that the sick love of law demonstrates. Diagnosing his own dis-ease, Nick Land sympathetically wrestles down the modern relation to law as dead power thus: "In its virtual truth, law has already disappeared from the Earth. What remains of 'law' is a dissolving complex of relics from political sociality, nostalgic media-driven theatre, and pre-automatised commodification protocols . . . The post-civilizational pragmatism of immanence to the market (anonymous resource distribution) reiterates its own juridical expression as an increasingly embarrassing archaism, preserving law only by functionalizing legality in terms that subvert its claim to authority" (Nick Land, "After the Law," in *Fanged Noumena: Collected Writings 1987-2007*, eds. Robin Mackay and Ray Brassier [London: Urbanomic/Sequence, 2011], 259-60).

And the gates of this Chapel were shut,  
And Thou shalt not. writ over the door;  
So I turn'd to the Garden of Love,  
That so many sweet flowers bore.<sup>18</sup>

This moment of reversion is emblematic of the operative opposition between law and sweetness in the world, an environment wherein the negativity of proscription is inevitably experienced as precluding the positivity of enjoyment and freedom, and vice-versa. The law-inscribed institution, rather than preserving and securing the site of ordinary pleasure, the garden "where I used to play on the green," not only occupies it, but turns the very garden into the infected space of law's *outside*:

And I saw it was filled with graves,  
And tomb-stones where flowers should be:  
And Priests in black gowns, were walking their rounds,  
And binding with briars, my joys & desires.

Whence the deeper meaning of the final line, namely, that not only is delight restricted, externally governed by legal bindings, but that joy and desire are themselves bound, restricted in their very form. This is a world where sweetness lacks itself, is without true savor, being delimited from within by having become the intimate exterior of proscription, the *thou shalt not*, irrespective of what is negated. Sweetness in such a world is unsavory because the good to which it is proper, in being translated into law and consequently confused via the negativity of proscription with the evil it exempts, has been made the subject of *justification*, from which goodness is essentially or naturally free and has no need of whatsoever. Only evil needs to justify and explain itself, first to itself and secondarily to everything else. Justification is in fact evil's principal preoccupation and anxiety, its chief *business*.<sup>19</sup> So the last thing one ought to do is sympathize with the 'innocent' speaker of Blake's poem in a manner that justifies his disappointment as our own, that feels *sorry* for him as fellow dissatisfied subject and voluptuous victim of the law. To do so is paradisiacally *illegal*. Note how the verses rather hint against the error of falling for such a fallen identity of desire. Sweetness in this realm is only referenced as a former property of the garden, properly attracting us to understand it as synthesized *per se* by the structure of Edenic nostalgia, as if the decalogic door of the chapel is the actual ground from which the "sweet flowers" inexistently grow. No, this all-too-experienced poem is not a true account of the way things really are, but a playing out of the bitter experiential self-deception inherent to

---

<sup>18</sup> William Blake, *Complete Poetry & Prose*, ed. David V. Erdman (New York: Doubleday, 1988), 26.

<sup>19</sup> Here the precise evil of worry is also revealed, namely, that worry always operates as a *justification* for not being happy. Worry says, 'I am your right to be unhappy'. It is the generic form of evil in the world and the essential act of hypocrisy or lying to oneself. This is why a person will often claim a 'right' to worry, wanting to remain blind to the internal and external harm they cause by worrying. But on what grounds is such a right present? Is there a right to be miserable? I do not think so. Cf. Matthew 6:25-7:5. Francis rebukes a gloomy companion thus: "Why do you outwardly show your sadness and sorrow over your offenses? This sadness is a matter between you and God" (*Francis of Assisi: Early Documents*, eds. Regis J. Armstrong, J. A. Wayne Hellmann, and William J. Short, 3 vols. [New York: New City Press, 1999], III.342-3).

all attempts to return to a garden that *was* (or will be), to find delight in what *is not*, in the place "Where I used to play on the green." The truth of the Garden of Love is one that Blake realized and knows very clearly, namely, that the source of sweetness resides within, in the sheer spiritual freedom of the one who elects *not* to bind itself to desire, "he who kisses a joy as it flies."<sup>20</sup>

Overcoming or renouncing the hatred of paradise demands abandoning belief in and becoming heretic to sweetness in this failed, self-lacking sense, cleansing the tongue of this too-familiar, diurnal taste of the impossibility of authentic, unitary enjoyment, the sugary aftertaste of our assumed fall into or away from law. It means openness to the horror of all that this hatred fears: the finding of a real source of imperishable sweetness immanent to everything that infinitely exceeds *me*, namely, the so-and-so who lives according to the illusory right of telling Reality what it should be like and do. The opportunity of tasting real sweetness asks that one pass through exposure to the perfect *terror of paradise* or sweetness-in-the-last-instance whose ordinary ethical form is the enactment of the absolute illegitimacy of worry, one's intellectual slavery to the pernicious pseudo-intuition that something (else) is always wrong with things. Correlatively, the current cultural form of the hatred of paradise, as Max Weber's famous analysis shows, is capitalism (*business*, from Old English *bisignes*: anxiety, concern, uneasiness, worry). Similarly, every ideological or identitarian process of law necessarily operates within, as its very condition, the obfuscation, falsification, and elision of this ultimate fact of the sweetness. For this reason, erasure of the hatred of paradise is not ordered per se toward sweetness-production, though it may (or may not) release sweetness. The erasure is not to be realized in the style of founding external sources or institutions of sweetness, such as socially produced affective spectacles of sweetness-affirmation or returns to religion or philosophy or humanism as earthly gardens of spiritual law. To abandon the hatred of paradise means simply to live one's own life spontaneously in the *docle stil nuovo* [sweet new style] of discriminating the infinite difference between true and false sweetness. Bataille is most right—"Woe to those who, to the very end, insist on regulating the movement that exceeds them with the narrow mind of the mechanic who changes a tire"<sup>21</sup>—because there are *higher* laws. And this is exactly what the common evocation of love as the highest law—"Quis legem det amantibus? Maior lex amor est sibi" [Who can give law to lovers? A greater law is love to itself]<sup>22</sup>—sentimentally forgets, that love is *law*. "Woe unto them that put bitter for sweet and sweet for bitter!"(Isaiah 5:20).

The form of law necessitated by the universal fact of essential sweetness is *ordinary* law in François Laruelle's sense of ethics returned "from the heavens and the earth back towards its real base which is man's immanence."<sup>23</sup> Ordinary law is paradisaical law in the sense of law in touch with and grounded in law's own interior

---

<sup>20</sup> Blake, *Complete Poetry & Prose*, "Eternity," 470.

<sup>21</sup> Georges Bataille, *The Accursed Share*, trans. Robert Hurley, 2 vols. (Brooklyn, NY: Zone, 1991), I.26.

<sup>22</sup> Boethius, *Consolation of Philosophy*, trans. S. J. Tester (Cambridge, MA: Harvard University Press, 1973), III.m12.47-8.

<sup>23</sup> François Laruelle, "The Concept of an Ordinary Ethics Founded in Man," trans. Taylor Adkins (<http://www.univocalpublishing.com/blog/108-the-concept-of-an-ordinary-ethics-or-ethics-founded-in-man>).



beyondness or universality, law on the cosmic continuum of laws. Ordinary law is real law in the sense of the tightest possible binding together of law's two senses (what is and what should be), a binding that paradoxically intensifies and immanentizes the gap between them, opening it as the narrowest gate of paradise. Ordinary law is the sweetest law—"my yoke is easy [*chrestos; suave*] and my burden is light" (Matthew 11:30)—because it is the law you think the most bitter, the one whose perennial sign is in one stroke to hit you where you live and demand from you the courage to really have, without the alienation of ascribing to it, a moral code that is truly one's own. The law of ordinary law is nothing less or more than rigorously personal impersonal responsibility for guarding with one's life the secret beyond-within of law itself, the sweet pure sense of infinitesimal difference according to which it has been written that "between Nirvana and the world there is not the slightest difference," that in Paradise—the good thief's *today* (Luke 23:43)—"everything will be as it is now, just a little different."<sup>24</sup> With this purposeless end in mind, the remainder of this essay attempts to extract exegetically a maximum sweetness (of the law) from one of law's more bitter founding moments.

#### THE TASTE OF LAW

The disjunctive relation between sweetness and law is evident in the general discursive separation of these categories.<sup>25</sup> That this is a significant rather than accidental separation is suggested by the general concept of the 'bitterness' of the law,<sup>26</sup> which implies preclusion against thinking law as sweet. Yet that is exactly what understanding the concept of law's bitterness will demand. The trope may be traced back to the waters of Marah (lit. *bitterness*) which Moses sweetens by the addition of a tree shown to him by the Lord (Exodus 15: 25). Christian commentators on the text emphasized the law's bitterness by interpreting the waters in fulfillment of the parallel distinctions governing their figural exegesis: Old Law/New Law, letter/spirit, fear/love, judgment/grace. As Henri de Lubac observes,

<sup>24</sup> Agamben, *The Coming Community*, 52, citing Nagarjuna and Ernst Bloch (citing Walter Benjamin citing Gershom Scholem citing a well-known Hasidic parable), respectively.

<sup>25</sup> For example: a book on law and the senses that does not mention sweetness (*Law and the Senses: Sensational Jurisprudence*, eds. Lionel Bently and Leo Flynn [London: Pluto, 1996]); a history of the concept of sweetness that does not mention law (Mary Carruthers, "Sweetness," *Speculum* 81 [2006]: 999-1013); a study of the collusions between sugar and power in the modern world that does not directly address the affinity between its title terms (Sidney W. Mintz, *Sweetness and Power: The Place of Sugar in Modern History* [New York: Penguin, 1986]). The most my cursory research gleans from such relevant scholarship regarding the connection between sweetness and law is: 1) that sweetness is a medium of power on the basis of its semantic openness and polysemy: "sugar . . . was symbolically powerful, for its use could be endowed with many subsidiary meanings. No wonder the rich and powerful liked it so much, and no wonder the poor learned to love it" (Mintz, *Sweetness and Power*, 186); 2) that sweetness, which is both essentially good and conspicuously qualified by good and bad senses of itself, is a unitive register of paradise, its loss, and its restoration: "'Dulce lignum dulce clavo dulce pondus sustinens' [Sweet tree sustaining a sweet burden with a sweet nail] (Venantius Fortunatis). The single, noble tree recalls the trees of Eden whose fruits were wholesome and sweet to eat—all save the one whose fruit proved both sweetest and bitterest of all . . . This sweetness has killed twice over, first when Eve and Adam tasted/knew the sweet apple, and then when the sweet nails fastened the sweet body to the sweet wood" (Carruthers, "Sweetness," 1012); and 3) that law may be functionally blind to the gustatory in general insofar as it views it as merely functional, following the classic epistemological hierarchy of the senses: "IP [Intellectual Property] law treats tactile, gustatory, and olfactory pleasures as functional and visual and aural pleasures as nonfunctional" (Christopher Buccafusco, "Making Sense of Intellectual Property Law," *Cornell Law Review* 97 (2011): 542.

<sup>26</sup> For example: "We have strict statutes and most biting laws" (William Shakespeare, *Measure for Measure*, 1.3.19).

the waters of Marah . . . lend themselves to signifying the ancient books of Scripture . . . Through the spiritual sense that is communicated to the books by the wood of the cross, they become the very sweetness of the Gospel: "let the bitterness of the law be overcome by the sweetness of the cross." From the time of Tertullian and Origen onward, this image is repeated indefinitely.<sup>27</sup>

For this tradition, sweetness is a kind of essential supplement to law, a potentiality of law that yet subsists in being different from law itself. Sweetness both characterizes the essence of law, its inner spiritual truth, and is a secondary property, a sweetener and more than sweetener that makes law palatable and livable, "so that the people may drink."<sup>28</sup> Being an addition to law that transforms it without alteration into its real substance or truth, sweetness is like the *spice* of the law,<sup>29</sup> the deep quality of its immanent life, and precisely for that reason something that must not be confusedly identified with law itself. Sweetness is not law's essential face or appearance, not its *species*, yet there is a sweetness that has to do with it and can make it like itself. Law and sweetness represent different orders of being, especially if sweetness is conceived in light of the anomian aspect of charity as law beyond law.<sup>30</sup> Yet they are interdependent. Law depends upon sweetness for its fulfillment, and sweetness depends, for its intelligibility and operation, upon law. The difficulty of the sweetness/law disjunction, the necessity of connecting and separating these terms, asks that we look further into the story, behind and beyond the doctrinal gloss.

The bitter waters of Marah must be understood in the context of the events immediately preceding and following their sweetening, on which their connection to law is founded. Given the lack of drinkable—and the presence of undrinkable—water, the people became restive, an anxious condition of great moral consequence which is later equated to tempting the Lord (Exodus 17:2): "they went three days in the wilderness and found no water. When they came to Marah, they could not drink the water of Marah because it was bitter; therefore it was named Marah. And the people murmured against Moses, saying 'What shall we drink?'" (Exodus 15:22-4).<sup>31</sup> In a creative reversal of this situation, the sweetening of the water, the making wholesome of what did not satisfy, is the pretext for the establishment of life-sweetening law: "There the Lord made for them a statute and an ordinance and there he proved them, saying, 'If you will diligently hearken to the voice of the Lord your God, and do that which is right in

---

<sup>27</sup> Henri de Lubac, *Medieval Exegesis*, trans. E. M. Macierowski, 4 vols. (Grand Rapids, MI: Erdmans, 1998), 3.256. Origen, whose commentary was included in the *Glossa Ordinaria*, uses the example of the circumcision to emphasize the bitterness of the literal law and the necessity for its spiritual translation: "the Law, if it be undertaken according to the letter, is sufficiently bitter and is itself Mara. For what is so bitter as for a child to receive the wound of circumcision on the eighth day and tender infancy suffer the hardness of iron? . . . If, therefore, the tree of the wisdom of Christ has been thrown into the Law and has shown how circumcision ought to be understood [i.e. of the heart] . . . the bitterness of the letter of the Law is changed into the sweetness of spiritual understanding" (Origen, *Homilies on Genesis and Exodus*, trans. Ronald E. Heine [Washington: Catholic University of America Press, 1962], 301).

<sup>28</sup> Origen, *Homilies*, 302.

<sup>29</sup> On spice as "generational integrity of spirit and letter," see Nicola Masciandaro, "Becoming-Spice: Commentary as Geophilosophy," *Collapse* 6 (2010): 21-56.

<sup>30</sup> "[T]he law is not laid down for the just but for the lawless and disobedient" (1 Timothy 1:9). "Love and do what you will [*Dilige et fac quod vis*]" (Augustine, *Tractates on the First Epistle of John*, trans. John W. Retting [Washington: Catholic University of America Press, 1995], 7.8).

<sup>31</sup> Cf. "And which of you by being anxious can add one cubit to his span of life . . . Therefore do not be anxious, saying, 'What shall we eat?' or 'What shall we drink?'" (Matthew 6:27-31).

his eyes, and give heed to his commandments and keep all his statutes, I will put none of the diseases upon you which I put upon the Egyptians; for I am the Lord, your healer” (Exodus 15: 25-6). The waters are both the place of the giving of law, which as object is paralleled in the tree or wood revealed to Moses,<sup>32</sup> and, in light of the affinity between sweetness and health,<sup>33</sup> an analog of the law itself whose keeping heals and protects from disease. On the one hand, sweetness, as the property of what ensures health, belongs to the law. The law is wholesome, a sweet source of well-being.<sup>34</sup> On the other hand, sweetness figures not the law itself, but the secondary effect or benefit of keeping it, a superadded law of the law or necessary quality of its realization or fulfillment. As the bitter waters are sweetened by the addition of the tree, the life of the people will be sweetened in keeping the law. Within this analogy, the waters beautifully flow between being the problem law addresses and the sweetness of its solution. Significantly, the nature of the sweetening itself is left open, or hidden.

The analogical form of the story establishes a four-fold intersection and separation of law and sweetness. On one side, law and sweetness are disjoined in the life of the unrighteous and analogously in the bitter water. On the other side, law and sweetness fuse in the life of the righteous and analogously in the sweet water. The story does not merely illustrate that there is an analogical relation between law and sweetness, but *establishes sweetness itself as the perfect form of law’s governing of the real analogy between life and the living*,<sup>35</sup> as figured by the implicit vital homology between tree and human, which points back to their common origin in paradise. The governing analogy of the story, between the sweetening of the waters and the giving of law, is not merely figural or expressive, but holds the essence of the story as a statement about the nature of law itself. As follows:<sup>36</sup>

LIFE	TRUTH	LIVING
water	<i>bitter</i>	unrighteous
<i>object</i>	LAW	<i>subject</i>
water+wood	<i>sweet</i>	Righteous

<sup>32</sup> “*Targum Pseudo-Jonathan* to Exodus 15.25 interprets the tree as the Law (often compared to the tree of life in Jewish tradition) and the branch as a commandment of the Law, which God gave to Moses at Marah” (Richard Bauckham, “Paradise in Pseudo-Philo’s *Biblical Antiquities*,” in *Paradise in Antiquity: Jewish and Christian Views*, eds. Markus Bockmuehl and Guy G. Stroumsa [Cambridge: Cambridge University Press, 2010], 52).

<sup>33</sup> “Sweetness is medicinal; it heals and restores . . . To be sweet is to be wholesome, without excess of bitterness and salt: thus water and wine both are called ‘sweet’ when they are pure, whether or not they are sugared. Things are also ‘sweet’ when they are fresh—Plautus can speak of a *suavis piscis*” (Carruthers, “Sweetness,” 1100-1).

<sup>34</sup> Steven Wilf highlights the figural equation of law and water in the context of how the episode narrates the social fashioning of the people “into *nomian* beings”: “According to the *Mekhilta*, the Israelites had become ‘rebellious because they had been without Torah for three days. Torah is likened to water—necessary for life on a nearly constant basis” (*The Law Before the Law* [Lanham, MD: Lexington Books, 2008], 137, 149-50).

<sup>35</sup> On the analogical (as opposed to univocal or equivocal) relation between life and the living, see Eugene Thacker, *After Life* (Chicago: University of Chicago Press, 2010), 108-13, 126-9.

<sup>36</sup> These terms of the table may be glossed as follows. The sweet subject of the law (righteous) is the one sweetened or kept wholesome by keeping the law and the one for whom the law itself is sweet, a source of delight. The bitter subject of the law (unrighteous) is the unwholesome one who does not keep the law and for whom the law itself is bitter, a source of suffering. The bitter object of the law (water) is the condition of bitterness (unwholesomeness, suffering) that law remedies. The sweet object of law (water+wood) is the condition of sweetness (wholesomeness, delight) that law provides.

The *analogy* says: law is truth. In what sense? Not as what is otherwise simply decidable as true or false, good or bad, but in the immanent sense of the living or spontaneously historical analogy between life and the living whose perfected mode of consciousness is *remembrance of the present*, i.e. that attention to things which sees them *as they are* in the context of past and future, as opposed to reducing the present—like mistaking the frame for the picture—to a mere correlate of past and/or future. The natural sweetness of truth in this sense is that which is proper to life understood as *a life*, the “impersonal yet singular life” which Deleuze illustrates via Dickens’s character Riderhood at the moment when, “in his deepest coma, this wicked man himself senses something soft and sweet penetrating him.”<sup>37</sup> Truth is the non-difference between the life of the living and the living of life, the *necessity* according to which the “Infinite . . . has to discover its unlimited life in and through the finite without getting limited by this process.”<sup>38</sup> The divine purpose of law is to realize and fulfill the infinity of this non-difference, to *wake life* to the endlessness of its immanent reality by consciously laying to sweet sleep all the purposes that bind it, above all to itself.<sup>39</sup>

<sup>37</sup> Gilles Deleuze, *Pure Immanence: Essays on A Life*, trans. Anne Boyman (New York: Zone, 2001), 28.

<sup>38</sup> Meher Baba, *Discourses*, I.120.

<sup>39</sup> As figured in Nietzsche’s “heaviest weight,” the absolutely binding-liberating principle of the eternal return of the same (*Gay Science*, trans. Josefine Nauckhoff [Cambridge: Cambridge University Press, 2001], 194) and in Meister Eckhart’s formulation of the divine whylessness of life: “it lives without *Why*, because it lives for itself. And so, if you were to ask a genuine man who acted from his own ground, ‘Why do you act?’ if he were to answer properly he would simply say, ‘I act because I act’” (*Complete Mystical Works*, 110). In other words, the only purpose of life, which itself properly belongs only to what lives without principle—“Hoc enim proprie vivit quod est sine principio” (Eckhart)—is to arrive at the purposeless Reality: “Reality is Existence infinite and eternal. Existence has no purpose by virtue of its being real, infinite and eternal . . . Everything—the things and the beings—in Existence has a purpose . . . Their very being in existence proves their purpose; and their *sole purpose* in existing is to become shed of purpose, i.e. to become purposeless. Purposelessness is of Reality; to have a purpose is to be lost in falseness . . . Love alone is devoid of purpose and a spark of Divine Love sets fire to all purposes. The Goal of Life in Creation is to arrive at purposelessness, which is the state of Reality” (Meher Baba, *The Everything and the Nothing* [Beacon Hill, Australia: Meher House Publications, 1963], 62). In these terms, the purpose of law or the law of law, is to bring to end all the purposes that separate life and living. Purpose exists in the separation of ends and means, in the empty space between law’s two senses. Purposelessness lives in the inescapable free binding of life to itself, wherein what is and what should be are forever reconciled beyond reconciliation, where the dialectical circle of law is paradoxically shrunk to an infinite point. The connection between this shrinking and sleep is articulated by Meister Eckhart: “If a person were really asleep for a hundred years, he would not know any creature and he would not know of time or images. [Only if you so sleep,] then can you hear what God is bringing about in you. This is why the soul says in the Book of Love: ‘I sleep and my heart is awake’ (Sg 5:2)” (*Teacher and Preacher*, trans. Bernard McGinn [New York: Paulist, 1986], 293). The proverbial sweetness of sleep, an absolute law of life whose intimacy therewith is shown in sleep’s suspension of everything save breath, is sister to the wakeful captivation of contemplation: “For by a wondrous sweetness was she [Mary] held; a sweetness of the mind which is doubtless greater than that of the senses” (Augustine, *Sermons on the New Testament*, 54.1 (<http://www.newadvent.org/fathers/160354.htm>)). And as anxiety is the enemy of sleep, so is sleep a reflection of the irreconcilability of worry and justice: “At peace with God and neighbor, thus good sleep demands. And at peace too with the neighbor’s devil! Otherwise he will be at your house at night” (Friedrich Nietzsche, *Thus Spake Zarathustra*, trans. Adrian de Caro [Cambridge: Cambridge University Press, 2006], 18). The gravity of sleep indexes the sweet immanence of eternal justice, precisely because ‘justice never sleeps’: “suppose you feel tired and fed up and that you go to sleep. What is it that you are trying to do? It is nothing but to try to take refuge in God—your natural and inherent state. The whole Creation therefore has this conscious or unconscious tendency to take shelter in God the Over-Soul . . . by entering the state of sound sleep” (Meher Baba, *God Speaks: The Theme of Creation and Its Purpose* [New York: Dodd, Mead & Co., 1973], 101). Augustine similarly correlates the sense of divine justice and feeling for the inner abyss in commenting on Psalm 41:8: “*Deep calls to deep* [abyssus abyssum invocat] *at the sound of your cataracts* . . . This is how wisdom is imparted, and faith is learned, when one deep invokes another. Holy preachers of God’s word call to a deep abyss. But are they not a deep abyss themselves? They surely are, as you know. The apostle says, *It matters very little to me that I am judged by you or by any human day of reckoning*. What a deep abyss he is! But he goes further: *Neither do I judge myself*” (*Expositions of the Psalms*, trans. Maria Boulding, 6 vols. [New York: New City Press, 2000], II.251-2). In other words, the apparent virtuality of abysically resonant communication is a real sign of the hidden reality of eternal justice as well as a real medium of worrylessness. Beautifully enacting this principle, Augustine opens the commentary on this line addressing the (invisible) reader as a visible presence by means of whose interest his own commentarial effort proceeds without anxiety: “I may be able to get through this whole psalm if you help me by your concentration, for I can see how eager you are. I am not too worried about any fatigue you may feel as you listen, for you can see how I am sweating in the effort that speaking costs me. And as you watch me laboring, you will certainly help me, for you know I am laboring not for my own benefit, but yours. Go on listening, then; I can see you want to” (*Expositions*, II.251). This points significantly back to questions of relation between media

Accordingly, the practice of law must live or flow within the proportional analogy between law and laws, namely, in the space where law is not itself the truth, or, the taking-place of things is not reduced to a fact like others.<sup>40</sup> Ontologically, law is what is *proven* in life and in the living. Ethically, law is how life is made worth living and the living make themselves *worthy* of life. On this point it is essential that *what* laws were given at Marah is not given in the text, only *that* laws were given. For only an open idea of law, similar to the unqualified wood, can fulfill law as truth and sweeten the waters of life. Which also means that the fact of law equally needs *mere* law, simple unmixed, non-allegorical wood for its truth. Indeed the story demonstrates such an idea of immanent truth in its own structure, wherein law is provided to people within the cause-and-effect logic of its own event, around the waters of Marah.<sup>41</sup> This situational relation of law's event to causality raises a bitter question: Would the Lord have given laws at Marah had the people not murmured? And a sweet answer: No.<sup>42</sup>

Meister Eckhart says, "In truth, unless you flee first from yourself, then wherever you flee to, you will find obstacles and restlessness no matter where it is."<sup>43</sup> That the Marah episode is legitimately read as ordered towards this principle, that is, that the failure of people to flee from themselves while finding the bitter waters is the condition for the provision of law, is legible not only in light of the broad Judeo-Christian

---

and sweetness, virtuality and justice. Is not the theory of communication that Augustine here finds and dramatizes a form of 'post-human' justice predicated upon the *as not* [*h□s m□*] structure of apostolic identity? Is not the *as not*—as opposed to the hope-structure of the *as if*, which is actually only a mechanism for 'having one's own way' in a bad way upon the faulty foundation of assumption that the hoped-for always already *is not*—precisely the hopeless 'hope' of the virtual as mode of relation that calls from the depths to release identity into sweet wayless abysses of a *life*? See Eugene Thacker, "The Wayless Abyss: Mysticism and Mediation," *Postmedieval* 3 [2012]: 80-96. Is not eternal justice thus coterminal with arts of *wayless media*, above all the taste of one's own tongue, whose aimless aim empties world of the correlational, fake-it-till-you-make-it structure of capitalist life (our hell-creating virtual performance of salvation) in f(l)avor of the fullness of the cephalophoric paradise where law both is *as if it were not* decapitated and is decapitated *as if it were not*? "Justice without law is not the negation of the law, but the realization and fulfillment, the *pl□r□ma*, of the law" (Giorgio Agamben, *The Time That Remains: A Commentary on the Letter to the Romans*, trans. Patricia Dailey [Stanford: Stanford University Press, 2005]107). Affirming these questions, Scott Wilson provides a proper figure for such media, one whose beauty lies precisely in the abyssic alreadyness or radical immanence of its 'perhaps': "Perhaps some time in the future, some hard-bodied, hard-wired assemblage self-designed to survive the lifeless expanses of time and space will sense the sense the soft sweetness of a-life penetrating it" (*The Order of Joy: Beyond the Cultural Politics of Enjoyment* [New York: State University of New York, 2008], 173).

<sup>40</sup> "Evil . . . is the reduction of the taking-place of things to a fact like others" (Agamben, *Coming Community*, 14).

<sup>41</sup> As Meher Baba explains, the universal law of cause and effect is the ground of ethics and responsibility within life: "There cannot be any serious pursuit of values if there is no assured connection between means and ends and if the law of Karma can be set aside. The inflexibility of the law of Karma is a condition for significant human action which would be utterly impossible if the law of Karma could be safely ignored or flouted. In its inviolability the law of Karma is like the other laws of nature. However, the rigorousness of the operation of Karmic laws does not come to the soul as the oppressiveness of some external and blind power, but as something involved in the rationality of the scheme of life. Karmic determination is the condition of true responsibility. It means that a man will reap as he sows. What a person gathers by way of experience is invariably connected with what he does" (*Discourses*, III.90).

<sup>42</sup> Fulfilling a similar logic of human-divine relation, God would not have destroyed the world with the Flood had Noah not 'taken thought for the morrow', according to the commentary in the *Zohar*, which Daniel Colucciello Barber explicates, via Eckhart and Laruelle, as follows: "The *Zohar's* commentary . . . points out that depending on this basis, grounding one's survival by mirroring its command—build an ark and save yourself—is precisely to fail ethically. Even God was waiting for Noah to refuse God's command. In other words, even God asks Man to unground God; God waits for Man to turn baselessness against God. Yet Noah does no such thing, he attaches himself to God so that God will provide a why, a basis for Noah's survival" ("Whylessness: The Universe is Deaf and Blind," in *Dark Nights of the Universe*, eds. Barber, Galloway, Masciandaro, Mett , and Thacker [Miami: NAME, 2013], 41).

<sup>43</sup> Meister Eckhart, *Complete Mystical Works*, 488. Correlatively, it is in the nature of sweetness to displace its savorer: "the sweetness-in-me experience casts the enjoying subject out of the center and places it, for a few precarious yet welcome moments, on the fringe of an autocratic taste sphere" (Peter Sloterdijk, *Bubbles: Spheres I*, trans. Wieland Hoban [Los Angeles: Semiotext(e), 2011], 93)—with thanks to the anonymous reviewer who brought this passage to my attention.

proscription of the “bitterness of murmuring [*amartudine murmurationis*]”<sup>44</sup> as a lapse in faith and blindness to eternal justice—“Do all things without grumbling or questioning” (Philippians 2:14); “Why should a living man complain, a man, about the punishment of his sins?” (Lamentations 3:39)—but more significantly in terms of the spiritual ‘mechanics’ of sweetness and bitterness, both in the story and its interpretations, which point back to their inner source. As the people’s superimposition of psychic bitterness upon the waters of Marah is the pretext for their being given laws, so are the laws received a means of ordering people towards the true source of sweetness within themselves, toward realizing the profound relation between wisdom and taste, *sapientia* and *sapor*, according to which truth is always a matter of discriminating for and through oneself the difference between good and bad, a process of tasting or proving its *right flavor*.<sup>45</sup> This means that the laws cannot at all be means in the spiritually escapist or religiously legal (i.e. hypocritical) sense of a guarantee that supplants the paradisaical imperative of sweetness with rules for sweetness. Rather the laws are simply *another chance* to discover sweetness’s inner source, another bitterness with which to find paradise, a chance that is itself *directly* produced from the preceding failure via the cosmic logics of experience. Law is the chance that the refusal of sweetness *deserves*.<sup>46</sup> It is a chance to stop worrying, not because keeping the law promises removal of the object of worry (health), so that now one’s need only worry about keeping the law, but because keeping the law *instructs* in the needlessness and evil of worry in the first place. The lesson of law’s event is exactly *not* ‘I have law so now I need not worry’, but ‘I worry so now I need law’. To the one who exits (the possibility of) paradise, who misses paradise by deciding that *this is not it*, who refuses disobedience of the self’s bitter command to remain a servant of oneself, who demonstrates too humanly a sheer inability to *be* in paradise, to this one is given law.<sup>47</sup> Law is the sweet and truthful reflection of the negation of sweetness, an inescapable symptom of the hatred of paradise.

To understand the Marah episode in this way, at the touch point between the ‘external’ binding of people to law and their ‘internal’ attraction of law unto themselves,

<sup>44</sup> Augustine, *Enarationes in Psalmos*, 99.14.2, PL 37:1280.

<sup>45</sup> “Perhaps *sapientia*, that is wisdom, is derived from *sapor*, that is taste, because, when it is added to virtue, like some seasoning, it adds taste to something which by itself is tasteless and bitter . . . For in nothing is the victory of wisdom over malice more evident than when the taste for evil—which is what malice is—is purged away, and the mind’s inmost task senses that it is deeply filled with sweetness” (Bernard of Clairvaux, *On the Song of Songs*, trans. Irene Edmonds, 4 vols. [Kalamazoo, MI: Cistercian Publications, 1980], 85:8-9, IV.204-5). The deep logical connection between the gustatory and the elective is shown in the IE root *geus*: to taste, chose (origin of both *choose* and *gustus*). As knowledge proceeds via discrimination, so is pleasure or disgust also a choice. The horizon of knowledge is governed by the ethics of taste.

<sup>46</sup> This corresponds to how the laws given at Marah are also a test or proof of the people: “and there he proved them” (Exodus 15:25).

<sup>47</sup> “Certain it is that *work, worry, labor and trouble*, form the lot of almost all men their whole life long. But if all wishes were fulfilled as soon as they arose, how would men occupy their lives? what would they do with their time? . . . men would either die of boredom or hang themselves; or there would be wars, massacres, and murders, so that in the end mankind would inflict more suffering on itself than it has now to accept at the hands of Nature” (Arthur Schopenhauer, *Studies in Pessimism*, trans. T. Bailey Saunders [London: Swan Sonnenschein & Co., 1891], 13). The genius of this hypothetical passage, of course, is that it only reproduces the world as it is and thus begs the question of natural vs. self-created suffering so as to ironically open the speculative possibility that this in fact is paradise. Indeed the essay heads directly into an ecstatically pessimist vision of that equally certain possibility: “There is nothing more certain than the general truth that it is the grievous *sin of the world* which has produced the grievous *suffering of the world* (24). Cf. “Most of man’s suffering is self-created through his ungoverned desires and impossible demands. All this is unnecessary for self-fulfillment” (Meher Baba, *Discourses*, III.168).

requires by its own principle (the priority of self-fleeing) that one *neither blame nor excuse* the Israelites for the laws at Marah. Likewise, it requires a correlative neutralization of the concept of law, so that we see law neither as punishment nor revelation, but as the pure working out of the necessity of law itself, the *actus purus* of the law of law whose universal form is the unity of cause-and-effect or the preservation of oneness in duality. To think otherwise would be to interpretively commit the same transgression our reading would redress and embitter the text with doctrinal law. Indeed the story seems conspicuously fashioned to promote or even enforce this neutrality. There is no question that the people's desire for water is right. Nor is there any question that their murmuring is wrong.<sup>48</sup> The rightness of one does not legitimize or justify the wrongness of the other. Rather the opposite: the wrongness is *all the more wrong* in relation to the rightness of its pretext. The waters are bitter, but something even bitterer, a hostile *exacerbation*, has been added to them, an element of *pure evil*.<sup>49</sup> This evil, fulfilled in the murmuring, is what is already present in the *naming* of the waters—"When they came to Marah, they could not drink the water of Marah because it was bitter; therefore it was named Marah" (Exodus 15:23)—insofar as the name is permitted to step beyond its own truth as (mere) name and veil reality, insofar as bitterness is permitted to pass from the waters through the word to the spirit. In failing to preserve and protect paradise with the living word or flaming sword of the tongue,<sup>50</sup> one instead imitatively follows language outside of paradise, literally murmuring like the bitter water beyond its bounds,<sup>51</sup> missing once again the garden's narrow gate: "For the gate is narrow and the way is hard, that leads to life, and those who find it are few" (Matthew 7:14). This tiny, momentary gate to paradise, which St. Francis perfectly illustrates via the experience of being locked out,<sup>52</sup> is the infinitesimal opening or point passed over in the transition from the rightness of needing water to the wrongness of murmuring, from the good bitterness of the waters (in their own right) to the evil bitterness of demanding that the world be otherwise (according to one's own desire). The bitter conjunction of the unquestionably right and the unquestionably wrong marks a misprision or mis-sensing of law itself, a failure to

<sup>48</sup> On the semantic parameters of murmuring (Hebrew *lîn*) and its connection to rebellion against God, see *Theological Dictionary of the Old Testament, Volume 7*, eds. G. Johannes Botterweck, Helmer Ringgren, and Heinz-Josef Fabry [Grand Rapids, MI: Erdmans, 1995], 509-12). *Lîn* is associated with the growling of dogs, which underscores both the loss of human dignity and the failure of understanding involved in murmuring, the sense in which murmuring equals irrational misapprehension. This is perfectly illustrated in the Islamic anecdote about Jesus and the dog carcass, in which the disciples are corrected without correction for identifying with the stench: "Mâlik, son of Dînâr, said; Jesus (Goodwill be upon him) and the disciples with him passed by the carcass of a dog. The disciples said, 'What a stench this dog makes!' The he (Blessing and Goodwill be upon him!) said, 'How white are its teeth!'" (*The Islamic Jesus: The Portrait of Jesus in Islamic Literature*, ed. and trans. Daniel Deleanu and J. Robson [Lincoln, NE: iUniverse, 2002], 13).

<sup>49</sup> This may be understood as a corollary to Augustine's perverse delight in stealing pears that were "not particularly tempting either to look at or to taste [*nec forma nec sapore inlecebrosi*]" (*Confessions*, 2.4.9), a formulation that intentionally inverts, like the crime, the delicious fruit of Genesis 3:6.

<sup>50</sup> "[T]he problem of knowledge is a problem of possession, and every problem of possession is a problem of enjoyment, that is, of language" (Giorgio Agamben, *Stanzas: Word and Phantasm in Western Culture*, trans. Ronald L. Martinez [Minneapolis: University of Minnesota Press, 1993], xvii).

<sup>51</sup> Cf. "Black Melancholy sits . . . Her gloomy presence saddens all the scene, / Shades every flower, and darkens every green, / Deepens the murmur of the falling floods" (Alexander Pope, "Eloisa to Abelard," lines 165-9).

<sup>52</sup> "I return from Perugia and arrive here in the dead of night. It's winter time, muddy, and so cold that icicles have formed on the edges of my habit and keep striking my legs and blood flows from such wounds. Freezing, covered with mud and ice, I come to the gate . . . 'For the love of God, take me in tonight!' And he replies: 'I will not!' . . . I tell you this: If I had patience and did not become upset, true joy, as well as true virtue and the salvation of my soul, would consist in this" (*Francis of Assisi: Early Documents*, I.166-7).

discriminate between what is and what should be that ruins the chance of translating between them.<sup>53</sup> What the murmuring at Marah figures is precisely the *false synthesis* of the two senses, the failure to synthesize world and will for which Nietzsche offers the unconquerably sweet antidote of *amor fati*: “seeing what is necessary in things as what is beautiful in them—thus I will be one of those who make things beautiful.”<sup>54</sup> True synthesis of law’s two senses, what is and what should be, is sweetness. Marah is not the place of law because law is bitter. Instead, Marah is the bitterness showing that law is the form of sweetness, the necessary water, which man’s bitterness *warrants*.

The exegetical tradition accords with this reading insofar as it locates the ultimate source of sweetness within the divinity of the individual soul and not in the objects and events that human beings name bitter or sweet. For Philo, the bitterness of the law is only an apparent bitterness, like the Aristotelian difficulty of virtue, a correlate of the disordered love of the good that evaporates as that love is ethically perfected and the ignorance of desire is dissolved.<sup>55</sup> Origen, commenting on *exacerbation* in Ezekiel 17:12, similarly derives bitterness from sin and underscores the human capacity to sweeten, via life’s essential sweetness, even “the most sweet words of God.”<sup>56</sup> Continuing and clarifying this line of thinking, Emmanuel Swedenborg directly interprets the bitterness of Marah as the state and quality of temptation away from “genuine affection for truth,” a negative distortion of reality caused by the curvature of perception around self-love.<sup>57</sup>

---

<sup>53</sup> Such failure of discrimination is the same as that which inhabits the one who wants vengeance, who “demands from the phenomenon what only pertains to the thing in itself [and] does not see to what extent the injuring and the injured parties are in themselves one” (Schopenhauer, *World as Will and Presentation*, I.426, §64). Whatever the water of Marah are in themselves, they expose the bitterness of those who find them bitter.

<sup>54</sup> *Gay Science*, 157.

<sup>55</sup> “[M]en in general look upon the fact of being prevented from swelling and boiling over with their appetites, but being forced to contract and restrain them as a grievous thing, thinking it a bitter thing to unlearn indulgence of their passions . . . It is for this reason that the law, as it appears to men, was given at a place which is called Bitterness; for to do wrong is pleasant, but to act justly is laborious . . . But others . . . pass through the contest of life, keeping their life safe from overthrow and from destruction . . . And the cause of this is not merely labour, but also the sweetness with which it is combined; for the scripture says, ‘And the water was made sweet.’ But sweet and pleasant labour is called by another name, fondness for labour; for that which is sweet in labour is the love of, and desire for . . . what is honourable” (Philo, *Works*, trans. C.D. Yonge [Peabody, MA: Hendrickson Publishers, 1993], 818-9). Wilf reprises Philo: “Law simply *seems* constricting. When it becomes the object of desire, it may be transformed into something beloved” (*Law Before the Law*, 149). However, this interpretation both misunderstands Philo and commits the error of glossing love of the good as an eros of law. Law is good, but it is not the good. The goodness of law is tied precisely to its constriction, its operation of binding beings to the good, as well as, via love, binding the good itself to its own beyond, to what is beyond being. If there is something in law to be loved, it is just this binding. As a condition of responsibility, law is ordered toward freedom and for that reason can never be the space of freedom itself, which “can be manifested only in the void of beliefs, in the absence of axioms, and only where the laws have no more authority than a hypothesis” (E. M. Cioran, *History and Utopia*, trans. Richard Howard [Chicago: University of Chicago Press, 1987], 11).

<sup>56</sup> “When the faithful take in these naturally sweet things, they are either living well or doing truly the contrary. If they are walking according to the divine standard, the words of God retain the sweetness with which they were first uttered. But I am inclined to think that through the goodness of their life they even increase the sweetness of God’s words, by mingling the sweetness of life with the sweet savor of speech . . . But if someone sins and ‘walks perversely’ [Lev 26:23], outside of the precepts of God he . . . turns all the sweetness into a bitter taste . . . The more I sin, the more bitterness I put into the sweetness of God’s words. If the transgressions I commit become great, I convert the entire sweetness of the honey into a bitter savor” (Origen, *Homilies 1-17 on Ezekiel*, trans. Thomas P. Scheck [Mahwah, NJ: Newman Press, 2010], 147-148).

<sup>57</sup> “The source of this temptation is, that communication with the good is intercepted as soon as man comes into his own proprium, for then he falls into the evil of self-love or love of the world. When he emerges from that state, truths become enjoyable. This is meant in what follows by the bitter waters being made sweet by the wood cast into them, for by wood is signified good” (Emmanuel Swedenborg, *Works, Volume 14* [Cambridge: Riverside Press, 1907], 201).



Exegesis explaining the nature of the sweetening of the waters, even if literally projecting the origin of sweetness outward into natural or supernatural external sources, is also easily savored as confirmation of the more mystical sense I am insisting on, a sense ideally articulated by Eckhart via the ancient metaphor of the sick man's tongue.<sup>58</sup> The tree by which the waters of Marah are sweetened has generally been interpreted as also being bitter, so that the sweetening might carry the sense of a wondrously positive double negation of bitterness, a "miracle within a miracle."<sup>59</sup> At the level of spiritual acts, this is to be understood as the marvelous nullification of bitterness or affective negativity that occurs when bitterness is no longer negated or embittered, the suicide-from-without of bitterness when it is entered into itself and permitted to be beyond relation in positive non-determining resignation to whatever it is.<sup>60</sup> See what happens to fear when the fear of fear is renounced—it dies to itself. In the form the Marah episode, this means putting the bitterness of the water back into water, or in Quentin Meillassoux's philosophic terms, undoing correlational identity by "transform[ing] our perspective on unreason . . . and turn[ing] it into the veridical content of the world as such."<sup>61</sup> If there is indeed bitterness, let it not be *my* bitterness. "I do not want to accuse; I do not even want to accuse the accusers. Let *looking away* be my only negation!"<sup>62</sup> If there is a problem with life, that is, if *I* have a problem with it, let life itself *be* the problem. Hell is only destroyed by entering it, by staying in it. Here one must understand the identity of turning away from bitterness and embracing it (like the Turin horse), which fulfills the *imperative to be* as figured by Miguel de Unamuno in terms of enduring the passion of the mystery (rather than trying to solve it) or allowing oneself to be swallowed by the Sphinx.<sup>63</sup>

---

<sup>58</sup> "Whoever seeks or aims at *something*, is seeking and aiming at nothing, and he who prays for something will get nothing . . . If a sick man does not relish food and wine, is that surprising? For he does not get the true taste of the wine or the food. The tongue has a coating and a cover with which it tastes, and that is bitter through the disorder of the disease . . . Unless this hindrance is removed, it cannot taste according to its proper flavor. As long as that which intervenes has not been removed in us, we will never get the proper flavor of God, and our life will often be harsh and bitter" (*Complete Mystical Works*, 350). I would highlight here the principle of intervention or interruption, the sense in which the error of bitterness takes the form of a stoppage of the flow of life and insertion of self as a barrier *between* consciousness and the world. A real version of this analogy is the way in which a person may love their own sickness insofar as it serves as a way of keeping the world 'about' them. The sense of murmuring as intervention or interruption in the Marah episode is paralleled in the way is necessitates Moses's intervening with the Lord and thence the intervention of law itself, which is now placed in covenantal fashion *between* the people and their health. The goodness of the law thus lies precisely in creatively displacing the selfhood that was bringing life down.

<sup>59</sup> "He puts something injurious inside something injurious in order to produce a miracle inside a miracle" (*Tanhuma Beshallah* 24), as cited in Eliezer Segal, *From Sermon to Commentary: Expounding the Bible in Talmudic Babylonia* [Waterloo, Ontario: Wilfrid Laurier University Press, 2005], 92). Hopefully I am correct in taking this to mean that God does not only turn something bitter to its opposite, but all the more miraculously does so by adding bitterness to bitterness, so that there are two miracles, one positive and one privative: 1) turning the bitter to sweet; 2) preventing the bitter (of the wood) from embittering the bitter (of the water).

<sup>60</sup> Commentary on the name *Mary*, cognate with *Marah*, offered another context for articulating this principle: "Now, someone complains that she cannot experience any sweetness from God, nor sweetness within. Let her not wonder at all if she is not Mary, for she must buy it with bitterness from without—not with every bitterness, for some, such as every worldly grief which does not serve for the health of the soul, turn one away from God" (*Anchoritic Spirituality: Ancrene Wisse and Associated Works*, trans. Anne Savage and Nicholas Watson [New York: Paulist, 1991], 186). Samuel Zinner identifies the Virgin's name as denoting "the world's bitterness which her own reality of celestial sweetness cancels" and connects Mary archetypally and phonetically with the divine names *ar-Rahman* and *ar-Rahim* of the Koran's beginning (*Christianity and Islam: Essays on Ontology and Archetype* [London: Matheson Trust, 2010], 211).

<sup>61</sup> Quentin Meillassoux, *After Finitude: An Essay on the Necessity of Contingency*, trans. Ray Brassier [London: Continuum, 2008], 82.

<sup>62</sup> Nietzsche, *Gay Science*, 157.

<sup>63</sup> "Do not take opium, but put salt and vinegar in the soul's wound, for when you sleep and no longer feel the suffering, you are not. And to be, that is imperative. Do not then close your eyes to the agonizing Sphinx, but look her in the face, and let her seize you in her mouth, and crunch you with her hundred thousand poisonous teeth, and swallow you. And when she has swallowed you,

Crucially, the tree was also figurally and even literally equated with the most sweet Tree of Life (Genesis 2:9).<sup>64</sup> Complementing the sense of a miraculously surplus auto-negation of bitterness, the sweetening of the water thus carries the sense of an overpowering of bitterness by a marvelous and original sweetness, not merely sweetness strong enough to compensate for and mask bitterness, but a sweetness that eliminates it all together within the infinitely superior quality of itself. Sweetening in this sense indicates return to the non-dual primacy of the good, its being beyond the opposition of good and evil.<sup>65</sup> This is the truly *spicy* paradisaical sweetness that makes bitterness to be nothing, in keeping with the idea of spice as not merely a condiment or addition to substance, but that which fulfills substance itself. So Philo interprets the tree added to the waters of Marah as the perfect good by connecting it at once to spice and the Tree of Life.<sup>66</sup> Ethically, such sweetening pertains to escaping the prison of the good, that is, overcoming morality as such, the *identification* with the good that binds both the good and oneself into opposition with evil.<sup>67</sup> The sweetness of this escape belongs to the fact of its being materially easier than escaping evil. For where evil is an evident and concrete prison that really must be escaped via the difficult binding of ethos or virtuous habit, the good, like those force fields that typically surround the false paradises of science fiction stories, is an obscure or invisible prison which disappears soon after its existence is discerned and its mechanism seen through.<sup>68</sup> Theologically, such sweetening pertains to the instantaneous and seemingly impossible absolute erasure of evil in divine justice, the eternal moment of all things being made new and well in the revelation that they were never otherwise, that “nothing is ever written on the soul.”<sup>69</sup> For Julian of Norwich, this is the sweet analogy of her intuition that *all shall be well . . .*—a Now found within her vision of the crucifixion at the moment when Christ turns to her in good cheer from the cross.<sup>70</sup> In this light, the sweetening of the

---

you will know the sweetness of the taste of suffering” (Miguel de Unamuno, *The Tragic Sense of Life*, tr. Crawford Fritch [New York: Dover, 1954], 283).

<sup>64</sup> Pseudo-Philo’s *Biblical Antiquities* relocates Exodus 15.25 to the period of forty days on Sinai (Exodus 24:18) in order to make the link: “And there [on Mount Sinai] he [God] commanded him [Moses] many things, and showed him the tree of life, from which he cut off [a piece] and took [it] and threw [it] into Marah, and the water of Marah became sweet. And it [the water] followed them in the wilderness forty years and went up onto the mountain with them and down into the plains” (cited in Bauckham, “Paradise,” 52). Origen connects the tree to the cross via comparison to wisdom as “tree of life” in Proverbs 3:18 (*Homilies*, 301-2).

<sup>65</sup> “Evil is not a being; for if it were, it would not be totally evil. Nor is it a nonbeing; for nothing is completely a nonbeing, unless it is said to be the Good in the sense of beyond-being. For the Good is established far beyond and before simple being and nonbeing” (Pseudo-Dionysius, *Complete Works*, 85).

<sup>66</sup> “[T]he perfect good, the nature of which is to change and sweeten the bitterness of the soul, the most beautiful additional seasoning, full of all kinds of sweetnesses, by the addition of which, even those things which are not nutritious become salutary food; for it is said, ‘that the Lord showed him (Moses) a tree, and he cast it into the water,’ that is to say, into the mind dissolved, and relaxed, and full of bitterness, that it might become sweetened and serviceable. But this tree promises not only food but likewise immortality; for Moses tells us, that the tree of life was planted in the midst of paradise, being, in fact, goodness surrounded as by a body-guard by all the particular virtues” (Philo, *Works*, 256).

<sup>67</sup> “When a person looks upon himself as being good and not bad, he is engaged in self-affirmation through identification with this conviction, which is a continuation of separative existence in a new form . . . Identification with the bad is easier to deal with because, as soon as the bad is perceived as being bad, its grip on consciousness becomes less firm. The loosening of the grip of the good presents a more difficult problem, since *the good carries a semblance of self-justification through favourable contrast with the bad*” (Meher Baba, *Discourses*, I.98).

<sup>68</sup> “The difficulty concerning the abode of evil is not so much of perceiving that it is a limitation but in actually dismantling it after arriving at such perception. The difficulty concerning the abode of the good is not so much in dismantling it as of perceiving that it is, in fact, a limitation” (Meher Baba, *Discourses*, I.98).

<sup>69</sup> Meher Baba, *Discourses*, I.99.

<sup>70</sup> “[S]odenly, I beholding in the same crosse, he changed in blisseful chere. The changing of his blisseful chere changed mine, and I was as glad and mery as it was possible . . . I understood that we be now . . . in his crosse with him in our paines and in our passion, dying. And we, wilfully abiding in the same crosse, with his helpe and his grace, into the last point, sodeynly he shall

waters of Marah evokes the principle of a first-and-last sweetness that is intelligible as the perfective detonation of law itself, a manifest explosion of law's subject-determining negation (*thou shalt not*) into an impossibly positive and hyper-objective *shall be* that speaks beyond hope, rendering consolation ridiculous and even its own assurance senseless. Not coincidentally, the opposed senses of the wood as sweet or bitter were synthesized and suspended in the *coincidentia oppositorum* of the Cross.<sup>71</sup> And by means of medieval wood-of-the-cross legends, the figural relation between the cross and the tree shown to Moses at Marah was also literalized, its wood derived from a paradise-planting grown in its waters.<sup>72</sup>

The figural reading of the Marah tree as Tree of Life and/or Cross manifests a significant but otherwise inobvious formal aspect of the episode, namely, that the sweetening of the waters by means of the tree signifies a *paradisical inversion* of the normal flow of life into a higher and other kind of life. Where life in its regular flourishing would be imaged in the watering of a tree, the inverse 'treering of the water' at Marah suggests the principle of a spiritual inversion that realizes the natural sweetness of life[*zoē*]<sup>73</sup> at a level of reality or being wherein the human is no longer simply dependent, like tree upon water, upon the seeming sweetness of external sustenance and becomes instead the very principle of an independent and world-sweetening sweetness. The arboreal reversal figures transition from recipient to source. In Porete's self-annihilated and intoxicated terms, such a human is the one who not only gets drunk whether there is wine or no, but who can drink from the impossible itself: "And she is inebriated not only from what she has drunk, but very intoxicated and more than intoxicated from what she never drinks nor will ever drink."<sup>74</sup> Achieving her own nature as paradisaical tree, this soul makes even the bitter waters of Marah intoxicated. For as the human body is inversely homomorphic to the tree, an upside down tree,<sup>75</sup> so must one spiritually invert oneself vis-à-vis life in the world, that is, turn right side up all that refuses to stand upright and be in paradise today, in order to really live: "his delight is in the law of the Lord, and on his law he meditates day and night. He is like a tree planted by streams of water, that yields its fruit in its season, and its leaf does not wither" (Psalms 1:2-3). But to know this real sweetness of a life in direct and practical terms, to taste and see its reality rather than fall into theoretical imagination of it, it is

---

change his chere to us, and we shal be with him in heven. Betwene the one and that other shalle alle be one time [i.e. no time], and than shall alle be brought into joy" (Julian of Norwich, *Writings*, 193).

<sup>71</sup> "Moses sweetened the water in Marah with a bitter wood, / and the Nation drank and satisfied their thirst. / Likewise the cross of Jesus sweetened the bitter Nations, / and gave them the sweet taste of the name of the Creator" (*Narsai Homiliae et Carmina*, II.124-5, as cited in Cyril Aphrem Karim, *Symbols of the Cross in the Writings of the Early Syriac Fathers* [Piscataway, NJ: Gorgias Press, 2004], 70-1)

<sup>72</sup> Wood-of-the-cross legends derived the Cross's wood from Tree of Life. In the Slavonic branches of the tradition, the waters of Marah serve as the growing place for the tree from which the Cross is made. See Nicole Fallon, *The Cross as Tree: The Wood-of-the-Cross Legends in Middle English and Latin Texts in Medieval England* (Ph.D. dissertation, University of Toronto, 2009).

<sup>73</sup> "And we all see that men cling to life even at the cost of enduring great misfortune, seeming to find in life a natural sweetness [*γλυκύτης φυσικής*] and happiness" (Aristotle, *Politics*, III.6, in *The Basic Works of Aristotle*, ed. Richard McKeon [New York: Random House, 1941]).

<sup>74</sup> Marguerite Porete, *Mirror of Simple Souls*, 105.

<sup>75</sup> "God gave the sovereign part of human soul to be the divinity of each one, being that part with, as we say, dwells at the top of the body, and inasmuch as we are a plant not of an earthly but of a heavenly growth, raises us from earth to our kindred who are in heaven" (Plato, *Timaeus*, 90a, in *The Collected Dialogues of Plato*, eds. Edith Hamilton and Huntington Cairns [Princeton: Princeton University Press, 1963], 1209).

necessary to sense the sweetness (of law) in the most literal terms, to find the actual point of contact between sweetness and the law.

#### THE SWEETEST LAW

That law ought to be understood as essentially bound to the inversion of sweetness is evident from the logical relation between the terms. Where law signifies what coerces and binds, sweetness signifies what attracts and delights. The inversive relation is immediately suggested by the continuity between coercion and *persuasion* along the spectrum composed of the opposites of force and attraction. And if we recognize that delight is fundamentally linked with freedom, with the potential to do as one pleases (*quodlibet*), then a proportional oppositional continuity between delight and binding is also clear. The inverse logical relation between sweetness and law is also indicated by the fact that the pejorative sense of sweetness as cloying (via Middle English *cloyen*, to bind, hinder movement, fasten with a nail) is connected with the principle of binding. So Aquinas defines the essence of law thus: "Law is a rule and measure of acts, whereby man is induced to act or is restrained from acting: for *lex* (law) is derived from *ligare* (to bind), because it binds one to act."<sup>76</sup> In other words, law encodes and transposes sweetness in a negatively volitional manner, enclosing the freedom of what one wants to do within the necessity of what one must. This relation may be summarized with a simple table:

ATTRACTION	SWEETNESS	FREEDOM
<i>persuasion, coercion</i>	↓	<i>delight, cloying</i>
FORCE	LAW	BINDING

Following this logic, law is simply the actualization of the inversion of sweetness. Law is sweetness upside down. As the negation of sweetness deserves law, the justice of law resides in its serving as an affirmation of sweetness. The distinction and conceptual inseparability of the terms is correlative to the "inclusive exclusion" that obtains between *zoē* and *bios*, bare life and political life, as per Agamben's analysis.<sup>77</sup> The implication of this close correlation is that the imminent task given to the biopolitical body is that of a constitution and installation of a law that is wholly exhausted in sweetness, a law that is only its own sweetness.<sup>78</sup>

The answer to the question of the identity of this law, this new sweet law, could not be more simple or clear. The writing is on the wall—a writing that immediately numbers, weighs, and divides the very person, your so-called 'self': *thou shalt not worry*. Not-worrying is at once how to "'politicize' the 'natural sweetness' of *zoē*" and is itself the "politics already contained in *zoē* as its most precious center."<sup>79</sup> Any resistance to this law is the ineradicable sign of its truth. To require justification of this law, for

<sup>76</sup> *Summa Theologica*, trans. Fathers of the English Dominican Province [New York: Benzinger Brothers, 1947-8], I-II.Q90.Art1.

<sup>77</sup> Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998)8.

<sup>78</sup> See Agamben, *Homo Sacer*, 188.

<sup>79</sup> Agamben, *Homo Sacer*, 11.

instance to bother about 'what the world would be like' if it were kept, or to deny any materiality or substance to it, is already to evade its immanent task and pervert its proper good. The proscription of worry is *pure law*, sweetest law, in the strictest sense. It is fully and simultaneously a law of freedom and the freedom of the law. It lays down no precept or rule, places no categorical restriction on what one can or cannot do. At the same time, this law absolutely binds, ties one's neck in the noose of one's own logic, so that one must either reside in rebellion towards it (a rebellion that perforce only manifests its own futility: I worry in order to keep worrying) or necessarily begin to escape worry's total evil, the fact that to worry is to bind oneself and others in a terrible way. Likewise, *thou shalt not worry* is simultaneously a law of attraction and an attraction of law. The authentically and purely negative work of not-worrying, a negativity free from its own *against*, does nothing but open and invite other potentiality and impotentiality, the unknown plenitude of powers otherwise eclipsed by preoccupation. At the same time, being without worrying is the bare promise of law itself, its own attraction, which not-worrying simply realizes directly, without binding itself to a ground or reason. "Do everything, but don't worry. Worrying binds."<sup>80</sup>

The supreme legitimacy of *thou shalt not worry* is proven and intensified by the seeming impossibility of its not being kept, by the terror of following it a topsy-turvy world that willfully mistakes pain for sincerity, anxiety for responsibility, concern for understanding, and thinking for knowledge. All the more reason, then, to implement not-worrying as a protocol that one need not worry about, a perfectly unprogrammable rule whose following passes freely within and without the imprisoning walls of false power, above all the narrow circle of demands upon reality that keep one a self-hypnotized human, a someone at the expense of remaining elsewhere than in paradise. As much a law as not a law: the real principle of universal synthesis and sweetness (of the law), a sweet new style that is always invented by the few who are concerned only with what they *must* do, the "great man . . . who in the midst of the crowd keeps with perfect sweetness the independence of solitude."<sup>81</sup>

---

<sup>80</sup> Meher Baba, quoted in *The Awakener* 3:2 (1956), 12.

<sup>81</sup> Ralph Waldo Emerson, *Self-Reliance and Other Essays* (New York: Dover, 1993), 23.

LAW