

A Taste of Law and Coffee – From Tastescape to Lawscape

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*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!*¹

1. From Space to Cup

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. Indeed, in *The Coffee Exporter's Guide*, an authoritative United Nations publication for actors involved in international coffee trade, early on it is stated that:

¹ Devin Townsend, 'ZTO', *HevyDevy Records* (2007).

Green coffee is graded and classified for export with the *ultimate aim of producing the best cup quality* and thereby securing the highest price² [*our emphasis*]

Much like for Ziltoid, today the love of coffee, and quite frankly the obsession for it, has turned into a seemingly never-ending quest for the most perfect and refined cup. Sometimes it appears to be a relentless pursuit. Anybody who has ever enjoyed a good cup of coffee, even if it is a takeaway on the run, can understand this obsession. Finding the ultimate cup of coffee sometimes includes hunting down the rarest and most perfect coffee beans that gain their exclusivity from having been grown in very specific regions,³ or that have been processed in very unusual ways, or both. In the unusual process category, the so-called ‘animal-processed coffees’ can be found. 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*) and which are then excreted, cleaned

² International Trade Centre, ‘The Coffee Exporter’s Guide’, Third Edition (Geneva: International Trade Centre, 2011), 5.

³ For some coffee enthusiasts, the hunt many times continues even further. To this end, ‘single origin’ coffees, are commonly understood as coffees ‘sourced from one single producer, crop, or region in one country’. Additionally, ‘single farm’ and ‘single estate’ coffee specifies that it is the ‘coffee [is] sourced from one farm, mill, or co-operative’. Yet more specifically, some coffee labels not only mention the estate name, but also ‘the specific lot or paddock the coffee was grown on, or if it’s a microlot (a specific varietal from a specific farm)’, ‘Everything You Need to Know About Single Origin Coffees’, Perfect Daily Grind, <http://www.perfectdailygrind.com/2015/09/everything-you-need-to-know-about-single-origin-coffees/>.

and roasted like ordinary coffee.⁴ 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 flavour with hints of caramel or chocolate' and that is 'earthy, musty and exotic'.⁵ Yet, the world's most exclusive coffees are not only found among the extraordinary animal processed ones, but also among those grown in specific 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.⁶

Although there is no commonly agreed world standard for grading and classifying coffee, *taste* is always intrinsically involved in the process of finding the best cup quality.⁷

⁴ See 'About Kopi Luwak', Kopi Luwak, <http://www.kopiluwak.org/new/about.htm>. About the common palm civet, see 'Paradoxurus hermaphroditus', The IUCN Red List of Threatened Species, <http://www.iucnredlist.org/details/41693/0>.

⁵ 'About Kopi Luwak'. Unfortunately, a backside of the Kopi Luwak hype is that the traditional practice of collecting beans excreted from wild-living civets has turned into an industry with considerable animal welfare implications for caged civets, Gemma Carder et al., 'The Animal Welfare Implications of Civet Coffee Tourism in Bali', *Animal Welfare* 25, no. 2 (2016): 199–205.

⁶ 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 so-called 'Cup of Excellence' coffees. Its flavour has been described as 'one of the most complex, intensely flavoured and desirable profiles of all the coffee varieties', see 'Geisha/Gesha', Mercanta, <https://www.coffeehunter.com/knowledge-centre/geishagesha/>.

⁷ 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

While taste is usually approached as a subjective experience, something uniquely individual, it must already here be stressed that it extends further than this. In practice, the individual experience of taste is constituted through an interplay of *internal* senses, *external* surroundings, and *recurring* practices.⁸ Moreover, taste itself is a collective term describing a set of *multiple senses*. Within this set of senses, the primary ones for experiencing various aspects of that which is eaten or drunk are ‘the chemical senses which encompass *taste*, smell and chemesthesis.’⁹

Drinking a cup of coffee then can in effect not just be described as a single sensory experience merely involving taste; it is rather a conscious multi-modal practice that has become increasingly anchored in scientific perfection involving such relatively recent academic disciplines as ‘molecular gastronomy’.¹⁰ This experience of coffee as a

characteristics, see International Trade Centre, ‘The Coffee Exporter’s Guide’, 5.

⁸ For an introduction to molecular gastronomy and the interaction of senses involved in experiencing food, see Peter Barham et al., ‘Molecular Gastronomy: A New Emerging Scientific Discipline’, *Chemical Reviews* 110, no. 4 (2010): 2313–65. For an examination of how among other external factors such as size and colour of plateware may affect the senses in experiencing food, see generally Charles Spence and Betina Piqueras-Fiszman, *The Perfect Meal – The Multisensory Science of Food and Dining* (Oxford: Wiley-Blackwell, 2014). With regards to practices and *rituals* surrounding the experience of coffee, see Section II below.

⁹ ‘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,’ Barham et al., ‘Molecular Gastronomy’, 2316.

¹⁰ Barham et al., ‘Molecular Gastronomy’, 2313–65.

multi-modal and multi-sensual experience opens up some interesting discussions that we want to develop here, particularly within the setting of the *Law and the Senses* series.

Today, the field of ‘coffee science’ already addresses coffee from several academic fields such as chemistry, physics, biology and technology,¹¹ and here we are especially interested in the wider notions of taste that can be connected to the materiality of law that we link to practices and spaces in and through which coffee is enjoyed. The spatiality and materiality of law unfolds in this chapter, where law and the taste of coffee converge into an assemblage – a lawscape. Our aim is to place the taste of coffee within the general discussion of how law deals and can deal with the senses. More specifically, to do that, we try to tease out the materiality of taste and law, and approach the experience of the taste of coffee as art, craft, ritual, as well as space. We discuss how all this can be connected to the notions of for instance practical legal manifestations such as intangible cultural heritage, the regulation of the public sphere, geographical indicators and in extension, the production of lawscape.

¹¹ See e.g. Britta Folmer, ed., *The Craft and Science of Coffee* (Amsterdam and Boston, MA: Academic Press, Elsevier 2017). See also *BeanScene Magazine*, ‘Joseph Rivera The Coffee Scientist’, *BeanScene Magazine*, online edition June (2010), <https://www.bean-scenemag.com.au/articles/view/joseph-rivera-the-coffee-scientist>. 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’ Ph.D. thesis, University of Hawaii (2008), and Borém et al., ‘Evaluation of the Sensory and Color Quality of Coffee Beans Stored in Hermetic Packaging’, *Journal of Stored Products Research* 52 (2013): 1–6.

Ours is in no way the first attempt to deal with coffee from a 'legal' point of view. Nevertheless, the bulk of the research already conducted in the field predominantly adopts dogmatic approaches, focusing on the regulation of trade and market issues such as export and import of coffee, international coffee agreements, or intellectual property aspects such as branding.¹² This is perhaps not very surprising given the position and value of coffee in the global economy and within the confines of the advanced capitalism that frames it.¹³ Following the trade and market issues, that are most often discussed, are environmental aspects such as biodiversity and water use in coffee production,¹⁴ as well as social issues, connected to

¹² 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 Coffee Trade', *Creighton Law Review* 42 (2009): 279–322; Carol Robertson, *The Little Book of Coffee Law* (Chicago, IL: American Bar Association, 2010); Jill Draeger, 'Perking Up the Coffee Industry Through Fair Trade', *Minnesota Journal of Global Trade* 11 (2002): 337–72; Seth W. Shannon, 'Economic Stimulation: The History and Hope of Coffee in Development', *Transnational Law & Contemporary Problems* 18 (2009): 169–96; and Daphne Zografos Johnsson, 'Using Intellectual Property Rights to Create Value in The Coffee Industry', *Marquette Intellectual Property Law Review* 16 (2012): 283–327.

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

¹⁴ See Denis A. O'Connell, 'Shade-Grown Coffee Plantations in Northern Latin America: A Refuge for More than Just Birds & Biodiversity', *UCLA Journal of Environmental Law & Policy* 22, no. 1,

labour rights, for instance the health hazards the coffee farmers are exposed to in their work environment caused by amongst other things exposure to chemicals and pesticides.¹⁵

But we want to reach beyond these discussions. What we are interested in are the entanglements of coffee and law, how they (un)fold and enfold each other in material manifestations such as cultural heritage, practices, brands, forming an experience, a *tastescape* and finally a *lawscape*, that encompass much more than just trade, labour and environmental legal issues.

2. Tastescape: Coffee and Spaces of Cultural Heritage

Coffee today has become an acknowledged cultural practice. The more exclusive and rare the cup of coffee is seen to be, the more coveted it will be. The *provenance issue* is equally fervently debated in coffee circles as in any art circle. Which farm a coffee bean stems from appears to be as pertinent an issue as the provenance discussions surrounding

(2003–4): 131–53; Grace H. Brown, 'Making Coffee Good to the Last Drop: Laying the Foundation for Sustainability in the International Coffee Trade', *Georgetown International Environmental Law Review* 16 (2003–2004): 247–80; and Ashok K. Chapagain and Arjen Y. Hoekstra, 'The Water Needed to Have the Dutch Drink Coffee', *Value of Water Research Report Series No. 14* (Delft: UNESCO-IHE Institute for Water Education, 2003), 7 and 21.

¹⁵ Frederick A. Veitch III, 'Brewing Up a Storm: The Potentially Cataclysmic Effects of Industrially Grown Coffee', *Colorado Journal of International Environmental Law & Policy* 13 (2002): 211–39; Grant E. Helms, 'Fair Trade Coffee Practices: Approaches for Future Sustainability of the Movement', *Indiana International & Comparative Law Review* 21 (2011): 79–109; Jeremy Weber, 'Fair Trade Coffee Enthusiasts Should Confront Reality', *Cato Journal* (2007): 109–17.

cultural heritage or indeed from which geographical place a cultural item originates. The same goes for which (latte) artist has created a prize-winning decorative cup of cappuccino. The 'coffee guys' talk about 'clean' coffee the same way lawyers talk about clean cultural heritage objects, 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*? The perfect cup of coffee can thus very well be seen as a cultural practice or a cultural heritage in itself.

In tourism studies the term 'tastescape' has been employed in order to describe how a place can be experienced and enjoyed through taste. Typical examples involve tasting local cuisine in its place of origin, for instance sparkling wine in Champagne, pasties in Cornwall, coffee in Colombia, Port wine in Porto, and so on. In the 'tastescape', so the claim generally goes, the place itself and the bodily senses connected to the taste are so to speak entangled in the moment the local cuisine is enjoyed in its 'authentic' setting. The term tastescape is meant to broaden the experience of a place that is usually assumed to be ocular-centric.¹⁶ It adds on to the very heritage and practice aspects to taste, while tying it to its place of origin. This common use of the term tastescape of course relies on, and reinforces, the dichotomy authen-

¹⁶ Sally Everett, 'Beyond the Visual Gaze?', *Tourist Studies* 8, Issue 3 (2008): 353.

tic vs artificial taste experience, the authentic being fetishised as something sublime, that can only occur in the place of ‘origin’. In many ways, as we shall attempt to show below, this dichotomy is further reinforced by regulation. What such an approach does, however, is to congeal an equally artificial notion of authenticity, tied to a specific physical environment. Here, we do continue to use the term *tastescape*, but not in this simplified manner. In the article ‘Lionizing Taste: Toward an Ecology of Contemporary Connoisseurship’ Haden for instance proposes another dimension to the term¹⁷ that we are interested in here, namely an *ecological* one, that points to a (post-human, or even beyond-human) materiality of taste, which is much more immersive, and less dependent on the fetishisation of space as a specific physical place, as it is often perceived in the more common uses of the term. So, must one enjoy Ethiopian coffee in Ethiopia in order to experience its most authentic taste?

We want to explore this very notion of *tastescape* and bind it to the taste of coffee and law. Making this entanglement visible and showing that the legal interaction with coffee goes beyond the usually discussed trade, environment, labour or sustainability issues, we are searching for the materiality of taste and law through the notion of *tastescape* as we are deploying it here. The law-coffee entanglement that we look for here certainly connects

¹⁷ On the materiality of taste and the ecology it is part of, that we here refer to as ‘*tastescape*’ see e.g. Roger Haden, ‘Lionizing Taste: Toward an Ecology of Contemporary Connoisseurship’, in *Educated Tastes: Food, Drink and Connoisseur Culture*, ed. Jeremy Strong (Lincoln, NE: University of Nebraska Press, 2011).

to rules and norms, and also to places of origin, but it reaches further than that too, to other issues such as meetings, creativity, aesthetics, discussions, practices and *spaces*.

Let us then first look at how the notion of tastescape manifests itself from a cultural heritage point of view. 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.¹⁸[*our emphasis*]

As with tangible cultural artefacts, each year UNESCO adds new items of cultural heritage to their list of intangible cultural heritage.¹⁹ If something is deemed to be cultural heritage it will thus be included on either one or the other UNESCO list and become recognised and protected. But what does that mean when we are discussing

¹⁸ UNESCO Convention for The Safeguarding of The Intangible Cultural Heritage, Art. 2 (1970).

¹⁹ For the full list see ‘Browse the Lists of Intangible Cultural Heritage and the Register of Good Safeguarding Practices’, UNESCO United Nations Educational Scientific and Cultural Organization, <http://www.unesco.org/culture/ich/en/lists>.

the tastescape of coffee? As an initial illustration, a quick browse through the UNESCO list of intangible cultural heritage reveals that there presently are nine listings that somehow connect to coffee, the first one having been listed in 2008. Beginning with the most recent and working backwards, these are:

In 2015:

- *Arabic coffee*, as a symbol of generosity
- *Majlis*, a cultural and social space where the coffee drink is an integral part

Both registered as joint cultural heritage of United Arab Emirates, Saudi Arabia, Oman and Qatar.

In 2013:

- *Turkish coffee culture and tradition*
- *Âşıklık* (minstrelsy) tradition, a performance at weddings, in coffeehouses and during public festivals
- *Karagöz*, a shadow theatre once played at coffeehouses, gardens, and public squares, especially during the holy month of Ramazan (Ramadan)

All registered for Turkey.

In 2008:

- *Arts of the Meddah*, public storytellers, usually performed in coffeehouses: Turkey
- *Iraqi Maqam* a type of music often performed in coffeehouses: Iraq
- *Oxherding and oxcart traditions* used to transport coffee beans: Costa Rica²⁰

²⁰ See 'Browse the Lists of Intangible Cultural Heritage and the Register of Good Safeguarding Practices Full text search: coffee', UNESCO United Nations Educational Scientific and Cultural Organization, <http://www.unesco.org/culture/ich/en/listsdisplay=default>

Additionally, on the list of Intangible Cultural Heritage in Need of Urgent Safeguarding there is an inscription from 2011 for *Naqqāli*, an Iranian dramatic story-telling, a performance art once performed in coffeehouses, tents of nomads, houses, and historical venues that is now in risk of peril because it might be forgotten.

It can easily be noted that within the UNESCO regime all listings connected to coffee are in fact more often than not directly tied to spaces: coffeehouses, cultural spaces, theatres, gardens, squares, tents, and ultimately, *nation states*. Moreover, one of the core interests of this chapter is reflected in this reality – namely that even though the listings mentioned above are for ‘intangible’ heritage, there is a clear insight that the experience of coffee is often tied to materiality, and particularly a material space, such as coffeehouses, cultural spaces, towns, regions or nation states.²¹ However, while all the above listed examples have wider connections to coffee as intangible heritage in various ways, it is only the Turkish coffee culture and tradition registered in 2011 that explicitly connects coffee as heritage to *taste*. Looking closer at the nomination for the tradition to be included on the list of intangible cultural heritage, Turkey asserted the following:

Turkish coffee culture and tradition goes back to the 16th century when coffee started to be served

&text=coffee&inscription=0&country=0&multinational=3&type=0&domain=0&display1=inscriptionID#tabs.

²¹ On the connection between materiality and intangible cultural heritage see Fiona Macmillan, ‘Heritage, Imperialism and Commodification: How the West Can Always Do Its Best’, *Europa Ethnica* [forthcoming, 2018].

at *coffeeshouses* in Istanbul. The tradition has two distinguished aspects which makes its *taste* unique and provides means toward socialization. [...] Coffee leaves a long-lasting taste at someone's palate due to its preparation techniques which require time and its freshness. [...] To catch the pleasant taste requires some skills such as the way and degree with which the coffee is roasted. It is crucial to roast all the coffee beans equally and wait some certain time. [...] Turkish Coffee is not only a beverage but also a communal *practice* that brings together *cultural spaces*, social values and beliefs within a context of socialization process. Its role in socialization can be traced back to opening of the first coffeeshouses with its noticeable decorations in Istanbul. Coffee houses were then, and still are *the places* where people drink coffee, converse, share news, read books and socialize.²² [*our emphasis*]

Here then, we can clearly see that taste is furthermore considered to be an integral part of coffee as intangible heritage of Turkey. However, none of the inscriptions on the UNESCO list of intangible heritage, the Turkish coffee included, directly deals with the *materiality* of taste, namely how taste manifests itself as a tastescape. For now, suffice it to establish that the taste of coffee can initially be connected to the UNESCO legal regime, primarily as intangible heritage.

UNESCO's descriptions provide us with a link to further exploring the materiality of taste in the spaces of coffee, while connecting coffee to cultural heritage. What

²² See the Turkish nomination form that can be found at 'Turkish coffee culture and tradition,' UNESCO United Nations Educational Scientific and Cultural Organization, <http://www.unesco.org/culture/ich/en/RL/turkish-coffee-culture-and-tradition-00645>.

can be noticed from the UNESCO listings is that coffee as heritage is also associated with (more or less public) spaces in which it is enjoyed. In this vein, the description of for instance the Arabic Majlis from the intangible cultural heritage list is worded as following:

It is typically a large *space* with carpets on the floor and cushions against the wall. There is usually a stove or fire to prepare coffee and other hot beverages. The Majlis space is open to all people and may be frequented by family members, tribes and inhabitants of the same *neighbourhood*, and other remote neighbourhoods. Community elders are considered true bearers [of the tradition], especially those with extensive knowledge concerning *nature*, genealogy and tribal history. Judges and religious sheikhs have special importance in the Majlis as they adjudicate on disputes and clarify political, social and religious rights and responsibilities.²³ [our *emphasis*]

Both now as well as historically, coffee and its taste seem often to be tied to sociability, and this directly links coffee to conversations, exchange of ideas, which in turn is tied to the production of public space.²⁴ The practice of coffee drinking contributes to the production of spaces

²³ 'Majlis a cultural and social space', UNESCO United Nations Educational Scientific and Cultural Organization, <http://www.unesco.org/culture/ich/en/RL/majlis-a-cultural-and-social-space-01076>.

²⁴ These places for 'sociability' and exchange of 'political ideas' were of course always vastly male dominated, and in Europe mainly frequented by men from a certain social (upper) class, which Habermas explicitly points out. As such, these were places inherently asymmetrical in composition in terms of class and gender. Another aspect that can also be stressed in passing, is the connection of taste to colonialism as coffee was quintessentially a colonial product, and this is not only true for coffee, but also tea, sugar, spices, etc.

where dialogue and public discourse can be exercised. As such, the freedom of speech aspects may be added on as a further layer within the tastescape. This is notably clear from the UNESCO reasons for including the Turkish coffee tradition on the list of intangible heritage, where it is stated that:

The Committee [...] decides that [this nomination] satisfies the criteria for inscription on the Representative List of the Intangible Cultural Heritage of Humanity, as follows:

[...]

R.2: Inscription of Turkish coffee culture and tradition on the Representative List could promote greater visibility of the intangible cultural heritage and provide an example of a social institution *favouring dialogue*;²⁵ [*our emphasis*]

In *The Structural Transformation of The Public Sphere*,²⁶ Habermas too makes a connection between coffee and the production of the public space. He develops his discussion on the production of public space and how it over time evolves to mass culture and consumer goods packaged as private entertainment, which gradually replaces the public literary and political debates in the salons and coffeehouses. The interesting point here is that Habermas identifies an intriguing issue in showing that salons and

²⁵ ‘Turkish Coffee Culture and Tradition’, UNESCO United Nations Educational Scientific and Cultural Organization, <http://www.unesco.org/culture/ich/en/RL/turkish-coffee-culture-and-tradition-00645>.

²⁶ Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger and Fredrick Lawrence (Cambridge: Polity, MIT Press, 1992).

coffeehouses had a public purpose as a focal point for the exchange of ideas.

However, the rather narrow approach to the notion of the public space that Habermas employs is also in itself a simplification. His focus on the physical public sphere, as anaesthetised, numbed gathering spots, where rational communication occurs, overlooks the very sensational aspects of coffee that we are investigating here. The sensual experience of the coffee and even the taste itself must be added and further examined as to how this taste-space assemblage participates in the production of speech, dialogue, expression, and so on. For instance, it is known that it was because of the nightly discussions of the oriental *samar* tradition, of being awake throughout the night and talking, that *Thousand and One Nights* was transmitted orally and remembered. Coffee kept the participants awake and alert. And 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, communication and places for public discourse. It has also been recorded in several biographies that it was the addiction and love of coffee that enabled Proust to write *In Search of Lost Time*. Baudelaire also wrote that the experience in the coffeehouse was unique. For him, 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. These meetings and encounters enabled the mentioned authors and others to develop their thoughts, ideas, inspired them to write, participate in the production of public speech, literary dialogue and practices

where the sensory experience of the taste of coffee is integral but not necessarily visible.

In a rather comical comment on coffee, production of literature, speech and their connection, Michael Koh mentions an incident when he was discussing authors who were 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? Coffee. I can go on! Coffee makes people unnecessarily giddy. It's a menace. There's no other explanation.²⁷

The energy drinks spokesperson was maybe right in claiming that coffee makes people talkative and giddy.²⁸ Quite what it is a menace to is unclear, but it is doubtlessly powerful. True or exaggerated for emphasis, this connects the sensory experience of the taste of coffee to action in and through which the production of the public space occurs. Thus, far from only being a dichotomy between on the one hand the individual human expe-

²⁷ Michael Koh, 'Coffee: The Writer's Addiction', *Thought Catalogue*, 14 October 2013, <http://thoughtcatalog.com/michael-koh/2013/10/coffee-the-writers-addiction/>.

²⁸ On drugs, coffee shops and law see e.g. Peter Cluskey, 'New Cannabis Law Hits Dutch "Coffee Shops"', *The Irish Times*, 10 October 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 also be read as a *pharmakon* in the Platonian sense, see e.g. Michael A. Rinella, *Pharmakon: Plato, Drug Culture, and Identity in Ancient Athens* (Plymouth: Lexington Books, 2011).

rience of taste, and on the other, a collective but numb physical space, an assemblage is formed instead where the ritual of coffee drinking is binding the sensation, speech and the space together, quite literally forming a *tastescape*. What thus connects coffee to speech and in extension to the production of the public sphere largely seems to be the tastescape produced through the entanglement of the stimulating and addictive taste with the sensations formed within its surrounding space. As such, the notion of the human and the notion of the space form an assemblage through the very sensorial experience of taste. Whether a cup of coffee merely passes as drinkable, however much invigorating it might be (as may have been the case in the early coffeehouses compared to today's standards), or exquisite in presentation and in taste (a culinary art form which it is today), may even be irrelevant here as it nonetheless makes people addicted to its intoxicating sensation leaving people energetic, ready to write, talk, write, dance and communicate.

However, the significance of coffeehouses changed over time and gradually the public discourse that once occurred in these spaces perhaps waned, as coffeehouses as a phenomenon firstly diminished in number, and eventually disappeared.²⁹ The public debates that had

²⁹ But as Brighenti and Pavoni note, the coffeehouse re-emerged later of course, and today we encounter it in the guise of a café, coffee shop or coffee place, where city dwellers, constantly connected to wi-fi find daily refuge. These places 'look the same' everywhere, and are precisely designed to look 'obsessively repetitive'. As such they are both numb and intensive, as the discourse that once took place in a coffeehouse is muted on the surface, but may indeed be very intensive virtually, in a dematerialised form, through digital

occurred in such spaces became transformed into a private activity of drinking *branded coffee*, with the advent of e.g. Starbucks in the 1970s. It may as per such reasoning be claimed that even if the experience of the taste of coffee still is often enjoyed in relatively ‘public’ places it does not necessarily involve the same type of public discourse as before. This tendency of commodification is perhaps neutralised somewhat with the UNESCO inscriptions that attempt to still safeguard the diminishing aspect of dialogue and communication connected to coffee by protecting it as heritage, but the tendency is nonetheless there. Evidently, today the enjoyment of coffee is becoming increasingly privatised, linked to a singular human experience, one that people need to buy into, that is packaged, sold and commodified as branded coffee or as a lifestyle; a discussion we will return to in the next section.

What we see here is that in the tastescape, the taste of coffee as a singular experience is entangled with the production of the public space. This means that the sensational experiences of coffee, such as its taste, is added onto the public sphere, and then the notion of the public sphere is widened. It challenges the idea of seeing the public sphere as a numb physical space only and moves it further still, adding on a sensory experience of being-in-a-coffeehouse. The whole multi-sensational experience of coffee is thus connected to for example the production of identity and community through the practices of cultural

connection with others through wireless or smart devices. Andrea Mubi Brighenti and Andrea Pavoni, ‘Airspacing the City. Where Technophysics meets Atmoculture’, *Azimuth* [forthcoming 2018].

heritage that in turn can be connected to (transgenerational) communication within the context of protected cultural heritage and/or freedom of speech by and through the engagement in the public exchange of ideas.

Now to return to the 'law' in the law-coffee-space entanglement. Can law appreciate all these sensorial dimensions of coffee? Can law *sense* the tastescape? Further still, can law be present in the production of the tastescape where public discourse is performed when the space and the taste of coffee merge through e.g. a cultural heritage ritual, where the entire sensorial experience taken together makes up a *post-human* assemblage of law-space-body?

3. Lawscape: The Taste of Coffee and the Law-Space-Body

Lawscape, a tautology between law and space, adds on geological, political, aesthetic, legal and biological dimensions to the entanglement of law and space. In the coming together of law and space, or here, law and the tastescape, we want to highlight how these two merge into an assemblage. It is about the realisation that law and space cannot be separated and that they are constantly conditioned by each other, as well as that in the lawscape neither space nor law vanish entirely.³⁰ Put together in the concept of lawscape, space gains agency while law gains materiality. The term lawscape thus alludes to a fusion of the notions of law and (land)scape. The connection between law and

³⁰ Andreas Philippopoulos-Mihalopoulos, *Spatial Justice, Body, Lawscape, Atmosphere* (Abingdon and New York: Routledge 2014), 4.

space is not a matter that is purely, or only, geographical. Connecting law to once again material space, is not just a matter of jurisdiction or territoriality either. In this context, space is rather seen as a multiplicity immanent to law, a sphere that is constantly unfolded onto bodies and spaces – forming entanglements, and assemblages. Here this concept enables us to see the spatial in law, taste, and coffee. And, as Philippopoulos-Mihalopoulos points out, *the spatial* in lawscape is material. He writes:

[s]pace also brings an awareness of (other) spaces, both within and significantly beyond the reach of the law, which, in turning spatial, the law is progressively taking into consideration.³¹

We have revealed the agency of space in the section above looking at the tastescape of coffee as cultural heritage connected to sensorial experiences and the discourse taking place in the public space. In the lawscape, we now develop law's materiality.

The taste of coffee as part of a ritual or heritage produces a multi-modal sensory experience that gives rise to the tastescape. We have seen how coffee and its taste can fall within the definition of intangible cultural heritage and as such both participate in the production of communities and lifestyles, but it must again be noted that these are national in nature, always connected to a nation state. On the one hand coffee is seen as part of the cultural heritage of a defined community, listed as heritage *through a nation state*, but on the other hand as we

³¹ Ibid., 46.

shall soon see in this section, with its global appeal and character it has always been shared and exported across borders. Places that initially did not have a strong coffee culture imported it and with time it became their own.³² Thus, coffee and indirectly its tastescape was in fact never tied to just one place of origin it has always been mobile, itinerant, even nomadic, as it constantly travels and escapes its places of origin.

Above, in the very definition of tastescape, we established how consuming a local product in its place of origin constitutes a merger of space and taste. To add on law and move it into the lawscape, various schemes of protected geographical indications (PGIs) must be mentioned, for example the regimes that protect the name of a product connected to its place of origin. So to use the examples from above, only sparkling wine that is made in the French region of Champagne may use the word *Champagne* in its branding. Only pasties made in Cornwall may be referred to as *Cornish*,³³ or only coffee from Colombia may use *Café de Colombia* on its labels, marketing, and the like. The legal framework is provided by among others various EU regulations concerning protection of geographical indications, and for instance labelling

³² One such place is of course Sweden, one of the largest coffee consumer countries in the world, with no coffee production of its own. However, the Swedish 'fika' ritual, which means to have a coffee with or without something to eat on the side, or to just have a break, has become a Swedish institution of sorts. See e.g. Anna Brones and Johanna Kindvall, *Fika: The Art of The Swedish Coffee Break, with Recipes for Pastries, Breads, and Other Treats* (Berkeley, CA: Ten Speed Press, 2015).

³³ This particular EU protection of the UK's geographical indications may of course be subject to change after Brexit.

of agricultural products and foodstuffs,³⁴ as well as World Intellectual Property Organization (WIPO) regulation on a global level.³⁵ The PGI regime prevents misrepresentation in terms of e.g. falsely referring to a sparkling wine as Champagne that is not from the same French region. It also guarantees a pre-set standard of quality; the consumers are informed what they are purchasing, and from where. What is interesting to note here, is that while the previous section discussed tastescape within the frames of a national heritage discussion (e.g. the taste of Turkish coffee as heritage of the Turkish community), the present section describes how the PGI regime is framed by an auxiliary regulation regarding trademarks. That is, we have moved from a territorialised heritage setting dependent on an 'authentic' place of origin into a deterritorialised commercial intellectual property setting, made to specifically protect the *commodity* and its intellectual assets³⁶ as it travels. The PGI system thus fluctuates between a capi-

³⁴ For the regulation of geographical indications, designations of origin, and traditional specialties concerning agricultural products and foodstuffs, see Council Regulation (EC) No 510/2006 (2006) and Council Regulation (EC) No 509/2006 (2006). Regarding matters surrounding definitions, description, labelling etc., see specifically Regulation (EC) No 110/2008 (2008).

³⁵ A number of international treaties and conventions deal partly or entirely with the protection of geographical indications or appellations of origin on a global level. Most of them are administered by WIPO such as the Paris Convention for the Protection of Intellectual Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886), as well as under the World Trade Organization (WTO) that administers the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

³⁶ This is of course also an economical right that gives private companies competitive advantage by being associated to a particular geographical place.

talist structure of global trade in commodities and the role as a guarantor in terms of origin, taste and quality. This regime is no doubt crucial in *protecting* local tastes, however within a commodifying logic. This means that the capitalist aspect of the lawscape ought to be examined to some extent too.

In the course of export and import of coffee, we have already seen that it is becoming commodified on the international global market, it constantly becomes subject to the rules and norms of the global advanced capitalism. The capitalist machine is able to understand the movements of coffee. The experience of coffee becomes a commodified one, even if it is constantly changing and moving. We move from the national heritage to the global commodity. Even the so-called 'fair trade' coffee, that is not directly tied to any origin, has become subject to the commodification processes. It too 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 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 emancipatory 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',³⁷ namely a leaner type of capitalism that has to some extent incorporated a response to its critique into itself. Drinking commodified fair trade coffee has thus become a com-

³⁷ Žižek is of course referring to the homonymous concept introduced in Luc Boltanski and Eve Chiapello, *The New Spirit of Capitalism*, trans. Gregory Elliott (London: Verso, 2007).

mercialised lifestyle in its own right within the new spirit of capitalism, where even the lifestyle itself has become a commodity. 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.³⁸

Law participates in understanding coffee in this way, within the ‘new spirit of capitalism’, by for instance the PGI regulation.³⁹ It inadvertently enables a new type of commodification to take place where both the place and the taste are commodified through a legal regime. Perhaps a violent act, which in many ways remains invisible and may also include the sensorial aspects of coffee. This is the neoliberal capitalist perspective that Žižek raises. The taste of coffee thus moves, but it moves in a way that is adapted for capitalist commodification and exploitation.

How does all of this affect coffee in the lawscape, the assemblage of law-coffee-space?

By adding on the commercial legal framing the act of drinking coffee becomes submerged in a control mechanism of the capitalist system. If we can accept that human senses as we know them are to some extent mouldable,

³⁸ Slavoj Žižek, *First as Tragedy, Then as Farce* (London: Verso, 2009), 53–4.

³⁹ Even if the regime has its benefits too, as pointed out above, in that it can e.g. protect local producers.

or as Bourdieu seems to argue, that they are socially constructed as cultural capital, and if they can be affected by sociocultural and technological changes, a relevant question here is: can the human so-called 'subjective perception' of taste be normatively influenced by entering the lawscape? Ultimately, we want to understand how law can grasp the sensorial aspects of the taste of coffee. For that to happen the production of the tastescape as well as the lawscape need to be employed. As we have shown, the taste of coffee really is a matter of spaces, of a very material spatial engagement between law-space-(human) bodies.

The taste of coffee has thus *become* a lawscape. Another insight is that the taste of coffee is often framed by a territory, by various geographical places of origin, be it for the purpose of heritage or branding. We have for example seen how UNESCO clearly has no problem in including coffee in its various guises on the (intangible) heritage list. However, these listings are very much connected to nation states. We have furthermore seen how PGIs tie coffee to places of origin (e.g. Colombia, Jamaica, Indonesia) in order to make it stronger as a commodity, as well as to protect the local producers, and ensure quality. The difference that we want to stress lies in the way the heritage framework ties coffee to a territorial dimension that is purely national in the socio-cultural sense, whilst the PGI framework is interested in the brand connected to a (more or less constructed) locality, while a third type that could be called the 'connoisseur framework' that we have mentioned only obliquely focuses purely on the geographical/biological territoriality, tied to the bean as

a natural resource in itself. In all these frameworks coffee is always somehow tied to space and territoriality in different senses, while always being entangled with taste, communities and lifestyles.

Can law sense taste? Can law, as we know it, have a taste?

Arguably, coffee has evolved from once 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 (commodified) lifestyles. The notion of what coffee is, or could be, is being reproduced within the lawscape. By seeing further than the fetishised notion of coffee, where coffee is seen as a natural or *national* resource (now increasingly threatened by climate change), and by linking it to cultural heritage and the tastescape that produces the intensive public spaces, we think that new discussions can be initiated and further explorations of coffee and law-space-body be encouraged. These are for instance more explicit connections of the taste of coffee to freedom of speech, freedom of information, constructions of identities, communities, groups, and ultimately the construction of the notion of the Anthropos and its interaction with its surroundings.

This chapter has attempted to awaken law to coffee and its taste, to show that in the lawscape coffee is not just merely a packaged, commercial, private, natural resource or a commodity fully separated from the human being. We have explored whether it is possible to open up law to these aspects of taste. We demonstrated how valuable insights connected to materiality and space tend to be lost

when certain aspects, such as the sensorial experience, are being confined to merely individual experiences, only connected to a singular human being, a *de gustibus non est disputandum* of sorts.⁴⁰ The claim that we put forward in the introduction that taste is a multi-modal experience involving *internal* senses, *external* surroundings, and *recurring* practices, has thus been materialised here.

So, on a final note, what does it mean to realise that a lawscape always covers the tastescape of coffee? If the lawscape is always present, seeing, feeling, *atmospheric*,⁴¹ and if the taste of coffee as cultural heritage has been submerged in it, would that also mean that a disciplining of space, taste and the human agency in a Foucauldian sense has occurred? The answer to that question is, frustratingly perhaps, that we do not know. But we think that we ought to continue this discussion by making connections and linkages between coffee, its taste, law and the spaces in which it is enjoyed.

We began this chapter by following Ziltoid the Omniscient's rather Sisyphean 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, for all our post-human insights, may never be able to deliver the ultimate cup of law.

⁴⁰ Literally translated 'in matters of taste, there can be no disputes', see Haden, 'Lionizing Taste'.

⁴¹ 'There is no outside!' cries Philippopoulos-Mihalopoulos in *Spatial Justice*, 1.

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