
Mycelium Law

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DOI | 14195/2184-9781_5_3

ABSTRACT

This text imagines the law as a rhizome and performs the law as rhizome by combining strands of thought that connect yet also allow spaces of disconnection. The text draws parallels between the law on the one hand, and the mycelium network on the other, focusing on the multiplicity of extensions that open a space of innumerable encounters. The analysis revolves around the Australian case *Munkara v Santos* where the movements

of aboriginal spirits on land and underwater are taken into consideration. Through a critique of the decision, I argue that law can and is potentially mycelial, both textually and materially. This, however, is not without its problems. The law often forgets the need to encounter others in their own language, and to place the wider mycelial interests at the core of its actions.

KEYWORDS

rhizome, mycelium, atmospheres, aboriginal, language

1.

In preparing for the hearing of their court case in *Munkara v Santos*,¹ Mr Simon Munkara, a tribe elder, along with twelve other Tiwi islanders and the help of the Environmental Defenders Office, an NGO working with the law to protect the natural environment, produced a map showing how their cultural interests would be affected by the proposed Santos' Barossa Gas Pipeline. Aboriginal heritage sites were alleged to be present all along the northern, western, and southern coastlines of the Tiwi Islands, including areas used for food collection, sacred sites, camping sites, and a dreaming site. The proposed pipeline was to be installed near the Tiwi Islands on the north coast of Australia.

Amongst other things, the map showed that the pipeline would cut across the songline of a tribe spirit, Jirakupai (the Crocodile Man), a foundational creation story in aboriginal cosmogony; it also showed that the location of the pipeline affected Mother Ampiji, the rainbow serpent

¹ *Munkara v Santos NA Barossa Pty Ltd (No 3)* [2024] FCA 9 <https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2024/2024fca0009>

caretaker of the Tiwi Islands. The lines and spots on the map were mostly hand-drawn, pointing to both geological elements that functioned as the spirits' seats, as well as the spirits' songlines crossing land and sea country.

Although the claim was unsuccessful, *Munkara v Santos* is one of a series of cases that continues the opening of Australian jurisprudence to an aboriginal country-imbued understanding of the land. The location of spirits and the songlines of these important tribal divinities were considered by the Court, and this is indeed significant. However, the proceedings were conducted with such a forensic and analytical attention to the particular historical and spiritual context that, while on the one hand and in the legal parlance, the Court decision feels responsive and responsible (meeting the expectations of what western court proceedings should be like), it is fundamentally misaligned to what the map was trying to do.

2.

What is a law that speaks the language of spirits? What is a law that moves away from a textuality of statements and into a non-Western, non-rational sensoriality of bodies? What is a law that thinks of itself as life, and not as fear? And how would such a law express itself?

Surprisingly, such a law might not be so different from the law that we understand as law and in this jurisdiction understand as law. We inhabit a law that appears textually solid and commanding while allowing for manoeuvring ambiguity. We embody a law that cages us into lines of individual freedom, while pushing us from within, making us dream of its transformative potential. We hear a law that feels like our body yet is a slightly foreign body that speaks in the voice of parental control. We put 'likes' and 'hearts' to a law that appeals to people's sense of immediate justice, offering the illusion (sometimes useful) of being able to influence the law.

What I am trying to say is this: the law is already elastic, malleable, plastic. The law is already, by definition, rhizomatic. Namely, mycelial, spread out, complex, multiple, sensorially connected, embodied, carrier of matter and affects, producer of atmospheres, always wedded to the space and the materiality whence it emerges.

The law as we understand it has demonstrated its ability to respect other languages: the recognition of rights for nonhumans in the form of

geographical elements is a good albeit hesitant example of that. The kind of law we want might already be here. But we need to stretch it in the right direction. We need to make the law plural, allow it to speak other languages, write itself in lines beyond textuality, and dive into encounters that will alter it. Maybe the law needs to finally understand itself as the rhizome that it is. With all the risks that go with it.

3.

Rhizomatic thought is perhaps Deleuze and Guattari's best documented and most commented way of discrediting the omnipotence of binary thinking.² In their work *A Thousand Plateaus*, they present three kinds of thought. The first one is *arborescent*, where root-tree is the one-becoming-two, the absolute binarism: "Binary logic is the spiritual reality of the root-tree", for even if arborescent thought has moved away from simple bifurcation, it remains wedded to it by structuring itself around the taproot and the supposed multiplicity that takes place around it. "We're tired of trees. We should stop believing in trees, roots, and radicles. They've made us suffer too much." (Deleuze and Guattari 1987, 15)

The structural solidity of arborescent thought is in the core of our society of control: "Arborescent systems are hierarchical systems with centers of significance and subjectification, central automata like organized memories. In the corresponding models, an element only receives information from a higher unit, and only receives a subjective affection along preestablished paths." (Deleuze and Guattari 1987, 16) To be subjected to this centralisation, indeed to become a subject amidst and through this, is comforting, it feels safe, it flows along what others think and do. It gives rise to a libidinous belonging: we are in this because we (think and to a large extent we *do*) desire it. Or at least we desire not to be without. Arborescent thought is the basis of *atmospheric* complicity, as I write later, namely law's emergence as sensorial and affective enclosure, where bodies feed their own need to

² One of the first scholars to apply the rhizomatic to legal studies is Merima Bruncevic. See 'We Need to Talk About the Cultural Commons: Some Musings on Rhizomatic Jurisprudence and Access to Art', Naveiñ Reet: *Nordic Journal of Law and Social Research* (NNJLSR) No.6 2015, pp. 115-130

belong, even if the atmosphere is noxious, exclusionary, oppressive, asphyxiating (Philippopoulos-Mihalopoulos 2015).

The second way is that of *fascicular* thought, where the tip of the root is cut off and the only way to continue is via bifurcation. Fascicular thought is interesting because it *appears* radical, indeed rhizomatic, but in fact it simply places the practices of binary distinction and seamless circularity in the service of the integrity of the subject. Indeed, we have the ultimate dialectics: “the fascicular system does not really break with dualism, with the complementarity between a subject and an object, a natural reality and a spiritual reality: unity is consistently thwarted and obstructed in the object, while a new type of unity triumphs in the subject.” (Deleuze and Guattari 1987, 6) This unity is hovering above any possible multiplicity. It is the paternal embrace to which all bifurcations return, the ultimate circularity, the core nest of the juridical illusion. This is the way society is supposed to think of the law: a rationality that generates an umbrella of stability, constancy, minimised risk (to the ones meriting it) and maximised fear (to the ones deserving it). This particular legal atmosphere is often a necessary illusion: we need to think of the law as a guarantor of safety and certainty. We need to believe that everything about the law is intentional. And through this belief, the legal atmosphere of control is maintained and reinforced. Indeed, the *desire* to be part of the atmosphere is the same desire that maintains it.

4.

The *rhizomatic* comes last, but we know right from the start that this was where we were being steered. The goal is to remove the phenomenological correspondence between subject and object (something Deleuze and Guattari had already started in their 1987 book on Kafka), to subtract oneself from the idea of uniqueness, and to keep on making everything plural. But they warn us: “it is not enough to say, ‘Long live the multiple,’ difficult as it is to raise that cry... The multiple must be made, not by always adding a higher dimension, but rather in the simplest of ways, by dint of sobriety, with the number of dimensions one already has available— always $n-1$ (the only way the one belongs to the multiple: always subtracted). Subtract the unique from the multiplicity to be constituted; write in $n-1$ dimensions.

A system of this kind could be called a rhizome.” (Deleuze and Guattari 1987, 6)

How to make the multiple? First of all, *make* we must. Multiplicity is not a state of nature, an a priori. The multiple needs to be made. Making is a process of infinite connectivity: “any point of a rhizome can be connected to anything other, and must be.” (Deleuze and Guattari 1987, 7). Making is weaving, crossing, diverting, losing, re-encountering.

Second, making means being present in the weaving, but also removing oneself from it. Making is surrendering to the matter, but also seeing the matter changing in one’s hands. Making is clay and god, breath and death. Making the law as a rhizome is fleshing out its multiplicity, drawing lines and boundaries, linking up everything to everything. To do this, one becomes the law: omnipresent, omnipotent yet subtracted and therefore absolutely removed. This is not the potency of the one but of the connection. One is not there, yet making remains.

Third, and connected to the above, in ‘sobriety’. Yes, not inebriated with power, but coolheaded; not heated with partisanism but tiptoeing on the line crossing the skies, umbrella in hand, abyss below. Yes, sober; but this is a drunk sobriety, the sobriety of the festival (Deleuze 1995), the n^{th} power that carries on *ad infinitum* but, importantly, stops itself from colonising the world. One’s imperialistic instinct is subtracted: $n-1$. This is a drunkenness that comes from within, indeed an ancestral, planetary “drunkenness as a triumphant irruption of the plant in us” (Deleuze and Guattari 1987, 11). The plant spreads and takes, over but also positions itself in *relation*.

Let’s call this mycelium.

5.

Mycelium is the rhizome par excellence (see also Ingold 2000). Although a rhizome is not necessarily a plant (Strathern 2017) and can be animals, humans, inanimate, and immaterial bodies, the mycelium seems to cross these boundaries by including all of them in its function. Simply put, without mycelium, there would be no life on the planet. Other plants, animals, humans, and inanimate bodies all converge towards its emergence (Tsing 2015). Merlin Sheldrake (2020, 52) describes it in this passage of inebriated textual sobriety: “sprawling, interlaced webs strung through the

soil, through sulphurous sediments hundreds of meters below the surface of the ocean, along coral reefs, through plant and animal bodies both alive and dead, in rubbish dumps, carpets, floorboards, old books in libraries, specks of house dust, and in canvases of old master paintings hanging in museums.”

Mycelium is the absolute horizontality stretching across the globe. It spreads through links and extensions, it has no centre, no predefined direction, no linearity except for that of the space right underneath the surface, closely following the cracks of the terrain, a meshed blanket underneath our feet. It is “better thought of not as a thing but as a process: an exploratory, irregular tendency” (Sheldrake 2020, 12).

Mycelium ‘makes’ itself by becoming other. In order to spread (and to survive), it needs to multiply, to become plural. “One tip becomes two, becomes four, becomes eight—yet all remain connected in one mycelial network.” (Sheldrake 2020, 42) But is this one body simply bifurcating, or are these multiple multiplicities? Sheldrake again: “I’m forced to admit that it is somehow, improbably, *both*.” Mycelium is neither subject nor object. There can be no phenomenologically constructed distance between its roots, no space for intentionality to exercise itself. We are in a thick DeleuzoGuattarian realm. Self and other in a fold: “Self can shade off into otherness gradually.” (Sheldrake 2020, 42) In turn, otherness becomes one’s own. And the self fades into subtraction: *n-1*.

Mycelium becomes its own plural explosion by constantly encountering others. It is not easy, however, to find relevance and compatibility. Mycelium keeps on bifurcating ad infinitum, it works its way round obstacles or bodies that do not offer a possibility of a meaningful encounter, and it even comes across its own body (self? other?) during its multiple twists and turns. The greatest challenge is that “of finding one another amid the chemical babble in the soil where countless other roots, fungi, and microbes course and engage.” (Sheldrake 2020, 42) Yet, it perseveres and indeed succeeds: some fungi have tens of thousands of mating types, and mushrooms, truffles, and other emergences are the product of sex amongst these mycelian networks. Mycelian polyamory, the blanket of compatibility that connects thousands of types, means that the network becomes stronger the more interwoven it is.

Mycelium is the opposite of disciplinary closure.

6.

Mycelium law works first of all on the level of metaphor: it is the juridical dreamscape of a law that can couple with the world in generative ways. A law that spreads everywhere, underlines everything, writes itself on the surface of the earth while nourishing everyone around it. A mycelial law that serves justice by being both everywhere and subtracted, hidden underneath layers of materiality.

The metaphorical, however, is also material. Quoting the Stoic Chrysippus, Deleuze (2004, 11) writes: “If you say something, it passes through your lips: so, if you say ‘chariot’, a chariot passes through your lips.” I have previously argued (2016) that metaphors are material things, fleshy emergences of the way the world evolves, affecting mind, body, and space. Here too, I would like to think of the mycelial metaphor as a sliding movement between language and materiality, from lips to chariot and back as it were. The term ‘sliding’ comes again from Deleuze: “by sliding, one passes to the other side, since the other side is nothing but the opposite direction [*sens* in French]” (2004, 108). This meaning-producing sliding does not take place on a binary but ensconced in a *fold*, namely that soft rupture in the rhizome that gives form to difference while reinstating identity.

Thus, mycelium law is a material metaphor that slides between the two slopes of the linguistic-material fold. Mycelium law is the laws *of* the mycelium, its behavioural norms, its ethics (in the Spinozan sense of how it positions itself in relation to other bodies), and its understanding of identity in that fragmented, open, self-effacing way. But it is also law *as* mycelium, a law of the ground and the underground, a humic emergence that comes from and returns to the soil, a planetary expansion connected to the chthonic.

By now, we know well that law is not *just* text. It is that too. But law’s textuality must be seen as a writing movement of bodies, an expansion of text into the non-linguistic, indeed the linguistic turn on its head. Everything is written in code, coiled up scrawling, sentences squeezed like mycelium writing, a teaspoon of which, if laid end to end, “it could stretch anywhere from a hundred meters to ten kilometers.” (Sheldrake 2020, 52). But it is as text that the law often forgets to subtract itself and insists on being

written large across the surface of the earth: an anthropocenic law that takes over and determines the texture of the planetary crust.

Law is matter, bodies, space, distance, ideas, immateriality. Law and matter are tautologous. Matter and law move in unison, altering the world while being altered themselves (** 2015).

The law is nothing but a lawscaping movement. The lawscape is nothing but an admission, finally, that law is carried in the space of the bodies that make up the world. Mycelium law is nothing but an admission, finally, that law is telluric, carried in the planetary body of the Earth, no longer human, no longer even merely intrahuman. Mycelium law is law bloated with water and nutrients, carrying matter and affects through encounters that change the law itself.

7.

The map created by the Tiwi islanders unfolds for miles across earth and water. It covers an expanse of movement that trembles along the map, shifting the way the geography of humans and nonhumans is formed. The map is not merely an exercise in documenting. No map is ever a faithful reproduction of an objective reality – what is that anyway? Even Borges’s 1:1 map in his short parable ‘Of Exactitude in Science’ (1975) is not a reproduction but a different ontological plane. So the map distorts as well as forms, misinforms as well as educates. Just like any map, the Tiwi islanders’ map resemiologises, mixes, alters, adds, and subtracts. But beyond that, the map ultimately changes the lay of the land. It does not hover above the world nor project itself on it: rather, “[the map] forms a rhizome with the world” (Deleuze and Guattari 1987, 11).

Here’s our rhizome: the north coast of Australia, Tiwi islands, the ocean, the water that pools, the underwater lake; national and International Law of the Sea, Property Law, Cultural Heritage Law, Environmental Law; Australian jurisdiction; and of course, Indigenous Law: songlines, dreaming, country of land and country of water, spirits roaming the globe. Lines everywhere, crossing, erasing, reinforcing, escaping each other. Lines of connection, lines of flight. This is no organisation, no institution, and no structure, because “unlike a structure, which is defined by a set of points and positions, with binary relations between the points and biunivocal

relationships between the positions, the rhizome is made only of lines.” (Deleuze and Guattari 1987, 21)

But this multiplicity needs to be *made*. There are many ways in which the making can take place in law: through the introduction of legal pluralist traditions in court considerations, or taking seriously such liberal concepts as Tolerance and Equality, Diversity, and Inclusion, or interpreting broadly and contextually standard human rights protection, or perhaps this most pivotal of acknowledgments (one can always hope) that law is not just text but embodiment, emplacement, and materialisation of movement and pause, of living and dying, of affect and history. Whatever the route, the multiplicity has to be made.

Hence, the map that was prepared for and presented to the Australian Federal Court: on the map, the lines of the Crocodile Man’s songline and the Mother Ampiji dreaming are depicted as intersecting with the proposed pipeline. It is worth quoting from the case:

The first aspect is one founded on ancient oral tradition, involving song lines told by certain clans of the Tiwi Islanders both in words and in their songs, dances and ceremonies over many generations. Reduced to its briefest expression, the allegation is that:

(1) There are one or more rainbow serpents named Ampiji, one of which resides in Lake Mungatuwu, a freshwater lake in the southwest of Bathurst Island. Ampiji is a caretaker of the land and the sea. She patrols the coastline around the Tiwi Islands and also travels into the deep sea and thus into the vicinity of the pipeline. The risk arising from the activity was alleged to include a fear that the construction and presence of the pipeline would disturb Ampiji and that she may cause calamities, such as cyclones or illness that would harm (at least) the people of certain clans. The applicants allege that the pipeline will thereby damage the spiritual connection of the Jikilaruwu, Munupi and Malawu people to areas of sea country through which the pipeline will pass.

(2) The Crocodile Man song line is connected with a place in the sea in the vicinity of the pipeline. The applicants allege there is a risk that the activity will disturb the Crocodile Man in his travels and thereby damage the spiritual connection of the Jikilaruwu people to areas of sea country through which the pipeline will pass. (para 14)

The applicants continue by stating that Mother Ampiji's residence is located in a submerged freshwater lake. Although at some distance from the proposed pipeline route, both the residence and Ampiji's patrolling around the coast, the islands, and the wider sea would be affected by the proposed pipeline. The applicants state that:

In ancient times when the land now forming the sea bed was subaerially exposed, there existed a very large and deep freshwater lake in the area situated about 10km from what is now the western most point of Bathurst Island at or around Cape Fourcroy. At the mouth of the lake, the applicants allege, was an embayment (a recess in the landscape). (para 15)

The Mother Ampiji travels around the sea, including around the Tiwi Islands. The applicants assert a spiritual belief that the pipeline will pass between the Ancient Lake and the Tiwi Islands, that it will "disconnect" the Jikilaruwu, Munupi and Malawu clans from the Ampiji who lives in the Ancient Lake and thereby damage the spiritual connection of the Jikilaruwu, Munupi and Malawu people to the areas of their sea country through which the pipeline will pass. (para 17)

8.

The Court senses a risk: the map is overcoding the territory. The rhizome is under threat.

This rhizome has been gingerly forming during all these decades since the 1992 *Mabo v Queensland* case,³ and even before, involving colonial and aboriginal law, an angular, ruptured, conflicting rhizome, not a smooth spread but a constant jumping over hurdles, a mycelium that fights for its whole body and not just for its tip, a world that observes and learns: this rhizome, if I was to interpret Justice Charlesworth's thinking, is at risk because of this very map.

In its attempt, however, to salvage the rhizome, the Court ends up overcoding it.

³ *Mabo v Queensland (No 2)* [1992] HCA 23 at <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1992/23.html>

The Court, correctly in terms of legal procedure, questions the integrity of the map, both in terms of its process of production, which included specialists and significantly the Environmental Defenders Office in addition to the tribal members concerned; and the true representative value of the map, since “a significant degree of divergence” was noted amongst the three tribes involved in terms of the spirits’ seats and travels, and the potential impact of the pipeline on them (“there were conflicting accounts given by Jikilaruwu clan members (including senior members of the same family group) about the content of song lines and the impact of the pipeline upon them” at para 70).

The Court knows that the map is not expected to be a definitive representation. As Justice Charlesworth states, “The Tiwi Land Council has been instrumental in recording and registering sacred sites ... resulting in a map depicting many sacred sites on the land including around the coast. I accept that is an ongoing process.” (para 69). But the Court is afraid that the process so far has not been ‘fair’. To explore this concern, the Court commissioned reports from a great deal of experts in various fields (anthropology, archaeology, earth sciences, geophysics, and marine science) and as a result, the judgment is indeed both well-informed and imbued with an appearance of strong sense of care towards local interests.

But the overcoding has already taken place. Not the one that perhaps the Court was afraid, but the one emanating from the assumed authority of the Court.

9.

In its attempt to protect the rhizome, the Court rejects the map, and with it, the Tiwi islanders’ claim. There are two issues here: first, that as Deleuze and Guattari write, “[the map] is itself a part of the rhizome. The map is open and connectable in all of its dimensions; it is detachable, reversible, susceptible to constant modification.” (Deleuze and Guattari 1987, 12) The map presented to the Court is not the 1:1 map consumed by the delusion of real representation. A map is part of the rhizome, a bouquet of hyphae (“fine tubular structures that branch, fuse, and tangle into the anarchic filigree of mycelium” Sheldrake 2020, 12) reaching out to connect with other hyphae: it is always an attempt at an encounter. A map is scarred

skin, colonised land, the brutality of the powerful, the ones that take the land away from the others, the ones that they still refuse to encounter: this is *terra nullius*.

And this needs to be understood as such. Not a representation but a rhizomatic emergence that breaks through the crust of the earth, and screams. The Court is (unsurprisingly) using standard mechanisms of a typical Western legal hearing in order to box in the mycelian spread of spirits, their habits and routes, and the way these are being perceived, communicated, and lived by the various members of the tribes. And while the Court includes these in the legal discourse with what can only be commended as an attempt at understanding the issues, dressed in forensic precision with regards to the movements of the spirits, and an overall sober intent aware of its responsibility as protector of cultural heritage of potentially global significance, there is no effort to accept the multiplicity of beliefs and divergences for what it is: namely a sign of rhizomatic vitality whose effervescence only minimally obscures the fact that these tribes care deeply about the environment and the ecological and cultural balances of the land and the sea, and that by extension the tribes embody a much stronger planetary conscience than the defendant does.

Just to put it in context: the pipeline is pivotal to Santos's plan for an AUS 5.7 billion gas extraction project, expected to generate about 15.2 million tonnes of greenhouse gas emissions – something that the Australasian Centre for Corporate Responsibility has called a “carbon bomb”. (Mazengarb 2024). But the overcoding of the rhizome by the Court is precisely along those lines of growth and progress. The law is stretched by the Court in the wrong direction – wrong because it is alien to the rhizome that cannot accommodate that mad verticality of ‘progress’, that upward graph of human civilisation. We can no longer credibly carry on. To quote Anna Tsing (2015, 24-25), “progress felt great. There was always something better ahead...I hardly know how to think of justice without progress. The problem is that progress stopped making sense.”

In order, therefore, to push the rhizome towards ‘progress’, namely the progress signalled by gas extractivism and massive infrastructural works that affect the environment in irreversible ways, the Court fights the spirits with the Western lust for precision. What we end up reading in the judgment is an astonishingly farcical discourse where forensic accuracy of songlines and spirit locations is sought in order to prove (or disprove) the relevant

claims. Naturally, this cannot be established with the degree of certainty the Court needs:

Beliefs about Ampiji (sometimes spelt Ampitji) among Tiwi Islanders are varied in several respects, particularly on the question of the extent of her travels and the related question as to whether the pipeline would cause her to become disturbed. There are also differing accounts as to whether there is more than one Ampiji, and as to whether there exists a Mother Ampiji.” (para 78)

The Court cannot accommodate uncertainty, multiplicity, or vagueness. It cannot make these fit in with the hard metal ruler that law still yields everywhere, measuring distances and propinquities as if they were life. What we have instead is a paternalistic approach to very complex issues that simply cannot be understood through the usual juridical categories of Western law. In many respects, although a huge amount of expert advice (which might indeed be part of the problem) was sought to corroborate the Tiwi islanders’ claims in hundreds of pages, the law has progressed little in substance from 1990 when Peter Goodrich was writing about the Haida Indians who supported their claims to their native land through full ceremonial dresses and masks; without any lawyers, but armoured with tellurian mythologies, traditional poems and heroic songs that, for them, demonstrated beyond any doubt their ancestral claim to the land. Unsurprisingly, the court decided that their claims were not legally relevant: it classified them as meaningful but nonsensical in terms of the law. Goodrich suggests that the court refused to compare mythologies, because that would raise questions of the ‘self’, of what it is that the court represents.

10.

The second issue, which is related to the above, involves a decisive gesture of pulling down to earth the Court and its law. While the intention of Justice Charlesworth is arguably justified in rejecting the map (‘not representative enough’), her pronouncement is *ex cathedra* – the throne usurped by colonial law to determine the lay of the land. This throne is imagined hovering over country, a divinity doused in rococo light, veiled

by titles and texts that are an integral part of the upper echelon of the painting and benevolently looking over the little, what? Struggling rhizomes below? ants and grass? orchids and bees? Yes, all that, and in so doing bestowing its harsh but 'fair' blessings. But can the law ever be above the rhizome? Can anything? Deleuze and Guattari (1987, 9):

a rhizome or multiplicity never allows itself to be overcoded, never has available a supplementary dimension over and above its number of lines, that is, over and above the multiplicity of numbers attached to those lines. All multiplicities are flat, in the sense that they fill or occupy all of their dimensions: we will therefore speak of a plane of consistency of multiplicities.

In this most pivotal quote of *A Thousand Plateaus*, Deleuze and Guattari present us with their ontological plane, the plane of consistency or *immanence* (the terms are used interchangeably in the book). The plane is a spatialisation of Spinoza's (2000) understanding of "God or Nature", where everything is part of the same substance, and linked to everything else. To put it differently, there is nothing above or beyond the plane. This is all there is: a Nietzschean immanence (2005) where the outside is delegated to the realm of (perhaps necessary, perhaps inevitable) imagination.

In acting the way it did, the Court imagined itself above the plane, away from the rhizome, a god that does not fit in and narcissistically commands attention. A god that is pleased to be remote, veiled, yet omnipotent and omnipresent, a loud presence beaming with its ability to blind. The Court is a different kind of god to the aboriginal gods: while the former hovers overhead, the aboriginal spirits roam the earth and the ocean rhizome-like, inviting others to dream along their perambulations.

Challenging the delusions that feed western rationality yet working with its accepted instruments, the Tiwi islanders map brings god (or nature) into the Court room, extending a line that has already started before Captain Cook, property titles and genocide; but also a line that begins in an underwater lake in the north coast of Australia that may or may not have existed at the time. The Court reaches scintillating heights of juridical parody when it tries to establish whether the spirits could have entered the water in the late Pleistocene period (65,000 to 20,000 years BP).

The maps used in the cultural mapping processes are problematic in several respects. Critically, they cannot on any reasonable measure be said to correctly represent the pre-inundation landscape in the period to which they relate. At the times to which the maps relate, the Tiwi Islands did not exist as islands at all. Rather, the now-submerged landscape and the land that is now the modern Tiwi Islands formed part of mainland Australia. (paras 1140-1).

In other words, at the time of the spirits' first entering the sea, the Tiwi Islands did not exist. The Tiwi emerged as islands (namely, were eventually encircled by water) only when the sea level rose. At the time of Crocodile Man's songline, the sea level was 120 metres lower than today.

On a true depiction of the ancient landscape, there would be no Tiwi Islands, there would be a singular mainland with a coastline far north of where it is today. I am satisfied that none of that was explained to the Tiwi Islanders. (para 1142)

Why did these have to be explained? Why would a geologist need to explain to the tribe whether their own divinities could enter the water at the time or not? Pressing these beliefs in the confines of juridical necessities is a way of belittling their actual importance. Because, above all, the time of the map is not historical time. The map includes rhizomatic lines of the temporality and spatiality of the spirits, which is nothing else than the way the community connects to and at the same time protects its environment. These lines, like all mycelian lines, would no doubt be able to carry on, circumventing even the proposed pipeline, for a hyphae line never loses its direction even when faced with an obstacle (Sheldrake 2020). It would simply follow the line that its own body is forming while spreading.

The time, space, and language of spirits is not that of the law. But it is the responsibility of the law to understand these *in their own terms*, and not through the forensic tools of the law. The law needs to encounter otherness, mate with it, and allow mushrooms of intoxicating fragrance to pop. The law needs to get drunk.

11.

The Belgian Pavilion at the 18th Venice Architecture Biennale 2023 was a mycelial rhizomatic house. The architectural firm Bento and the artist/curator Vinciane Despret built a house of fungi, a symbiotic world-making where mushrooms are the construction material, the energy source, the food, but also the roommates of the humans. In this new era of the Mycelocene, the project *In Vivo* poses the basic question: “Who is hosting whom?” Rather than simply ignoring or utilising the mycelium as a resource, humans are imagined living *with* mycelium.

Accompanying the pavilion is an edited volume of speculative non-fiction coming from the future and commenting on some of humanity’s grave mistakes as well as achievements (Despret *et al.* 2023). This future anterior, looking back onto itself and changing the ontology of the present, is a gaze that the Australian Federal Court sorely lacks and desperately needs. In a text from 2031, the authors state that “we are all symbionts, which is to say that the very notion of individuality, which has long been one of the central notions of how we perceive our existence and that of others, must be revised.” (Despret *et al.* 2023, 233) And symbionts they are when, in 2042, they write about the lyrical communication of the mycelium (the “mycopoetic”, 265) that “has no singular, everything is in the plural” (266), studied by “radical geolinguistics” which “occurs when speakers primarily use roots to exchange information” (211) and “therolinguistics” which understands that “living beings are not solely mobilized by motives of survival or reproduction but by creative impulses to invent aesthetic forms and expressive contents – i.e. literatures.” (212).

The law can learn from it. Rather than fixating on a past in order to unearth causalities that will satisfy that small part of the law that responds to this, the Court should have also been looking into a future where living *with* nonhumans is the only way to survive. In any case, speculative narrative is not different from legal discourse: it imagines a reality and commands it into actuality, which sometimes happens and sometimes does not. As a sheet translated from mycopoetics states, “the mycelium, because it never stops exploring, investigating, is the embodiment of speculation.” (280). In the above sentence, replace ‘mycelium’ with ‘law’ and you have law’s horizon as the speculation of future justice.

But law's language is not the only one. As Deleuze and Guattari remind us, "there is no language in itself, nor are there any linguistic universals, only a throng of dialects, patois, slangs, and specialized languages." (1987, 7).

The law has already started recognising the existence of other languages. It is time it spoke them.

12.

Allow me to go back to the earlier question: can the Court truly be outside? Indeed, is there an outside to the rhizome?⁴

"The wisdom of the plants: even when they have roots, there is always an outside where they form a rhizome with something else—with the wind, an animal, human beings." (Deleuze and Guattari 1987, 11). If there is an outside, it is part of the rhizome. If there is an outside, the mycelium will reach it. For any outside is virtual.

Deleuze's understanding of virtual is instructive: it is as real as the actual. It is just that the virtual needs to be actualised. A rhizome positions itself amongst other bodies from which it draws its energy, nutrients, information, and so on. At the same time as following its conative urge to expand, grow, indeed survive, a plant also takes care of other plants. This is the discovery behind Suzanne Simard's *Finding the Mother Tree* (2021), namely, the forest that allows the whole rhizomatic spread to protect itself and its elements through the transfer of nutrients, affects, and information. In the case of fire, for example, the mycelium underpinning the forest transmits messages that alert the plants on the other end of the forest not yet affected by the fire, to close up, pump up moisture, and generally minimise the impact of the impending fire.

The rhizome is traversed by lines, linking and separating the various bodies. These lines are ethics drawn on the basis of the spatial distribution of bodies. This does not mean, however, that the further a body finds itself from another body, the less ethically involving the situation is. The outside is actualisable and everything is, potentially or indeed virtually, part of

⁴ For an answer to this related to IP law and commons, see Merima Bruncevic, *Law, Art and the Commons* (London: Routledge, 2018)

the rhizome. This is the core of Spinozan ethics: an individual or collective body can only flourish when all other bodies around also flourish. Naturally, the ones that are incompatible, say a pipeline across the ocean bed that stratifies space in ways that make the rhizome unable to carry on, do not need to flourish for the rhizome to flourish. So there is an ethical rhizomatic spread that, like a forest, takes care of the connections, linking and separating, continuing and rupturing.

The plane of consistency, however, is not a flat, uniform space. It is a maelstrom of striation and smoothness, namely institutional organisation/colonisation/oppression on the one hand, and nomads fleeing about on the other, occupying new smooth spaces of potential future striation. It is also filled with ruptures – as Deleuze and Guattari instruct, “always follow the rhizome by rupture” (1987, 11). A rhizome is indeed a continuum of ruptures. “There is a rupture in the rhizome whenever segmentary lines explode into a line of flight, but the line of flight is part of the rhizome.” (1987, 9). Ruptures are identity tools, crevasses of otherness that remain, however, part of the body: “These lines always tie back to one another.” (1987, 9). Ruptures draw the rhizome away from noxious encounters, opening up lines of flight, escape routes, and creative leakages. But even then, things are risky: “one can never posit a dualism or a dichotomy, even in the rudimentary form of the good and the bad. You may make a rupture, draw a line of flight, yet there is still a danger that you will reencounter organizations that re-stratify everything.” (1987, 9).

Stratification is the way the plane of consistency is taken over. It will never, of course, be completely stratified. There are always spaces of overflow, excess, and outbursts of the outside within. But what is important to remember is that the plane is not flat, like many new materialist and vitalist theories posit. It is *tilted*. Stronger bodies weigh more, and their presence and movement determine the way other, weaker bodies, can move: they determine the lawscape. But stronger bodies have a responsibility to act in a way that takes care of other bodies. The law, through the Federal Court in Australia, seems to be taking this responsibility seriously but ends up overtaking the plane of consistency by completely stratifying it with unproven causalities and irrelevant questions of harm. And just like rhizome can be co-opted by any kind of theory that thinks of itself as radical and anti-institutional with right-wing populism as the classic example (or as Van Den Meerssche and Gordon write, “The rhizome has rooted in new

rationalities of rule, the swarm nested in the sovereign”⁵), in the same way the plane of consistency can progressively be stratified to such an extent that lines of flight become harder and rarer.

13.

When coupled with desire, this stratification can become atmospheric. The notion of atmospheres, as mentioned earlier, is linked to enclosures and their conditioning. The term comes from architecture, but it is now widely used across disciplines. In my work, I have elaborated on legal atmospherics as a critique of complicity towards situations that encourage the law to remain potent yet withdrawn (2015). To put it differently, in the name of security, economic growth, or national sovereignty (amongst other things), state law can turn to an atmospheric enclosure where the only option is the one offered by this very law. Perhaps the allure of atmospheres, however, is that they do not feel oppressive. Rather, they are engineered to feel open, free, indeed as deterritorialised as smooth space.

This is because the participating bodies *desire* the maintenance of the atmosphere, even though the latter might be exclusionary, discriminatory, oppressive, and ultimately controlling. Desire guides affects in predetermined ways (Lyotard 1993). Desire of stronger, better placed bodies (corporations, populist governments, plutocrats, but also your friendly influencer) and creates the conditions for law to evolve in ways that can no longer be controlled even by the legal system itself. This means that the rhizomatic encounters that law undergoes with other bodies are not always positive: in fact, these encounters become so complex and so deeply entwined, that it is increasingly harder to separate legality from politics, corruption, personal interests, or even social media impact (** 2023).

This rhizomatic complexity is a risk for standard conceived notions of identity (e.g., what is law, what is politics), but, like any rhizome, it allows for openings that might not have occurred otherwise. Rhizome is change.

⁵ “Perspectives and postures often associated with heterodoxy or critique (multiplicity, decentralisation, bottom-up adaptation, disruption or experimentation) are appropriated, mediated and re-signified in emerging practices of global governance as well as in—awkwardly proximate—modes of radical re-imagination.” (Van Den Meerssche and Gordon 2022) See also Eyal Weizman 2006 on how the Israeli army has appropriated the rhizome; and Elizabeth Povinelli’s 2021 critique of entanglement.

“The tree imposes the verb ‘to be,’” but the fabric of the rhizome is the conjunction, “and...and... and...” (Deleuze and Guattari 1987, 25). From arboreal being of fixed identity to rhizomatic becoming of flow. So risks that come from rhizomatic becoming can also be seen as opportunities. To open up the law to spirits, other languages, movements that defied colonial history, mycelian dreams of linking up to songlines into the deep sea: these are things that destabilise the law the way we know it, and at least some of us would welcome that.

In the same way, however, law’s becoming is not unproblematic. It can be positive, in that it moves in a direction of planetary ethical positioning. Or towards an instrumentalisation and co-optation of other languages, nonhumans, and immaterial bodies that become cogs in the legal machine of continuous stratification.

14.

Draw lines across the plane. Let them rupture, let them mend. Let them reveal the real as it is: real as virtual and real as actual. Grow together with future possibilities, take risks when encountering, open up to a polyamorous law of admixture and conjunction. But also: set limits from within the body of the law. Flirt with all virtualities, become *and and and*, feel the inebriation of the multiple, but also stop when you must. In *Vibrant Matter*, Jane Bennett (2009) urges us to move away from noxious assemblages. Withdrawal is an ethical move that points to lines drawn, and territories beyond these lines that should not be actualised. These are mycelian ethics: expand and flourish, but also stop yourself from noxious assemblages and narcissistic, all-consuming urges.

But when is a mycelian encounter part of an atmospherics of oppression, and when an opportunity for evolution? This is perhaps the hardest question to pose in rhizomatic thought. When is good good and good bad? Spinozan ethics come to the rescue, but only post-facto. And this is because we always start in the middle. “A rhizome ... is always in the middle, between things, interbeing, intermezzo.” (Deleuze and Guattari 1987, 25). Decisions, actions, movements float in that high velocity plane where all virtualities converge, a cacophony of options, a heavenly choir of alignments. “The middle is by no means an average; on the contrary,

it is where things pick up speed... a transversal movement that sweeps one and the other away, a stream without beginning or end that undermines its banks and picks up speed in the middle.” (25) There is no moral compass in the middle, no morality blanket that protects us from the outer edges, no preconceived ideas of what must be done. The middle is a dizzying space, a subsoil of mad becoming: “a horizonless external gut—digestion and salvage everywhere—flocks of bacteria surfing on waves of electrical charge—chemical weather systems—subterranean highways—slimy infective embrace—seething intimate contact on all sides.” (Sheldrake 2020, 27).

With every judgment, every statute, and every policy instrument, the law hits the middle and runs. Its temporality and compatibility are often decided by other systems, with the result that desire is directed in ways that are alien to the law. Thus, to belong, to take sides, to be part of an atmosphere, to be against things, to voice and to act on: these are all legitimate desires that both ride the transformative potential of the law *and* risk turning law into an aesthetic exercise serving only the interests of ‘progress’.

15.

By now, all law is mycelial.

It spreads, explores, and investigates. It gets it right, it gets it wrong. Its cardinal problem, however, is when it forgets to keep on encountering others, to try and speak their languages, to resist the pressure atmospherics of appearance. It gets it especially wrong when it forgets that it needs to speak a language of care towards the planet.

Mycelium law is simply law that is grounded. Or, to recall Deleuze and Guattari (1987, 25) “the rhizome is alliance, uniquely alliance.” Without alliance, there is no real.

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