LAW AND AESTHETICS IN THE ANTHROPOCENE: FROM THE RIGHTS OF NATURE TO THE AESTHESIS OF OBLIGATIONS

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I. Introduction

Transformations within the climate system have become so severe that many now argue we have entered a new geological epoch: the Anthropocene. The thesis contends that human action has shifted a number of the planet's biogeochemical systems and processes beyond ranges observed within the Holocene, the epoch that forms the most recent entry into the Geologic Time Scale and which is held to have begun as the last glacial period ended 12,700 years ago. A variety of nomenclatures, histories and frames of reference have been developed through which this 'new climatic regime' can be understood. Some date the onset of the Anthropocene from the beginnings of agriculture over 10,000 years ago that cleared forests and domesticated animals, thereby increasing atmospheric carbon dioxide and methane. This approach effectively does away with the Holocene designation, arguing that human civilisation has from its earliest stages been a planetary force.[2] Others have tied the Anthropocene to the transformations set in motion by early-modern colonialism that re-ordered the earth's biota, causing widespread changes to the global human population and mixing once discrete ecosystems in a process known as the 'Columbian Exchange'.[3] These changes, along with the near-total annihilation of the Amerindian population as a result of colonial expropriation, enslavement and disease, left a readable trace in the geological record as the reforestation of once cultivated lands caused a reduction in global atmospheric CO2.[4] Alternative approaches argue that the Anthropocene is a much more recent phenomenon, traceable to either the early days of the industrial revolution in the late 18th century or even beginning as recently as the middle of 20th century as the so-called 'great acceleration' in human energy consumption took hold within a new age of globalisation.[5]

The definition that one favours lends itself to distinct political narratives and commitments. The 'early Anthropocene' thesis tends to naturalise our current condition, ascribing this new epoch to the 'incremental spread of human influence over the landscape' rather than a rupture associated with the widespread burning of fossil fuels.[6] The early-modern

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[2] William Ruddiman, 'The Anthropogenic Greenhouse Era Began Thousands of Years Ago' *Climatic Change* (2003) 61(3), 261-293.

[3] Simon L. Lewis and Mark A. Maslin, 'Defining the Anthropocene' *Nature* (2015) 519, 171-180.

[4] It is estimated that between 45 million and 76 million people died over a 150 year period following the European colonialization of the Americas; this constitutes 90-95 per cent of the total indigenous population and about 10 per cent of all humans on the planet. See Lewis and Maslin, *The Human Planet*, 147-187.

[5] Jan Zalasiewicz *et al*, "When did the Anthropocene Begin? A mid-twentieth century boundary level is stratigraphically optimal" *Quaternary International* (2015) 383, 196-203. For a broader survey of these different approaches see: Jeremy Davies, *The Birth of the Anthropocene* (Oakland: The University of California Press); Christophe Bonneuil and Jean-Baptiste Fressoz, *The Shock of the Anthropocene* (London: Verso, 2017).

[6] Clive Hamilton and Jacques Grinevald, 'Was the Anthropocene anticipated?' *Anthropocene Review* (2015) 2(1), 59-72; quoted in Ian Angus, *Facing the Anthropocene*, 54.

Anthropocene explicitly ties the onset of a new climatic regime to colonialism, enslavement and plunder: the dark sides of 'modernity' and 'progress'. A later date of origin foregrounds the role of industrial capitalism and a mid-20th century start date grounds the Anthropocene in American economic, cultural and political dominance, the early days of globalisation and the birth of the nuclear age. Efforts to connect the prevailing social relations at each of these historical junctures has prompted a range of neologisms, terms like 'Capitalocene',[7] 'Technocene'[8] and 'Plantationocene'[9] all seek to underscore the material, political and economic conditions of the period in which the beginnings of our current climate crisis are thought to be found.

This focus on the definitional, whilst understandable, tends to distract from the broader scenography that the Anthropocene thesis brings into view. What underlies all the approaches to the new climatic regime, whatever its name and date of origin, is the contention that the political imaginaries commonly associated with modernity have been irrecoverably disturbed. As Bruno Latour contends, the Anthropocene calls on us to accept that: 'the earth system reacts henceforth to your action in such a way that you no longer have a stable and indifferent framework in which to lodge your desires for modernisation'.[10] In this way, the Anthropocene signals an end to the 'backdrop ontology'[11] that defines orthodox modern political thought, understanding human political life as *set against* a largely immobile and uninteresting 'natural' staging. In short, the political thinking of modernity took the warm and stable conditions of the Holocene for granted and was able to construct narratives of political life that involved the supersession of natural attachments, celebrating the uniquely human capacity to elevate ourselves above or beyond any 'state of nature'. But this bifurcation in which 'natural forces' are simply the object of human domination, ownership and instrumentalization seems utterly inadequate to capture the complex interweaving of human and non-human forces that defines our current climatic condition.

In this respect, one of the greatest challenge that the Anthropocene thesis poses is an *aesthetic* one: that to which we are rendered sensitive and insensitive, that which is included within or without the various framing devices that structure our modes of perception, is at stake. It is a range of material, biogeochemical and putatively 'natural' forces – largely considered a mere background for our political thinking, or else entirely left 'off-stage' – that are shaping the contours of contemporary political life. The *aesthetic* challenge of the Anthropocene returns us to the term's etymology in *aesthesis,* referring to *sense perception* in the broadest terms. This account of aesthetics has generally been overlooked in favour of defining the field – largely following a Kantian inheritance – as a specialist branch of philosophy concerned with the appreciation of art and the definition of the beautiful. I take a generalised study of aesthetics to embrace a concern with a sensate subject's immersion in social space, the study of how the visive, affective and sensuous dimensions are animated through a given configuration of power relations that orders, distributes and enframes our perception of the world. If an *anaesthetic* deadens our body to pain, aesthetics describes the modes by which our senses become enlivened, accounting for how we feel, perceive and order reality. This approach, which presupposes an inherent relation between aesthetics and political power, owes much to Jacques Rancière's well-known

[7] Jason W. Moore, *Capitalism in the Web of Life: Ecology and the Accumulation of Capital* (London: Verso, 2015).
[8] Jean-Luc Nancy, "The Existence of the World is Always Unexpected" (trans.) Jeffery Malecki in Heather Davis and Etienne Turpin (ed.), *Art in the Anthropocene: Encounters Among Aesthetics, Politics, Environments and Epistemologies* (London: Open Humanities Press, 2015), 85-92.
[9] Donna J. Haraway, *Staying with the Trouble: Making Kin in the Chthulucene* (Durham: Duke University Press, 2016).
[10] Bruno Latour, *Down to Earth: Politics in the New Climatic Regime* (London: Polity, 2018), 84.
[11] Peter Sloterdijk, "The Anthropocene: A Process-State at the Edge of Geohistory?" (trans.) Anna-Sophie Springer in Heather Davis and Etienne Turpin (ed.), *Art in the Anthropocene: Encounters Among Aesthetics, Politics, Environments and Epistemologies* (London: Open Humanities Press, 2015), 327-340.

account of the political as a matter of distributing or sharing out (*partager*) the sensible.[12] As Rancière argues, at the heart of the construction of political space is the delineation between the seen and the unseen, the heard and the unheard, a 'system of *a priori* forms determining what presents itself to sense experience… [and that] determines the place and the stakes of politics as a form of experience'.[13] My contention is that the Anthropocene fundamentally ruptures the aesthetic ordering that defines modern accounts of political life by revealing how the human is attached to a network of non-human, biogeochemical, and supposedly 'natural' forces that the prototypical thinkers of modernity all urged transcendence. The Anthropocene, therefore, requires an *aesthetic re-orientation* – which, following Rancière, always already engages the political – in which we become sensitive to those human/non-human forces that shape the conditions of habitability in a given place, reordering the relation between background and foreground that gives depth and focus to an account of associative life.[14]

How should scholars of law, culture and the humanities respond to this challenge? Following Margaret Davies, I argue that any response must involve a renewed focus on *materiality* that proceeds by refusing to endorse long held assumptions about the bifurcation between nature/culture; subject/object; material/discursive and so on. Davies embraces a notion of 'natureculture' in which the nature/culture opposition is replaced by a continuum that crosses this divide. Drawing on a range of 'new materialist' thinkers who have sought to understand the complex imbrication of the human and non-human in a flattened ontology of objects and actants,[15] Davies argues that this philosophical disposition helps us reattune legal thinking to an ecologically complex, living planet. As she suggests:

> A theoretical objective would be to find concepts of law that are part of this space [of natureculture] rather than entirely abstract. This is not only a question of devising law or a theory of law that enshrines, for instance, an ethic of ecological care or the values of stewardship, though these strategies are important. Rather it involves re-orientating ideas about the origins of law so that law can be regarded as emerging from non-hierarchical relationships between persons and things.[16]

Implicit in this renewed focus on materiality, ironic though it may seem, is the significance of *mediation*; that is, the concepts, ideas, theories and stories that we deploy in order to grasp an altered sense of the material world and the role that human agency plays within this scene. As Davies suggests, we need to re-orientate our *ideas* about law in order to grasp reality otherwise. There is no meaningful, *unmediated* access to the world: the conceptual and cognitive scaffolding that we erect allows us to grasp the world in new configurations, rendering us sensitive or insensitive to objects, relations and actions in distinctive ways. The legal concepts we privilege, and the 'law stories' that we tell, constitute what Costas Douzinas has described as a 'legal screen' interposed between the subject and the social realm 'filtering the objects of vision and determining the ways we see and are given to the world to be seen'.[17] In this sense, the specific

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[12] Jacques Rancière, *The Politics of Aesthetics* (London: Continuum, 2011).
[13] Ibid., 13.
[14] Climatic transformation prompts a series of *political* questions and concerns, perhaps most significantly, the very nature of *the political* (*le politique*) as such, beyond the questions of legislative or policy reform (*la politique*). Following Rancière, the argument developed here claims that in order to re-think the political we have to engage with *aesthetics*, realigning the various ways in which we are rendered *sensitive* and *insensitive* to social, material and earthly relations and forces.
[15] Davies draws on: Jane Bennet, *Vibrant Matter: A Political Ecology of Things*; Graham Harman: Object Orientated Ontology: A New Theory of Everything (London: Pelican Books, 2018); Bruno Latour, *Re-assembling the Social: An Introduction to Actor-Network-Theory* (Cambridge MA: Harvard University Press, 2005).
[16] Margaret Davies, *Law Unlimited: Materialism, Pluralism and Legal Theory* (Abingdon: Routledge, 2017), 72.
[17] Costas Douzinas, 'A legal phenomenology of images' in Oren Ben-Dor (ed.), *Law and Art: Justice and Aesthetics* (Abingdon: Routledge, 2011), 247-258: 253.

contribution of legal theory to a generalised study of aesthetics, is to critically reflect on the how legal concepts provide distinct lenses through which the dramas of social life are refracted. The question I address in what follows is which concepts of law and which theories of law's origin assist in the aesthetic re-orientation that the Anthropocene demands?

The argument proceeds by first engaging with the field of Earth Jurisprudence, one of the few responses within legal studies to explore the theoretical implications of the Anthropocene, climate change and environmental degradation. I argue that Earth Jurisprudence fails to address the radicality of the aesthetic reorientation demanded in this context. By reproducing certain well-worn tropes from the Natural Law tradition and continuing to rely on a discourse of 'rights', Earth Jurisprudence remains hamstrung by some of the most enduring presuppositions of modernity's aesthetic ordering of law and politics. In order to offer alternatives to the Earth Jurisprudence focus on rights, I draw on Eugen Ehrlich's legal sociology of *associative life* and Simone Weil's insistence on the *priority of obligations* in order to explore the themes of attachment, binding, and dependence that have come to the fore in the context of the new climatic regime. The shift from rights to obligations entails a commensurate move away from a concern with *aesthetics*, where questions of order and form are paramount, to an attention to *aesthesis*, foregrounding a sensate body's affective relations within social space. In conclusion I suggest how this dual move – from aesthetics to aesthesis and from rights to obligations – might be understood in relation to *the city*, a distinct form of human and infrastructural association that has become increasingly significant in the context of the Anthropocene.

II. Earth Jurisprudence and the rights of nature

Whilst encompassing a range of perspectives, Earth Jurisprudence aims to shift away from the anthropocentricism of Western law and legal theory in order to give value to the environment and non-human forms of life on which human communities ultimately depend.[18] In seeking to champion an 'eco-centric' worldview, Earth Jurisprudence situates human laws in relation to a set of ecological imperatives for sustainability and the diminution environmental harm. A persistent reference in this growing literature is the work of theologian and historian Thomas Berry whose *The Great Work* seeks to develop an integrated ecological, theological and cosmological view of the earth's history and the place of humankind within it.[19] At the cornerstone of Earth Jurisprudence is the notion of the 'great law' (borrowed from Berry) referring either to the 'laws and principles by which the universe functions' or to the more limited notion of 'ecological integrity'.[20] The task for human law – largely understood by the literature as state law – is to harmonise with these broader laws of nature. The ultimate goal of Earth Jurisprudence is to theorize and instantiate legal systems, and a corresponding account of legal validity, that ensures that laws act for the 'common good of the earth community', referring to the totality of living organisms and ecosystems. In effect this involves first 'revealing' the laws of nature[21] – by attending to a range of sources, from biology and quantum physics to indigenous knowledges – and then constructing human or positive laws that accord with them. The

[18] See, broadly: Peter Bourdon (ed.), *Exploring Wild Law: The Philosophy of Earth Jurisprudence* (Mile End: Wakefield Press, 2011); Peter D. Bourdon, *Earth Jurisprudence: Private Property and the Environment* (Abingdon: Routledge, 2015); Nicole Rogers and Michelle Maloney (eds), *Law as if Earth Really Mattered: The Wild Law Judgment Project* (Abingdon: Routledge, 2017); for a more critical reading of Earth Jurisprudence see: Anne Schillmoller and Alesandro Pelizzon, 'Mapping the Terrain of Earth Jurisprudence: Landscape, Thresholds and Horizons' *Environmental Law and Earth Law Journal* (2013) Vol. 3, 1-32.
[19] Thomas Berry, *The Great Work: Our Way into the Future* (New York: Bell Tower, 1999).
[20] Peter D. Bourdon, *Earth Jurisprudence: Private Property and the Environment* (Abingdon: Routledge, 2015), 87-88.
[21] See Mike Bell, 'Thomas Berry and an Earth Jurisprudence: An Exploratory Essay, *The Trumpeter* (2003) 19(1), 69.

predominant themes in Earth Jurisprudence are *harmony* and *wholeness*: a harmony between the 'laws of nature' and 'human laws' in which the whole of the 'earth community' and the broader cosmological context are taken into account.[22]

Earth Jurisprudence scholars mobilise and extend the language and conceptual schema of 'rights' in order to realise these goals. It is hoped that in expanding the scope and meaning of rights to include the 'rights of nature' the very contours of the contemporary political imaginary might be enlarged. As articulated by Cormac Cullinan, the principles of Earth Jurisprudence contend that 'all beings that constitute [the earth's biosphere] have fundamental 'rights', including the right to exist, to a habitat or a place to be and to participate in the evolution of the Earth community'.[23] The notion of 'wild law', developed by Cullinan, refers to those laws that respect these fundamental rights of nature. Such 'wild laws' need to be developed that recognise the various qualities of all aspects of the natural environment and provide for their flourishing. Cullinan has been involved in the formalisation of these rights, helping draft the 'Universal Declaration of the Rights of Mother Earth', adopted by the Peoples World Conference on Climate Change and the Rights of Mother Earth in April 2010. Some of the impetus behind the Earth Jurisprudence movement has been reflected in recent legal developments, particularly on the question of legal personality. In New Zealand, for instance, the legal personality of Te Awa Tupua (Whanganui River) has recently been recognised and a statutory framework established by which the rights of the river can be represented and defended.[24]

Let me re-iterate the two central tenets of Earth Jurisprudence: (i) the postulation of certain 'natural laws' to which human laws ought to conform; and (ii) the extension of rights to the natural environment and all members of the 'earth community'. In both these aspects I argue that Earth Jurisprudence makes fundamental errors that fail to address the radicality of the challenge posed by the Anthropocene thesis. Let me address each of these points in turn.

Leaving aside the dubious understanding of scientific knowledge as depending on the 'revelation of nature',[25] let us focus instead on the political and aesthetic ordering that this approach infers. In order to do so I want to briefly turn to Bruno Latour's recent work on the politics of the new climatic regime and his engagement with James Lovelock's Gaia hypothesis. For Latour, Lovelock is an essential thinker for the Anthropocene because he eschews the qualities of 'wholeness and harmony' so cherished in the Earth Jurisprudence literature. Crucial to the work undertaken by Lovelock, and his sometime collaborator Lynn Margulis, is an effort to understand the role that organic life has had in shaping the geophysical forces within the earth system. The key for Latour is the methodology Lovelock deploys in order to reach these conclusions. Through a close reading of Lovelock's text, Latour shows that there is no systemic closure in Lovelock's account of 'Gaia', instead there is only the slow and laborious work of mapping the connections between the various actants in a complex scene and understanding their interlocking agencies. It is only by refusing to transcend the particular interactions he observes between abiotic and biotic forces and make a claim about the functioning of *planetary*

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[22] Ian Mason suggests, 'the principle of wholeness is the key principle running through the entire philosophy of Earth Jurisprudence'. See: Ian Mason, 'One in All: Principles and Characteristics of Earth Jurisprudence' in Peter Bourdon (ed.), *Exploring Wild Law: The Philosophy of Earth Jurisprudence* (Mile End: Wakefield Press, 2011), 35-44, 36.
[23] Cormac Cullinan, 'A History of Wild Law' in Peter Bourdon (ed.), *Exploring Wild Law: The Philosophy of Earth Jurisprudence* (Mile End: Wakefield Press, 2011), 12-23, 13.
[24] See Te Awa Tupua (Whanganui River Claims Settlement) Act 2017. It's worth noting that the legislation sought to not only safeguard the river from environmental harm and exploitation but also resolve a long-standing dispute between Maori and state interests over the river and therefore needs to be read in this specific context.
[25] For the seminal account of the error in this characterization scientific knowledge production see: Bruno Latour and Steve Woolgar, *Laboratory Life: The Construction of Scientific Facts* (Beverly Hills: Sage, 1979).

life as a whole that Lovelock is able to show the specific roles that given organisms and ecosystems play in the production of the geochemical conditions on earth. It is this that allows Lovelock to think in terms of a '*connectivity without holism*', rejecting the notion that each *part* coalesces into a grander *whole*.[26] As Latour argues, if we view the earth's functioning as a system in which *parts fulfil a function in relation to a whole*, we are 'inevitably bound to imagine, *also, an engineer* who proceeds to make them work together'.[27]

We can see the power of the 'system analogy' that Latour wants to avoid at work in the contention, made by Earth Jurisprudence scholars, that a seemingly unified set of 'natural laws' ought to dictate the shape of human legislative ambitions. There is in this view, a code that dictates obedience from all parts of the natural system. And it is us unruly humans who need to get in line. As Helena Howe has recently argued, insights from Earth Jurisprudence encourage a fundamental re-assessment of basic Western legal principles, particularly in property relations. In light of this thinking, Howe suggests, 'property would be given content and form by reference to the common good of human and non-human nature',[28] effectively harmonising extant property regimes with a superordinate ecological law. The point that Latour powerfully draws out of Lovelock is that this view prematurely unifies the natural order and imports a series of governmental metaphors into an account of 'natural life'. In lieu of a deductive approach that moves from a 'natural code' to questions of human normativity, Latour foregrounds an *inductive* attitude that dispenses completely 'with the theme of obedience and mastery – that is of government'.[29] Through Lovelock's Gaia hypothesis Latour articulates not a transcendent 'Nature', constituted by a unified code, but a messy and emergent set of relations that lack final closure. This establishes an important point of both political and aesthetic distinction between Latour's emergent Gaia-politics and the ambitions of Earth Jurisprudence. As Latour argues:

> It is… [the] total *lack of unity* that makes Gaia *politically* interesting. She is not a sovereign power lording it over us. Actually in keeping with what I see as a healthy Anthropocene philosophy, She is no more unified an agency than is the human race that is supposed to occupy the other side of the bridge… This is why Gaia-in-us or us-in-Gaia, that is, this strange Moebius strip, is so well suited to the task of composition. It has to be composed piece by piece and so do we.[30]

Where Latour emphasises the overwhelming urgency for a *creative* politics, in which new assemblies, new networks, and new sensitivities are fashioned, Earth Jurisprudence offers nothing but a politics of *submission*. It tells us nothing but that *we must obey,* by submitting human law – which can apparently achieve the unlikely task of facilitating both human flourishing and the flourishing of the *entire earth community* – to the 'laws of nature', as defined by the scientific-priests of contemporary ecology. Latour offers us a sense of what political agency might entail in the messy, heterogeneous and refractory, terrestrial world that the Anthropocene brings into view, Earth Jurisprudence simply hands the discrete capacities of political and legal knowledge production over to a 'higher law' encased in the 'laws of nature' to which they claim to have easy access.

In this way, Earth Jurisprudence remains wedded to the staid binaries that have always animated theories of Natural Law. Latour offers a very different scenography, and thereby a

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[26] Bruno Latour, "Why Gaia is not a God of Totality" *Theory, Culture & Society* (2017) 34(2-3): 61-81, 70.
[27] Bruno Latour, *Facing Gaia: Eight Lectures on the New Climatic Regime* (London: Polity, 2017), 95.
[28] Helena Howe, 'Making Wild Law Work – The role of "Connection with Nature" and Education in Developing an Ecocentric Property Law' *Journal of Environmental Law* (2017) 29, 19-45: 27.
[29] Latour, *Facing Gaia,* 97, n. 71.
[30] Bruno Latour, "Waiting for Gaia: Composing the common world through arts and politics" (2011), 10. Available online: http://www.bruno-latour.fr/sites/default/files/124-GAIA-LONDON-SPEAP_0.pdf . Accessed, 20 September 2018.

distinct aesthetic distribution, in which the 'natural forces' that constitute our lively planet, are understood to be an emergent network within which human agency is always in negotiation. The Gaia hypothesis re-imagines the natural world as something 'down here', approachable through an unfolding set of complex relations, not something 'out there' to which we owe obedience. The aesthetics of *harmony*, *wholeness* and *unity* are well-known and enduring tropes of modern legal and political thought.[31] One way of understanding the force of Latour's work on the new climatic regime is to read it as *aesthetic* project which seeks to move beyond these figures of systemic closure and harmonic integrity. In Gaia, everything turns on an *attunement* or *sensitivity* to the multifarious relations that constitute the thin pellicle or 'Critical Zone' in which all life is found and the epistemological, cultural and political networks that allow us to grasp these relations. This aesthetic sensitivity is common to both the natural and social scientist: both are concerned with the matter of *rendering oneself sensitive to a given set of phenomena*. And this is the question that legal theorists – and scholars of law, culture and the humanities more generally – ought to address too. What are the legal concepts, theories and fictions that render us sensitive to the forces and relations that are shaping political space in the Anthropocene?

Earth Jurisprudence relies on 'rights' to do this work. But again this returns us to a distribution of the sensible – individuated and juridified – that has been central to the modern ethos and worldview. As Cullinan argues, all members of the 'earth community' has distinctive, inalienable and incommensurable rights: human rights are for humans; rivers rights, for rivers; aardvark rights, for aardvarks and so on. Cullinan argues that 'the rights of each being are limited by the rights of other beings to the extent necessary to maintain the integrity, balance and health of the communities within which it exists'.[32] This view isolates each actant within a given environmental scene and holds that a balance or harmony of conflicting 'rights to life and habitat' can be maintained. Recent work in biological science radically questions this view, with Lynn Margulis in particular demonstrating the highly complex relations that exist between an organism and its environment, with organisms continually shaping as well as being shaped by their given environment. This symbiotic view of the organism/environment assemblage leaves no room for an individuated 'right to habitat' because the flourishing of any one organism will necessarily affect the flourishing of others in a constantly unfolding matrix of relations.[33]

Irrespective of the science, the political aesthetics of this rights based approach is itself problematic. Firstly, it does not *begin* with relations between actants but foregrounds instead the individuated rights that supposedly attach to discrete ecological monads. Secondly, it presupposes a theory of law that necessitates the state or some state-like authority that can adjudicate on the conflict between rights claims. This speaks to the broader desire within the Earth Jurisprudence scholarship to remain within the framework provided by state regulation. Whilst clearly indebted to the Natural Law tradition that posits a superordinate legality, transcending the particular provisions of positive law, Earth Jurisprudence continually orientates its theory of law towards the state. Indeed, state law is the privileged object of critique because it is this form of law that so clearly fails to align with the higher 'laws of nature' to which Earth Jurisprudence has apparent access. Rights only make sense in relation to some adjudicative 'third' that is able to resolve conflicts between competing rights claims. The history of rights, in this sense, is unthinkable apart from the history and theory of modern state, with the 'age of rights'

[31] Desmond Manderson, 'Beyond the Provincial: Space, Aesthetics and Modernist Legal Theory' *Melbourne University Law Review* (1996) 20: 1048-1071.
[32] Cormac Cullinan, 'A History of Wild Law' in Peter Bourdon (ed.), *Exploring Wild Law: The Philosophy of Earth Jurisprudence* (Mile End: Wakefield Press, 2011), 12-23
[33] Lynn Margulis, *Symbiotic Planet: A New Look at Evolution* (New York: Basic Books, 2008).

progressing hand in glove with the celebrated accounts of sovereignty in early modernity. Rights, therefore, are inextricably tied to modern law and its various entailments. In expanding the scope of rights – to include non-human actors – we therefore tacitly acknowledge that such claims ought to be recognised and enforced through existing state structures, juridifing any claims made in their name and presupposing a set of adjudicatory mechanisms that serve as the ultimate arbiter of their meaning.

The Earth Jurisprudence literature presents a starkly bifurcated view of lawful relations. The 'natural laws' of ecological integrity – with its aesthetic of harmony and wholeness – occupy one plane and state law, which is largely deficient and in need of being properly aligned with the former, occupies another. This ordering of normative life is profoundly at odds with the complex, contested and overlapping matters of concern that define contemporary climate science and politics. As Latour has made clear, the Anthropocene thesis has brought into a view a messy, conflictual and disordered 'natural world', one within which human agency is deeply entwinned and human epistemology is frantically trying to decipher. This terrestrial and discordant meshwork of forces could not be, aesthetically or politically, further removed from the aspirations of harmony, unity and order that permeates the Earth Jurisprudence literature. In an effort to explore an alternative aesthetic disposition, I want to shift terrain by beginning to think about lawful relations not through *rights* but through *obligations* and rather than privilege state law as an object of critical attention, I want to turn to the more fundamental question of the *ordering of associations*. It is my contention that these strategies are better suited to the task of aesthetic re-orientation that the Anthropocene demands, bringing more clearly into view the forces and relations to which the changing climatic situation urges sensitivity. As we shift from the register of *rights* to the register of *obligation*, we too move away from *aesthetics* (with its interest in (dis)order, harmony, fit, integrity and so on), towards a thinking of *aesthesis*, of the immersive, affective and sensuous qualities of social life.

III. The priority of obligations

The ambition to de-throne state law, and the content of its provisions, within the province of legal theory and elucidate a more pluralistic legal scenography can be traced to the earliest texts of the sociology of law. Writing in the early 20th century, Eugen Ehrlich – in many respects the founding figure of the discipline – developed an account of law that began neither with the state, nor the individual but with the *inner ordering of associations*. Ehrlich's ambition was to attend to 'the great elemental forces that are at work in the creation of law'.[34] Arguing against the increasingly dominant positivism of his day, Ehrlich found the origins of law not in a system of prohibitions emanating from a single source but in the far broader and more nebulous set of norms that give order and direction to forms of human community. Ehrlich saw the familial, religious and industrial ordering of social life in the household, church and workplace as constituting the most fundamental of all jural relations. As he puts it: 'the inner order of the associations of human beings is not only the original, but also, down to the present time, the basic form of law. The legal proposition not only comes into being at a much later time, but is largely derived from the inner order of associations'.[35] As Roger Cotterrell argues, this view amounts to a 'radical re-conceptualisation of law in terms of its social conditions of existence',[36] enlarging the scope of jurisprudential inquiry to embrace what Ehrlich termed the 'living law' of a given community. At

[34] Eugen Ehrlich, *Fundamental Principles of The Sociology of Law* (New York: Arno Press, 1975), 17.
[35] Ibid., 37.
[36] Roger Cotterrell, 'Living Law Revisited: Communitarianism and Sociology of Law' in P. van Seters (ed.) *Communitarianism in Law and Society* (Lanham: Rowman and Littlefield, 2006), 32-48: 39.

the heart of Ehrlich's efforts is to make state law, or other formalised legal provisions, responsive to the 'living law' of the community that it purports to govern. This can only be achieved by tracing the lived reality of normative life in the customs, usages, norms and prohibitions that constitute forms of association. This '*living law*… dominates life itself even though it has not been posited in legal propositions'.[37] In this respect Ehrlich's work shares a certain critical orientation that informs Earth Jurisprudence, subjecting state law to a critique via an alternate mode of legality. Instead of looking towards transcendent principles of 'natural law' or 'ecological integrity', however, Ehrlich gets closer to the ground, attending to the various ways in which we are immersed in normative practices that give form to associative life. This shift of perspective that seeks to become sensitive to everyday normative regimes develops a very different approach to much of orthodox legal theory, particularly within the sociology of law, which has remained – despite Ehrlich's early encouragements to the contrary – resolutely tied to the frames of state and nation.[38]

The Anthropocene thesis forces us to re-assess the nature of the associations to which Ehrlich directs our attention. And the normative pluralism that informs his account of law offers a radically different aesthetic to the bifurcated lens of Earth Jurisprudence, encouraging the legal scholar to attend to the everyday ordering of associative life and the complexity of the overlapping spheres of authority to which we are all subject; entailing a *kaleidoscopic* rather than *monochrome* view of lawful relations.[39] As Desmond Manderson has argued, the aesthetics of this broadly pluralist jurisprudence is radically different from the modernist ambitions of monism, hierarchy and integrity; pluralism in a certain sense '*rejoices* in incoherence and multiplicity'.[40] In light of the Anthropocene thesis this aesthetic of multiplicity is redoubled because any account of the ordering of associative life needs to attend, not simply to the kaleidoscopic nature of *human* relations, but also the complex relations that cross presumed divisions between human/non-human, nature/culture, biotic/abiotic. The Anthropocene recodes human associations as *geo-bio-chemical-social* assemblages that are integrated within the systemic functioning of the planetary climate system.

I want to suggest that the register of *obligation* is a helpful mode through which we might think through this challenge.[41] Obligations – as the etymology in *ligare* suggests – are ultimately concerned with *binding beings*. With the advent of the 'age of rights', any talk of *bonds*, *duties, obedience* and *obligations* has largely lost its purchase on our collective legal and political imaginaries. Nonetheless, in the context of environmentalism which increasingly frames its political ambitions through an account of our 'attachment to place'[42] and the complex imbrications and entanglements of human and non-human actors,[43] a renewed focus on the discrete labours of *obligation* as a primordial form of *binding beings* can help re-order the old

[37] Ehrlich, *Fundamental Principles,* 493.
[38] On the enduring power of nationalist interpretative frames within sociology see: Ulrich Beck, 'The Cosmopolitan Condition: Why Methodological Nationalism Fails' *Theory, Culture & Society* (2007) 24(7-8), 286-290.
[39] Olivia Barr, 'How to notice kaleidoscopic legal places: Lessons from a mural, a street in Redfern and walking the city in Aboriginal Country'.
[40] Desmond Manderson, "Beyond the Provincial", 1058.
[41] Though my own concerns with Earth Jurisprudence, Simone Weil, aesthetics/aesthesis and 'urban obligations' are distinct, my interest in the theme of obligation takes inspiration from Kyle McGee who (as far as I know) was the first to examine the theoretical purchase of the concept of obligation, and cognate terms, in the context of the new climatic regime. For McGee, 'obligations' (or the 'ligatures of law') capture the materiality implicit within the 'normativity of networks' that is central to his innovative legal theory. See: Kyle McGee, *Heathen Earth: Trumpism and Political Ecology* (New York: Punctum Press, 2017), 117-144; Kyle McGee, *Bruno Latour: The Normativity of Networks* (Abingdon: Routledge, 2014).
[42] Naomi Klein, *This Changes Everything: Capitalism vs. The Climate* (London: Penguin, 2014).
[43] Donna J. Haraway, *Staying with the Trouble: Making Kin in the Chthulucene* (Durham: Duke University Press, 2016).

hierarchies that structure modernity's worldview. It is worth underscoring, at this juncture, the doubled life that obligations have. On the one hand obligations are central to the operations of positive law; we all know that every right has (in theory at least) a reciprocal obligation. In this sense obligations form part and parcel of state – and state-like – legal regulation. On the other hand, however, obligations speak to broader and more basic concerns with the bonds and duties that constitute a range of communal practices. We need only think of the multifarious obligations that pertain to family life, friendships, games, musicianship or scholarship to understand that the conceptual scope of obligation ranges far beyond its correlative function with right.[44] Obligations in this most basic sense are best approached within an *ontological* and *communal* register, engaging the very *being* of given actors whose practices necessitate ordered relations with others. In the context of the Anthropocene, however, these fundamental bonds of community take on *material* and *post-human* dimensions, calling for a renewed sensitivity to the forces that traverse human and non-human forms of life. In this context, thinking of 'obligations' as the primary ligaments of associative life, might help direct legal thinking towards the various challenges that the new climatic regime brings into view in a way that the 'rights of nature' approach fails grasp.

Simone Weil – though by no means an environmental thinker – can help us here. Weil argues that modern political life is mediated through a set of institutions – courts, tribunals, legislatures – that she describes as a 'middle region': they are neither sacred nor profane and are marked by a studied 'mediocrity'. These institutions are implicated in a generalised 'uprootedness' within the human condition, something Weil felt most acutely in the proliferation of 'rights' which, she says, 'hang in the middle air, and for this very reason they cannot root themselves in the earth'.[45] Rights are tied to questions of measurement and exchange, the judicial economy of claim and counter-claim that distorts the demands for justice made by the afflicted and oppressed. Weil found in *obligation* an antidote to the prevailing conditions of modern uprootedness as it spoke to the 'rootedness' of place and community.[46] Weil's privileging of obligation ahead of right, and the 'taking root' (*enracinement*) that obligations express and facilitate, offers a radically different 'legal screen' – as Douzinas calls it – to that offered by rights, mediating social relations in a distinct configuration.

Weil ties obligation directly to questions of *need* thereby suggesting an inherent connection between obligations and the vital processes that sustain the human habitation of the earth. In this way, an attention to obligation foregrounds the conditions of possibility for rights, calling to mind a network of duties that structure associative forms, logically prior to the modern institutions in which contemporary rights claims are articulated. Weil emphasises that contemporary 'rights talk' is subtended by a deeper, *existential* register of obligation which both precedes and exceeds the jural correlate of 'right-and-obligation'. There is, as Weil reminds us, a categorical difference between an obligation owed at law and those obligations that are immanent to communal life, prior to any question of institutionalisation or codification. And it is this prior sense of obligation, woven into the very ontology of associative life, to which we need

[44] To speak of 'rights' *apropos* family, friendship, games and so on is invariably jarring, demonstrating a fundamental misunderstanding of the nature of the social practices at stake. You might feel obligated to buy a friend or family member dinner but they would no doubt be perturbed if you asserted your 'right' to something in return; and likewise would you be equally taken aback if they claimed a 'right' to be bought the dinner in the first place. On the various uses, meanings and theoretical potential of 'obligation' – including its connection to questions of reciprocity, exchange and gift – see: Daniel Matthews and Scott Veitch (eds), *Law, Obligation, Community* (Abingdon: Routledge, 2018); Scott Veitch, "The Sense of Obligation" *Jurisprudence* (2017) 8(3), 415-434.

[45] Simone Weil, 'Human Personality' in Sian Miles (ed.), *Simone Weil: An Anthology* (London: Penguin, 2005), 69-98, 86.

[46] Simone Weil, *The Need for Roots* (Abingdon: Routledge, 2001); see also: Simone Weil, 'Draft Statement for a Statement of Human Obligations' in Sian Miles (ed.), *Simone Weil: An Anthology* (London: Penguin, 2005), 221-230.

to attend in the context of our anthropocenic present. Weil contends that this more radical sense of obligation is revealed when we confront the prototypical cry of injustice: 'why am I being hurt?' Such an exclamation, Weil argues, is *infallible* and reveals a fundamental and unquestionable *fragility* to the human condition that demands our response, assistance, care and attention simply by virtue of our *being-in-community* and the forms of *reciprocity* and *solidarity* that this must entail. For Weil, this 'infallible cry' can never simply be *resolved* through its translation into the regime of rights;[47] indeed the implications of *solving* such a claim of injustice – which carries the inference of a calculability and the balancing of interests – always runs the risk of *dis-solving* those more primary obligations that bind actors in community.[48]

How, then, should we understand the relation between this prior sense of 'obligation' and the practices of the 'middle region'? For Emilios Christodoulidis, Weil's insight here is that 'rights' should be understood as the imperfect and partial mechanism by which the fundamental values of reciprocity, community and solidarity are translated into a jural form.[49] Weil's central concern is that in this movement from obligation to right something inevitably gets lost along the way. As she suggests, a fundamental cry of injustice 'spoken from the depth of the heart' is transformed into 'a shrill nagging of claims and counter-claims'.[50] The languages of the middle region tend to become self-referential, entirely unmoored or 'uprooted', as Weil would put it, from the more basic obligations that rights seek to reflect. In this way, the imperfection and partiality of the movement from obligation to right, introduces a '*faultline within* the institutional language of law'.[51] For Christodoulidis this structure indicates that there are resources *within* juridical language that can articulate the very values of reciprocity, community and solidarity to which this prior sense of obligation speaks.

As Christodoulidis makes clear, Weil ties obligation to fundamental *human* qualities (solidarity and reciprocity) that bind actors in community. But in the context of the unfolding climate crisis and the onset of the Anthropocene, it's hard to endorse Weil's humanistic outlook as it is precisely the *non-human* – the abiotic, the geophysical and the environmental – to which we have to contend as we seek to rearticulate the meaning and trajectory of associative life. There is, nonetheless, something both *infallible* and decidedly *fragile* about the climatic crisis, indicating an enduring resonance to Weil's thinking in this context. As Latour describes it 'Gaia' or the 'Critical Zone' is constituted by innumerable loops and connections between biotic and abiotic, human and non-human actants that unfold in a complex and dynamic set of relations; these relations are the very stuff of an expanded sense of communal being. The provocation that I take from Weil's thinking is that in order to grapple with the 'infallibility' of climatic transformation and the 'fragility' of the relations that it illuminates, we need to get *behind* or *beneath* the apparent 'solutions' proffered by rights and attend to those forces that bind us in forms of *bio-geo-social* association.

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[47] Weil, 'Human Personality', 93.

[48] The etymology of 'resolve' and dissolve' from the Latin *solvere,* to loosen, is worth noting here: in Roman Law a *solutio* was the mechanism by which the bonds of obligations could be undone. In this sense we might think of rights-based 'solutions' to injustice as always entailing a loosening of prior and more fundamental obligations. On this see: Scott Veitch, "Binding Precedent: Robert Louis Stevenson's *Strange Case of Dr Jekyll and Mr Hyde*" in Marco Wan (ed.), *Reading the Legal Case: Cross Currents Between Law and the Humanities* (Abingdon: Routledge, 2012), 217-230: 223.

[49] Emilios Christodoulidis, 'Dogma, Or The Deep Rootedness of Obligation' in Daniel Matthews and Scott Veitch eds., *Law, Obligation Community* (Abingdon: Routledge, 2018), 4-16.

[50] Weil, 'Human Personality', 84.

[51] Christolodoudis, 'Dogma, Or the deep rootedness of obligation', 11. Emphasis in the original; Christolodoudis's point here is that this more radical sense of obligation *and* the languages of the middle region both form part of juridical language, broadly conceived.

Frustrating though it may be, I am deliberately holding in abeyance the question of the *content* of such obligations and though they may take some inspiration from the themes of 'solidarity, reciprocity and community' that Christolodoudis sees animating Weil's account of obligation, they clearly must go move beyond this humanistic (and decidedly anthropocentric) heritage. As Latour says of the ligaments that enmesh us within Gaia, the existential obligations that bind us to the earth – those obligations that make us precisely *earthbound beings*[52] – cannot be posited in advance but must be *assembled* in an on-going effort to trace the contours of an expanded sense of political community. In this way, these 'existential obligations' must be understood in specific contexts that deal with particular matters of concern for situated actors rather than posited – as Earth Jurisprudence does – as universalised 'laws of nature' to which human community must submit. On this point, it is worth underscoring here that the Anthropocene indicates that we are today confronted by an entirely novel situation in the history of human civilisation where our taken for granted climatic conditions are giving way to a highly uncertain future. In this sense, it is precisely new concepts and modes of thinking, rather than the staid reputation of old mantras, that must be developed. We need only reflect on the intellectual, political and cultural labour needed to cultivate a meaningful sense of 'reciprocity, community and solidarity' (values that are sadly losing their purchase on political imaginaries today) in order to understand the enormity of the challenge that this presents. But is here that the work needs to be done, *before* – if ever – we translate these concerns into the practices of the 'middle region' and the language of 'rights'.

Let me draw out a final theme from Weil that is instructive in this context. In her account of obligation, Weil stresses one quality above all: *attention*. The nature of our obligations, for Weil, is born out of our ability to dedicate our *attention* to human needs. Attention is not a matter of careful scrutiny or concentration but instead a kind of suspension or hesitation; something more readily discerned in the French where the resonance between *l'attention* ('attention') and *attendre* ('waiting') is clear. Attention involves 'stepping back from all roles, including that of the observer'[53] in order to open oneself to a given object in a way that is not determined in advance. Attention, in this sense, entails a particular kind of *attunement* and *sensitivity* in which thought is simultaneously opened up and emptied out, where a kind of 'void' is created which allows an object to penetrate a sensate subject. This entails an enlivening of the senses, a pause in which an actor becomes sensitised to a given set social relations and the demands that such relations might make. As an ethical orientation, attention wards against premature or ready-made solutions to ethical challenges; as Christodoulidis suggests, 'the most incisive way to capture the function of attention is as a resistance to (what Heidegger would call) the *readiness to hand* (*Zuhandenheit*) of the meaning construction afforded by the [institutions of the] middle range.'[54] Echoing the Latourian position above, attention urges forms of *creativity* in the context of our emerging climatic condition, particularly by holding in suspense many of the deep seated assumption that structure a distinctly modern ethos and worldview. But so too does Weil's language of attention suggest that obligations are born out of a particular form of sensitivity or *aesthesia*. In this way it is only through a form of *aesthetic sensitivity,* which takes seriously the immersion of a sensate

[52] 'Earthbound' is the term that Latour uses to designate the emergent political subject of the Anthropocene. He distinguishes the 'Earthbound of the Anthropocene' – who grapple with the challenges of Gaia and the a-modern thinking that the new climatic regime requires – and the 'Humans of the Holocene' who continue to proffer various modern 'fixes' to the climate crisis. See: Latour, *Facing Gaia*.
[53] Sian Miles, 'Introduction' in Sian Miles (ed.), *Simone Weil: An Anthology* (London: Penguin, 2005), 1-68, 8.
[54] Christodoulidis, 'Dogma, Or The Deep Rootedness of Obligation', 9-10

body within the elemental forces that provide the continued conditions of habitability in a given place, that the nature of obligations in a given content can be discerned.[55]

It is, I contend, this register of 'obligation' – with its various entailments, as I have outlined them here – that ought to draw our attention in the context of the new climatic regime rather than the abstract and universalizing discourses of the 'middle region'. Obligation speaks to the sensory and affective realities of associative life and the complex normative claims that it makes on us. They evoke a distinctly messy, pluralistic aesthetic, one that attunes us to the multiplicity of forces that ensure the habitability of place and community. This aesthetic, though, is less concerned with form and order than it is with *aesthesis*: the sensory and affective dimension of human life. It is my contention that it is this lawful register prior to right, examined in their different ways by Weil and Ehrlich, towards which jurisprudential thought needs to direct its energies in the context of the Anthropocene. This does not diminish the importance of legislative innovation within municipal law nor does it dismiss those who campaign to bring about such changes. These ambitions that can have important, pragmatic effects in limiting environmental harm and raising awareness of the climate crisis. My concern is the particular task which *legal theory* sets itself in this context and the role that it can play in bringing about the kind of aesthetic re-orientation that the Anthropocene demands. In conclusion I want to point to one avenue which further work on obligations in this context might explore, by turning to *the city*. It is within the contemporary city that we might get a sense that thick web of human and non-human, infrastructural and biotic, relations that define our anthropocenic forms of association.

IV. The aesthesis of urban obligations

The city has long been understood to play a central role in facilitating the multifarious social and regulatory changes associated with 'globalisation'. Cities are key nodes in the circulation of people, capital and information and have facilitated the emergence of global scales of law, politics and economics. But so too is the city becoming a key site through which we can understand globalisation's dark side: the reality of a dramatically changing climatic system.[56] This has two aspects. Firstly, cities are playing an increasingly important role in the context of international affairs often taking the form of transnational, inter-city diplomacy and policy formation.[57] In the context of environmentalism such inter-city networks are at the forefront of contemporary debate, with networks like C40 and ICLEI emerging as key sources of authority in the global climate change discourse.[58] Secondly, recent scholarship in urban studies engages with the city as a material, infrastructural, non-human/human assemblage that plays a significant role in the

[55] The direct connection that I am making here between obligation and the body does have a historical dimension. The primary form of obligation in Roman Law – debt – afforded a creditor the power to bind a debtor in chains until the debt had been repaid or some other 'solution' (*solutio*) to the bonds of obligation could be found. In this sense the debt obligation had a material force that was *felt on the body* of the legal subject: 'debt was conceived very literally to inhere in or bind the body with a *vinculum juris*'. Oliver Wendall Holmes, *The Common Law* (Boston: Little and Brown, 1881), 10; quoted in Scott Veitch, "Binding Precedent," 222.

[56] The following reflections draw on issues I have introduced elsewhere; see: Daniel Matthews, 'From Global to Anthropocenic Assemblages: Re-Thinking Territory, Authority and Rights in the New Climatic Regime' *Modern Law Review* (2019) 82(4), 665-691.

[57] Janne E. Nijman, "Renaissance of the City as Global Actor: The Role of Foreign Policy and International Law Practices in the Construction of Cities as Global Actors" in G. Hellman, A. Fahrmeir and M. Vec (eds.), *The Transformation of Foreign Policy: Drawing and Managing Boundaries from Antiquity to the Present* (Oxford: Oxford University Press, 2016), 209-241; Ilena Porras, "The City and International Law: In Pursuit of Sustainable Development" *Fordham Urban Law Journal* (2008) 36, 537-601.

[58] Sofie Boutlegier, *Cities, Networks and Global Environmental Governance* (Abingdon: Routledge, 2012); Jolene Lin, *Governing Climate Change: Global Cities and Transnational Law Making* (Cambridge: Cambridge University Press, 2018), 105-126.

earth system. This scholarship rather than seeking to examine the city as a site of human encounter in which the civic virtues of tolerance and self-governance are nurtured, focus instead on the material, spatial and affective elements that shape the city. As Ash Amin and Nigel Thrift have argued, in order to 'see like a city' we need to turn our attention away from the realm of human interactions towards a more expansive vision of transportation, energy and waste systems as well the networks in which money, information and desire circulate.[59] It is this second strand of scholarship on the city that is particularly apposite for the account of 'obligation' that I am developing.

The connection between the city – and the rapid growth in the global urban population over the last 50 years – and the Anthropocene thesis is worth underscoring. Climate scientists use the term 'technosphere', akin to the biosphere or lithosphere, to refer to the summed output of human activity within the earth system. Urban infrastructure (roads, buildings, docks, runways, landfills, metro systems and so on) – despite covering as little as 2% of the earth's surface – constitutes over a third of the earth's technosphere.[60] The global explosion in urban population since the middle of the 20th century directly corresponds to the wide ranging transformations to the earth's biogeochemical systems that signals our arrival in the Anthropocene. Indeed, urban infrastructure has also been referred to as a key marker for the earth system's transition away from the Holocene climatic variability: stratigraphers of the future will be able to point to deep scars in the earth's strata and a range of 'technofossils' left behind by *homo urbanus* as evidence of our transition into our current geological epoch. The city, read through its material infrastructure and geological imprint, situates the urban *within* rather than *set against* a set of biogeochemical forces and relations.

If the ambitions of the urbanists of the Chicago School was to understand the distinctive dimensions of early twentieth century urbanism, in which 'neither the population aggregate nor the physical-cultural habitat but rather the *relations of man to man*'[61] are the focus of study, the 'infrastructural turn' of contemporary urban studies seeks to understand the complex post-human assemblages that constitute the city as a key actor within the earth's climatic system. Amin and Thrift approach the city in these terms: as an Anthropoceneic assemblage in which a concern for planetary life is enfolded within an account of local infrastructures and sociality. For them this approach is marked by an aesthetic transformation: 'in a city there is no simple presence or absence or foreground and background or natural and unnatural or withdrawn and sensual to be found: these concepts have evaporated as infrastructure moves things around and between cities'.[62] If, as we argued with Weil, obligations speak to our *rootedness* in social space and the ligaments or bonds that are at the heart of association, this register of lawful relations – distinct from the 'rights' of the middle region – is strikingly apposite for a renewed thinking of the city as an infrastructural assemblage. Obligations for Weil return us to the question of *to whom* and *to what we are attached*, *how are we assembled* in social space and *what are the duties* that allow associative life to have meaning, value and direction? As we have already intimated, such questions today must take on a *post-human* and *infrastructural* dimensions far more than *the relations of man to man* that characterise modern urban sociology.

Let me turn to one strategy – developed by Andreas Philippopoulos-Mihalopoulos – that can be understood as an effort to re-attune ourselves to the 'living law' of the city in an age of

[59] Ash Amin and Nigel Thrift, *Seeing Like a City* (London: Polity, 2017).
[60] Ibid., 12.
[61] Warren Magnusson, *Politics of Urbanism: Seeing Like A City* (Abingdon: Routledge, 2011), 65.
[62] Amin and Thrift, *Seeing Like a City*, 61.

climatic transformation. In his expansive and theoretically rich study of spatial justice,[63] Philippopoulos-Mihalopoulos describes a teaching exercise in which students in his 'Law of the Environment' class are instructed to walk London's 'lawscape'.[64] Students are given a number of instructions to follow as they walk the city's street: keep in mind 'yourself, your movement, your surroundings' and reflect on how each alters within the different spaces you encounter, noting feelings of constraint or changes in demeanour and comportment. Students are instructed to keep track of their senses, noting what they smell and touch, what and how they see and the activities they might undertake as they walk. The purpose of the exercise is to attune students, at somatic and affective registers, to the multiple forms of normative ordering that the city produces and upon which urbanism depends. But so too does the exercise seek to reconfigure the very sense of the city as an assemblage of body/space/law in which human and non-human hybrids proliferate: the street – with its various signs, instruction and norms concerning where and when to walk, smoke or loiter, buy or donate, see and un-see – becomes a site in which law is everywhere, constantly being reproduced through the very actions of the student-flaneurs themselves.[65]

We can think of Philippopoulos-Mihalopoulos's pedagogical exercise as urging a meditation on the *urban obligations* that constitute the city as an associative form, an exercise in somatic attunement and 'attention' (in Weil's terms) to legal-human-material relations that constitute the city as a form of association. This can be read as a supplement to the growing literature on 'the right to the city' which examines the 'right' to full participation in urban life. Following Henri Lefebvre, who first coined the term, the 'right to the city' is often articulated as an effort to challenge the logics of exclusion that consign various classes of city dwellers to the urban periphery.[66] The 'urban obligations' to which Philippopoulos-Mihalopoulos attunes us are less concerned with a political demand to participate in the ongoing *oeuvre* of the city, than they invite a reflection on the network of bonds that constitute the urban reality in the first place. But in no way does this suggest that the city can be *presupposed*; indeed, the exercise urges us to take up the challenge of assembly and composition, tracing the ligaments that are producing the urban form. This approach to lawful life has enormous potential in the context of the Anthropocene so long as a geological and technospheric dimension is appended to the analysis. When we walk the city's lawscape or attune ourselves to the 'living law' of the urban environment, we are immersed within a geological and planetary phenomenon. The concrete on which we walk; the social conventions that shape our behaviour and comportment; the property rights, licensing and tariff regimes that that facilitate the flow of goods, people and patterns of consumption, are perhaps the quickest route we have to a sense of the *planetary scale* that the Anthropocene calls on us to face. Significantly, however, this approach does not *scale up* to the 'global' but instead brings these questions 'down to earth', embedding them within highly localised somatic dispositions and sensitivities.[67]

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[63] Andreas Philippopoulos-Mihalopoulos, *Spatial Justice: Body, Lawscape, Atmosphere* (Abingdon: Routledge, 2015).
[64] For Philippopoulos-Mihalopoulos, the 'lawscape' refers to the 'tautology', or necessary co-implication, of law and space.
[65] Philippopoulos-Mihalopoulos's approach to 'law' is expansive. The 'laws' that he encourages his students to see, think and feel as they walk the city do not necessarily refer to legislative provisions or formalised modes of enforcement but also engage social norms of comportment and etiquette.
[66] Henri Lefebvre, *Writing on Cities,* trans. and eds. Eleonore Kofman and Elizabeth Lebas (Oxford: Blackwell, 2000), 147-59. For an overview of the literature on the right to the city see: Chris Butler, *Henri Lefebvre: Spatial Politics, Everyday Life and the Right to the City* (Abingdon: Routlegde, 2012), 143-159.
[67] There is a danger that in reducing these questions to immediately felt, individual experiences we might occlude distant harms and the 'slow violences' that fail to be registered by a sensate subject. Nonetheless, by foregrounding a form of somatic sensitivity within the globally networked city, the kind of 'attunement' I have in mind necessarily implicates disparate and often remote sites of harm that are nonetheless written into the fabric of the urban environment. The challenge is finding the mode of *attention* that will render them visible and affective. On the

How we respond to this geologically inflected 'living law' of the city, is of course a second order question and provokes a multitude of responses. Nonetheless, an *urban aesthesis of obligations* in which we become sensitive to the materials that shape our environment, the networks that facilitate our consumption and production habits, the material legacies that urban forms leave within the geological record, and the predominant role that contemporary urbanity plays within the earth's climate system, is fertile ground from which to begin to think through how legal theory might respond to the challenges of the Anthropocene. Not least, does this approach have the virtue of shifting our environmental consciousness away from a kind of neo-Romanticism that dwells on the feelings of awe and majesty evoked by mountain chains, rivers and wildernesses and instead resituates environmental politics within those city-spaces in which the vast majority of the high-pollution, high-consumption, global north live, work, consume and pollute.

V. Conclusion

Both Weil and Ehrlich can be read as undertaking a shift of perspective in which the taken-for-granted legal architecture – courts, rights, state legislatures and so on – is suspended in order to draw out an alternative phenomenology of lawful life. By foregrounding the concept of *obligation* in the context of the Anthropocene I have sought to continue in this vein, emphasising the immanent ordering of associative life rather than focus either on the lofty and detached 'laws of nature' or the narrowed perspective afforded by state regulation. As we have shifted from *rights* to *obligations*, we too have moved from a concern with *aesthetics* to an attention to *aesthesis*; in particular we have foregrounded a somatic and affective sensitivity to the 'living law' of the city. The concepts we chose to foreground (*rights* or *obligations*) and the stories of law's origin we tell (*the laws of nature* or *the associative life of community*) are crucial means by which we mediate our attachments to the world and give sense to the multifarious social challenges that we face. As Douzinas contends, 'legal aesthetics sanction regimes of visibility, which mediate between body, consciousness… and the world'.[68] This ordering of social life, however, operates at the background or in the wings, staging our experience of the social sphere but rarely becoming the subject of analysis itself; as Douzinas suggests, 'we experience this normative aesthetic all the time but we scarcely notice it'.[69] The Anthropocene shifts the relation between background and foreground, making the taken for granted staging of social life – and the modes of sensibility on which it depends – suddenly the object of our attention. As a set of terrestrial, non-human, earthly forces have intruded into the social sphere, the distribution of the sensible that has largely defined modern accounts of social life has been irredeemably ruptured. But we are yet to properly make sense of the new world that is coming into view.

The various political disorientations of the present can be understood in precisely these terms: as the 'global' – understood as a horizon for modernity's political ambition of 'progress' – retreats, undercut by the reality of deepening economic inequalities and the 'local' is disrupted by a range of terrestrial forces that are shaking the materiality of the earth that we so often take to be immobile, the question of the very nature of *the world* that we inhabit, attach to or find ourselves within, has become increasingly uncertain. In this way, the Anthropocene can be understood as heralding *the end of the world*. Not that the functioning of the earth system itself will collapse, and not that humankind, or even a recognisable human civilisation, will be

question of slow violence, see: Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (Cambridge, MA: Harvard University Press, 2011).

[68] Douzinas, 'A Legal Phenomenology of Images', 257

[69] Ibid.

destroyed; though, of course, these things are possible. The Anthropocene heralds *the end of the world*, in the sense that the predominant modes by which we organise and represent reality are becoming undone, the distribution of background, foreground and horizon that constitutes a believable world is being disturbed. Not only is the backdrop shifting around but the very distinction between the scenery and actors on stage has become fundamentally uncertain. The legal aesthetics that we adopt, the concepts of law, and the stories of law's origins that we mobilise in this context will play an important role in shaping our sense of the new world that the Anthropocene thesis is beginning to bring to light.