

## Introduction

# *Law, Culture and Things: Human Links to the Material*

**Richard Mohr**

Social Research, Policy and Planning Pty Ltd

---

The following four papers come out of a project examining the relations between law, culture and things.<sup>1</sup> They inquire into human links with the material world. These links are mediated through technology which, in its many forms, enables humans to fulfil material needs. Tools and their social organisation provide food, clothing, shelter and communication. This deep imbrication with all facets of our lives means that the ways technology is used and organised have profound importance for humanity and the environment. Technologies can be categorised as ‘hard’, involving manufacture and transport; ‘soft’ information and communication technologies; and ‘wet’ technologies of human sustenance, such as food production and preparation. Law regulates or constitutes each of these in one way or another, while it is most often associated with soft technologies used in record-keeping and artificial intelligence. This collection of papers examines the use of soft technology in law, as well as law as a means of directing the uses of technologies that impinge on the natural environment and the human body. These papers explore human and legal relations with technology and nature: legal records and decision-making; food and nutrition at the intersection of law, science and culture; rights of and to land and nature; and human responsibility for the environment and the impact of technology.

Law conserves human memory in material records. For much of Western history these records have taken the form of documents, files, statutes and written judgements. Both Western and non-Western cultures have also used other material objects to symbolise and instantiate the law, including boundary markers, sacred pieces of wood, maces and coats of arms.<sup>2</sup> Many of the material records of Western law are now being digitised, so that law’s memory is stored in binary code, requiring information processing devices to access it.

In the past the very materiality of law’s objects – their solidity, presence and perseverance over time – have served to authorise and legitimise the law, as well as to conserve its substantive content. This persistence and conservation outlasted the authority and memory of any human actor and enabled the law to be transmitted from one generation to the next. ‘The object makes our history slow’, says Michel Serres.<sup>3</sup> So what difference does it make that law’s memory is now hidden in digital code? Does law removed from materiality lose authority as it loses material substance? Or are there other risks in this transition to the digital? **Francesco Contini** outlines some of those risks in his paper.

---

<sup>1</sup> The authors of the four papers in this collection would like to acknowledge the contributions of the participants in an earlier discussion of this work at the “Linking Generations for Global Justice” conference of the Research Committee on Sociology of Law in Oñati on 20 June 2019.

<sup>2</sup> Mohr, “Enduring Signs”; Mohr, “Shifting Ground.”

<sup>3</sup> Serres, Genesis, 87.



This work is licensed under a [Creative Commons Attribution 4.0 International Licence](https://creativecommons.org/licenses/by/4.0/). As an open access journal, articles are free to use with proper attribution. ISSN: 2652-4074 (Online)

While law is transmitted between generations in written and symbolic forms, it is also transmitted viscerally. We are what we eat, and we eat what our cultures, our health authorities, our parents and even our courts deem to be fit to eat. Religious, health and ethical codes governing the propriety and safety of food are expressed through various legal means, from codes and regulations to judicial decisions. There are also more qualitatively defined – we might say aesthetic – considerations, which are equally cultural if less formally codified. Technology enters these processes through various means that humans have learnt to enhance, subvert or mitigate the natural potential of foods. Cooking, cultivation and other technologies have, over millennia, increased yields and reliability, and eliminated barriers to nutrition, such as naturally occurring toxins.<sup>4</sup>

Lore, law and technologies of food production and processing are passed down from generation to generation through informal norms and formal regulations. They are also transmitted at the dining table, direct to our alimentary tract. Here is law at its most material: the biological governed by the gastronomic, the theological and the regulatory. **Patrícia Branco's** contribution to this collection explores the intergenerational force of law in this sense of the material. Just as recipes might be handed down from grandmothers, or sourced from books or the Internet, so dietary advice can be sourced from the older generations of the family, from health professionals or from social and other media. Branco's case studies explore the intricate web of science, belief, tradition and law used to determine the nutrition of children.

Deep traditional links between material sustenance and knowledge and beliefs are found across the globe. All are foundational to society and culture, and they frequently speak to the place of humans in their environment. Australian First Nations peoples read their law from the land. Geographical formations and places are woven into origin stories and codes of practice that form a cosmology and a jurisprudence. They are a guide to right living and to survival on that land, and they give meaning to that life. Aboriginal law was forged in tens of thousands of years living in one place, caring for country and being nourished by it, viscerally and spiritually. After two millennia of Roman law in the West, we are only now beginning to discern other forms of law that recognise the Earth, the rivers and trees as non-human subjects of law. **Alessandro Pelizzon's** paper addresses some of these interactions between law and the material world. Law can be read from the land just as it can be from books or computer screens. The Western gap between the human and non-human has scarred our subjectivity as it has the environment. Failure to see the human as part of the natural world deprives us of the framework of responsibilities required for stewardship of our local and global environment.

Seeing that many of the problems of human impact on the Earth's environment stem from the technology we use prompts the question, 'what have we done?' My paper of that name highlights two problems at the heart of these relationships between humans, technology and the environment. While technology plays its own role in environmental and social processes, to split that off from human responsibility for it is to misrecognise our own agency. This is a problem of alienation, where we fail to recognise our own products. The second problem derives from a narrow and individualistic ethics that overemphasises intention at the expense of responsibility. 'Unintended consequences' are often cited as a defence when malign technological impacts are undeniable. The paper points out that technological development is the result of a broad matrix of social and environmental interactions, rather than a heroic inventor drawing up a blueprint in response to a specific need. Achieving collective responsibility requires overcoming the increasing gap between subjectivity and technics. To find solutions we need new understandings of technology as a component of culture and the integral links between technics and ethics. We also need more rigorous and clear-sighted research into technological practice and theories of technology.

The following four papers further that research. These studies take a broad view of various aspects of technology and its social development, including technology that feeds families, affects forests and rivers, records and organises cases in court and assists with court decisions. Each of these studies takes an evaluative approach that is fully cognisant of the ethical stakes in each game: sustainability, nourishment and care, intention and responsibility, or justice. And each of them considers a range of cultural practices and polemics: development and environmental protection, dietary prescriptions, invention and technical innovation, and approaches to legal decision-making. Each study's theoretical foundations are clear and explicit even though diverse: the rights of nature; normativity, normality, nourishment and the rights of the child; ontologies and interactions of humans, nature and machines; and actor-network theory, artificial intelligence and e-justice.

Taken together they offer insights not only into their respective subject matter, but also suggest outlines for continuing research. This research connects empirical and legal studies with theoretical understanding and practical experience of technology and its impacts. We all practise technology as users of information and communication technology, and as users of a distressed

---

<sup>4</sup> Masa, "La desconocida 'tabla antinutricional.'"

planet. This project emphasises the importance of applying theoretical and empirical analysis to practical technological issues, because only through understanding all aspects of the relations between technology, humans and the environment can we identify problems and find solutions. Certainly, the problems are economic and political as well as cultural, ethical and theoretical. This collection aims to show how applying theory and research to practice can identify the sources of these issues and propose solutions.

### **Bibliography**

- Masa, Andrés. “La desconocida ‘tabla antinutricional’ de las legumbres, verduras y hortalizas que hay que conocer.” *El País*, 3 October 2019. [https://elpais.com/elpais/2019/10/03/buenavida/1570102074\\_391394.html](https://elpais.com/elpais/2019/10/03/buenavida/1570102074_391394.html) accessed 14 November 2019.
- Mohr, Richard. “Shifting Ground: Context and Change in Two Australian Legal Systems.” *International Journal for the Semiotics of Law* 15 no 1 (2002): 1-24.
- Mohr, Richard. “Enduring Signs and Obscure Meanings: Contested Coats of Arms in Australian Jurisdictions.” In *Contemporary Issues of the Semiotics of Law*, edited by Ann Wagner, Tracey Summerfield and Farid Benevides, 179-195. Oxford: Hart, 2005.
- Serres, Michel. *Genesis*. Translated by Geneviève James and James Nielson from *Genèse* (1982). Ann Arbor: University of Michigan Press, 1995.