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Law, scale, anti-zooming, and corporate short-termism

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ABSTRACT: This article uses 'Contact', an art installation by Olafur Eliasson, and 'anti-zoom,' an essay by Bruno Latour to reimagine the problem of corporate short-termism. It investigates what it means to propose, under the gaze of law, that directors and investors look to the 'long-term' when pursuing corporate purposes. The article contests that it is possible to zoom, as if using a telescopic lens, between the demands of different time frames. It is only after an extended amount of 'contact' that one is able to plot the relation of the short to the long term and make sense of it, a finding that problematizes the corporate self-governance of time. A way forward is imagined that makes the thesis of anti-zoom fit for renovating corporate law.

KEY WORDS: Olafur Eliasson, Bruno Latour, Zooming, Corporate Governance, Law and Economy, Short Termism, Corporate Sustainability, Law and Time, Law and Art

Introduction

This article has multiple subjects, one of which is the problem of corporate short-termism. By this, the article refers to the excessive focus by corporate decision-makers on short-term financial results at the expense of longer-term societal interests. There is a great array of contemporary corporate governance literature that concerns this particular problematisation of (financialised) economic activities, and the plethora of social, material and economic factors that are believed to contract temporal frames.

Not far behind the problematisation is a law and policy discussion about how the temporal orientation of corporate organisations might be transformed, and about the harms to the future of the social and physical world that otherwise occur. This particular discussion, about regulation and responsiveness, makes a common sense suggestion about moving forward. It suggests drawing the eyes of corporate decision-makers toward the temporal horizon of the 'long-term.'

Now for some questions: What does it mean to propose, under the gaze of law, that directors and investors look to the long term when pursuing the purposes of their enterprises? Are lawyers, policy makers, executives, and the social and political network of organisations behind the drive to long-termism, clear about the kind of 'contact' with the long-term that is required? Is change enshrined in the proliferating references to the long term and sustainability in activism, corporate policy work, legislation, regulatory, and soft-law instruments?

It is the starting hypothesis of this paper that it is critical to address these questions in law, and that there are high stakes involved (sustainability, organisational affect, the protection of people, the earth itself). Yet, *how* law responds, or how it understands the axis at the centre of the discussion, time, is a more complex concern. Such difficulty might be attributable to complacency and habit, exploitation and advantage seeking. Or, it might simply be due to the muddy combination of factors that make up law and time. Regardless, in order to learn more about how the company uses timeframes, and why problems might arise, lawyers need to know more about how time is scaled and stitched together.

Reading policy and law, it is often not clear what is involved in 'lengthening' time-scales for the enterprise actor. Does it simply mean that decision-makers need to increase the range of their contemplative powers in numerical terms, to years rather than, say, months? Is time really that simple, or that stretchable? Alternatively, how might the long and short term sit together in the case of (legal) obligation? What does the long demand of action in the present? How might long and short relate?

Here lie the several other matters that this article covers: law, multi-scalarity and zooming (and anti-zooming) as features of the temporalities traversed by corporate actors. Multi-scalarity suggests the possibility of more than one temporal frame, of long as well as short. Zooming relates to the question of how companies move between different time scales, of how easy or difficult this movement might (or should) be. The term references the optics of film and photography, where zooming is a technique for exploring the small or the short within the range of the large or the long using a lens that is telescopic.

The notions of the zoom and anti-zoom are drawn from an essay with the latter title written by Bruno Latour.¹ Latour wrote the piece for an art exhibition by Olafur Eliasson in Paris, 2014.² This author finds herself in the hands of the artist and the philosopher in her attempt to better understand multi-scalarity in corporate practices; she seeks a different view on the company's movements through space-time by reaching beyond the understanding of the same in the disciplines of economics and law.

This extension of legal thought to the art gallery and to reflections on the visitors' experience of the artistic works forms a profound part of this author's approach to the entanglement of companies with time. There is a distinct interest, in the article, in drawing the reader towards visualisations of time and space and experiences as ways to upload an *affective dimension*, which is often subject to neglect in more traditional approaches to corporate governance (where the boundedness of the company's horizons is able to shut out important affects).

The result is disorientating for the visitor in the gallery and also for the reader of this text, as corporate practices are explored in it with the help of less than usual instruments (the telescopic lens, a dip net, a glass sphere and columns) and experiential environments (the art gallery and a bed of rocks). The aim is to widen the appreciation of affect, and to get a sense of what is 'out there' but which is not quite tangible from a certain (e.g. cost-benefit) perspective.

¹ Bruno Latour, 'anti-zoom,' in Suzanne Pagé, Laurence Bossé, Hans Ulrich Obrist, Claire Staebler (editors, curators), *Olafur Eliasson: Contact* (Paris, Flammarion, 2014), pp. 122-125

² *Contact*, showing the artworks of Olafur Eliasson, Fondation Louis Vuitton, Paris, 2014. Head Curator, Suzanne Pagé

The article is in five parts: One introduces zooming. Two uses the work of Boaventura de Sousa Santos on maps and scale to construct a bridge between Latour/Eliasson and corporate law/ governance.³ Three and Four apply the lens of zoom to the case of corporate short-termism. A final part concludes. The article, broadly speaking, problematises the company that zooms between the long and short term in the course of framing its interactions; this zooming occurs, it argues, due to the temporal habits and habitudes that make up liberal political economy. Zooming makes the company's 'regard' for the long term superficial and less likely to turn into sustainable actions in the present and future. The question of renovating corporate governance is briefly re-imagined and discussed using the thesis of anti-zoom.

1.

In a 2014 essay with the title 'anti-zoom' (no capital letters in the original), philosopher Bruno Latour challenges the notion that actors might move between different scales in space and time freely.⁴

'Common sense', says Latour, 'has it that one can circulate freely through and in every scale.'⁵ People move, in their interactions, from the local to the global and from the briefest instant (sending an email) to long periods (days, months, years) without thinking about it and seemingly at will. Action seems to lightly suppose a readymade journey between the micro-materialisations of the world's forces and

³ Boaventura de Sousa Santos, *Toward A New Legal Common Sense: Law, Globalization and Emancipation* (New York, Cambridge University Press, 2002), Second Edition

⁴ Latour, 'anti-zoom', p.122

⁵ Latour, 'anti-zoom', p.122

forms - a drop of seawater (see *Figure 1*, below), a rock, a product on the supermarket shelf - and macro-instances of the same - an ocean, shifting tectonic plates, a multi-enterprise and actor structure.

The expectation of 'transivity' and of unhindered movement between different spatial and temporal scales contains within it a serious miscomprehension, according to Latour. The philosopher attributes this miscomprehension to the misuse of a zoom metaphor from the optics of photography. 'It cannot be said,' says he, 'that the small or the short lie within the large or the long, in the sense that the largest or the longest contain them but with just "fewer details"'.⁶ The schemas of space and of time are 'not continuous,' Latour says, and 'levels of reality do not nestle one within the other like Russian dolls.'⁷

Latour gives his reader several examples of what he means. In the temporal context, these examples include the narration of a single day during the Second World War and a narration that covers the six years and three days attributed to the war's wider battles. 'The "long" narrative does not contain the "shorter" one at all,' Latour says; 'it instead reiterates all the elements differently, to the point of constituting an entirely new story (and not the same account with just fewer details).'⁸

Congruence between different maps, or between different accounts of history, might still be brought about, of course. However, this 'bringing about' is a constructive act and a work of assemblage itself, as

⁶ Latour, 'anti-zoom', p.122

⁷ Latour, 'anti-zoom', p.122

⁸ Latour, 'anti-zoom', p.122

Latour reminds us. It involves many meetings, conversations, tools, and the arrangement of maps to produce what might be understood as correspondence (or a zoom effect).⁹

A good example of the work that goes into such an assemblage is the 'splash of seawater' pictured by photographer David Liittschwager (*Figure 1*); the image captures the vast number of sea creatures and plankton that swim, drift and dart about, living precariously, in a dipperful of seawater.¹⁰ (Mis-)reported online as a 'splash' or 'drop' of seawater and as sea life 'magnified to the power of twenty-five', the picture created a stir in its seeming revelation of a thick plankton soup in every drop of the ocean.



Clarification provided by the photographer and publishing journal (*National Geographic*) of how the image was produced, however, supplants a different narrative. The sample of sea was collected with a bucket and fine-mesh net from a larger swathe of

Figure 1: 'Marine Miniatures' © David Liittschwager

⁹ Latour, 'anti-zoom', p.124

¹⁰ Jennifer S. Holland and David Liittschwager (photography), 'Marine Miniatures', *National Geographic* (November, 2007), available online at: <http://ngm.nationalgeographic.com/2007/11/marine-miniatures/holland-text> (accessed 10 May 2016)

ocean (meaning that microfauna are concentrated in the picture). The photographer used lights as lures; condenser lenses, back and side lighting outlined see-through species, captured iridescence, and exposed bones and organs.¹¹ Sampled, tinkered, and mediated, the picture captures not 'nature unfolding', but a 'drop' written and technologised. This element of artifice is easily eclipsed and forgotten amidst the naturalising power of zoom *effects*.

Latour wrote 'anti-zoom' for 'Contact', an exhibition by artist Olafur Eliasson held at the Fondation Louis Vuitton in Paris in 2014. The essay by Latour is part of the exhibition catalogue. 'Contact' is made up of



a series of light installations, transitional passageways, optical devices, and geometric sculptures, all of which play with the audience's perception and the construction of space and time.¹² Two large-scale installations form the main parts of the exhibition: 'Map for unthought thoughts' and 'Contact'. The article is interested in 'Contact', the title exhibit.

Figure 2: 'Contact' by Olafur Eliasson © Photograph by Iwan Baan

A picture of Contact is shown in Figure 2.

¹¹ Holland and Liittschwager, 'Marine Minatures'

¹² Eliasson, 'Contact'; see the works presented in the exhibit at the artists' website:

<http://olafureliasson.net/archive/exhibition/EXH102319/contact> (accessed May 10 2016)

Visitors to the gallery approach a datum of orange light by moving across a sloping floor in *Figure 2*, 'as if they were traversing the top of a sphere or planet'.¹³ Looking at the picture of this, one might imagine the visitor's experience of what appears to be their standing in this place, looking at this light, at the seeming 'heart of an eclipse'.¹⁴ Visitors stand and contemplate where mass and light meet, where the planet sublimates.

This paper draws from this particular image (*Figure 2*) the artist's interest in how materials and actions at different scales come to be related (in space and time). The art invites the visitor to think about the kinds of exposure and interrelation that might bring about connection - between different forces, materials, people, light. 'Contact', says the artist in support of this idea, 'is not a picture, it is not a representation. It is about your ability to reach out, and connect, and perhaps even put yourself in another persons' place.'¹⁵

The picture in *Figure 3* shows another exhibit (and visitor): a glass sphere through which light is being refracted. The exhibit is called 'Double Infinity'. The passage in which the visitor stands and looks is dark with the texture of sandpaper (an effect created by spraying particles of sand onto the walls). The author's interest in 'Double Infinity', following 'Contact', is not just in the refraction of the light, but also in the visitors' experience of it, of their 'sense of simultaneous disorientation and confinement'.¹⁶

¹³ Suzanne Pagé, 'Olafur Eliasson: Contact', in Suzanne Pagé, Laurence Bossé, Hans Ulrich Obrist, Claire Staebler (editors), *Olafur Eliasson: Contact* (Paris, Flammarion, 2014), p.107

¹⁴ Pagé, 'Contact', p.107

¹⁵ Eliasson describing the exhibit for the catalogue introduction, in Pagé, 'Contact', p.106

¹⁶ Pagé, 'Contact', p.107



Looking closely at the picture of the exhibit (*Figure 3*), this experience includes a perspective on the outside world within the small glass sphere, and the journey and spread of light from this object onto the darkened space around it. Note how the path of the light is *uncertain in its contour of small to big*. It includes textures and streaks, perturbation, as well as the mass of the visitor herself. Imagine the

impact or interruption that they, too, create.

Figure 3: 'Double Infinity' by Olafur Eliasson © Photo by Iwan Baan

'It is about feeling your own presence,' says Eliasson of the visitors' experience and their journey through the galleries, 'taking charts of your own trajectory, your own orbit.'¹⁷ There is something important about this 'charting', the present author suggests, for an understanding of how different scales of activity come to be related *by visitors*, by actors, amidst disorientation and the vastness of overlapping experiences. The article will return to this.

Latour's essay separates out different fields in Eliasson's art, to contrast contact and connection with representation and projection. The philosopher attributes to the respective fields distinct trajectories and temporal manifestations, which relate specifically to cartographic practices. 'In practice,' Latour

¹⁷ Olafur Eliasson, Laurence Bossé and Hans Ulrich Obrist, 'Conversation,' in Suzanne Pagé, Laurence Bossé, Hans Ulrich Obrist, Claire Staebler (editors), *Olafur Eliasson: Contact* (Paris, Flammarion, 2014), p.117

says, 'the data is always composed of connections' and 'it is these connections that are subsequently projected in various formats to provide the impression of describing a particular space and time.'¹⁸ This *formatting of scalar relations*, the making of temporal and spatial linkages, is the essence of what the article takes from 'Contact'.

Latour commends 'Contact' for its capacity to capture and play with the risks of congruence and incongruence. Eliasson's art employs optical effects far removed from the optical zoom; the work generates distinct waves of audience disorientation and a multiplicity of scalar effects. Not being deferential to the 'scientific image of the world' defines the artistry involved, for Latour.¹⁹ The art 'pours into a breach' between the different worlds of contact and projection, unafraid of its own artifice and unafraid of the role that it might play in bringing about new maps and forms of arrangement. The 'good artist' does this, Latour concludes, because he or she 'does not believe in zoom effects.'²⁰

2.

Eliasson and Latour's discussion of scale and maps, space and time, resonates with important matters in law and legal theory. This is because, like the 'good artist' of Latour's essay, it might also be said that 'good law' and lawyers do not believe in, or rely on, zoom effects.

¹⁸ Latour, 'anti-zoom', 123; see on 'connection' and the contouring of space-time, Bruno Latour, *Reassembling the Social: An Introduction to Actor-Network Theory* (Oxford, OUP, 2007)

¹⁹ Latour, 'anti-zoom', p.125

²⁰ Latour, 'anti-zoom', p.122

What is the meaning of this analogy? Starting with the figures that give an account of law, or carry out law's work or 'doing' on a daily basis, they are actants that employ a multiplicity of narratives and scales. This multiplicity sometimes does and sometimes does not lend itself to congruence in the work of law (creation, application, and materialities) and in law's assemblies of actants (human and non-human). Law technologizes a constantly changing pattern and sequencing of life's elements.²¹

Law operates within the wider interdisciplinarity of social existence. Action reaches beyond law, to involve other modes of existence: science, technology, economy, politics, religion and organisations, etc.²² These overlapping domains situate action within particular bodies of knowledge and grant it existence within space-time, whether that action is a global banking transaction described in the language of SWIFT, a reputation being rubbished in social media, or a flood risk model of a river produced for a planning authority.

Law's representatives - lawyers, judges, researchers, administrators, police and forensic investigators, as well as objects and technologies - produce a legal account of (this, another) action by entwining it with legal techniques and knowledge. The elements and 'doings' stitched together as law might or might not correspond with the narratives relayed by the other modes, depending on the level of correspondence with (known, unknown) legalities. Correspondence that does occur is constructive, however; it is the

²¹ Bruno Latour, *The Making of Law: Ethnography of the Conseil d'Etat* (Cambridge, Polity Press, 2009); Kyle McGee, 'The Fragile Force of Law: Mediation, Stratification and Law's Material Life,' *Law, Culture and the Humanities*, Vol. 11 (2015), pp. 467-490

²² Bruno Latour, *An Inquiry Into Modes of Existence* (AIME), (Cambridge, Mass., Harvard University Press, 2013)

product of congruencies deliberately built into legal instruments (such as references in the law to the state of scientific knowledge).

It is clear in law, as in the case of Eliasson's art, that any resultant correspondence is not at all related to the power of the telescopic lens. The maps of social life that emanate from legal materials portend not to representations of life at different levels of detail, but to the constitution, rather, of an entirely new story. Law grasps actions within its jurisdiction on its own terms, bringing the elements touched by its process together in a distinct narrative. Each case and consideration is presented in law's unique way.²³

Support for this principle (of anti-zoom in law) might be retrieved from other writers and philosophers working in legal theory. In particular, Boaventura Santos captures the distinctiveness of law's stories and the shuffling that goes on between different maps and projections in his article from the 1980s, 'Law: A Map of Misreading.'²⁴

'Law, like poems,' Santos begins, 'misread or distort reality.'²⁵ Poems misread in order to establish their originality, whilst laws misread in order to assert their exclusivity. Santos employs the metaphor of the map and the practices of cartography to explore the nature of both this distortion and distinction. He

²³ Bruno Latour, 'The Strange Entanglement of Jurimorphs,' published in Kyle McGee (editor), *Latour and the Passage of Law* (Edinburgh, Edinburgh University Press, 2015), 'Law is what happens to extralegal features when they are jurimorphed.'

²⁴ Boaventura de Sousa Santos, "Law: A Map of Misreading," *Journal of Law and Society*, Vol. 14 (1987), pp. 279-302. Also published in Boaventura de Sousa Santos, *Toward A New Legal Common Sense*, as Chapter 8.

²⁵ Santos, 'Law: A Map', p.282.

identifies three cartographic mechanisms responsible for law's departure from working with life-sized reality: scale, projection, and symbolisation. 'We should', he observes, 'substitute the complex paradigm of scale/projection/symbolisation for the simple paradigm of correspondence/non-correspondence.'²⁶

Cartography, for Santos, relates to the work of filtering details, of selecting between meanings and ascribing relevant features to social life.²⁷ Cartography supports the possibility of more than one map and of overlapping modalities and scales for governance within any one (normatively charged) space-time. The 'different forms of law,' observes Santos, 'create different legal objects on eventually the same social objects.'²⁸ 'Inter-legality' defines the body of relationships and interactions that subsequently arise between law's different designations, rationalities, or modes.²⁹

Congruence between the different scales and fields of law's work depends on arranging maps and narratives. The post and a-modern worlds of Santos and Latour (respectively) congregate around this exposition of *relational work* in the work of law, and in law's capacity to move things along in the world by working with these arrangements (to generate 'change').

²⁶ Santos, 'Law: A Map', p.283

²⁷ Santos, 'Law: A Map', pp.283-286

²⁸ Santos, 'Law: A Map', p.287

²⁹ Santos, 'Law: A Map.' See also Mariana Valverde, *Chronotopes of Law: Jurisdiction, Scale and Governance* (Oxford and New York, Routledge, 2015), drawing the 'interlegality' of Santos alongside Mikhail Bakhtin and Chronotopes, to discuss law and its multi-scalar relations across time-space.

Data sets engaged by the legal process are inevitably reconfigured by the mark (application, reflexivity) of law: after their address, action and events carry alternative, and in many cases more definitive, social meanings - as a profit, liability, murder, divorce, takeover, and so on. Law, correspondingly, changes to reflect the actions and events that it now marks and accommodates (as in the case of the common law and doctrines of precedent). The whole composition depends on the thesis of anti-zoom, and on the perturbations of 'incongruence' as that which might be stitched together - done again, done better.

A comparable conclusion arises by looking at law from the other side of scale/projection/symbolisation. Historicisation of the legal process, in particular, ruptures the settled appearance of legal systems, reigns, rules, and principles of governance. A law that is returned to its 'place' in space and time, through scholarship and other experiences, fractures claims to law's a-temporality, pre-eminence and universal autonomy.³⁰ Recent historiographical work about law's application works at this intersection (of unsettlement, artifice), growing knowledge about the 'travels' of law and about law's ability to stitch layers of space and time, sometimes durably, sometimes mercilessly.³¹

³⁰ Boaventura de Sousa Santos, 'A Non-Occidental West: Learned Ignorance and Ecology of Knowledge,' *Theory, Culture and Society*, Vol. 26 (2009) pp. 130-125

³¹ Kunal Parker, 'Law 'In' and 'As' History: The Common Law in the American Polity 1790-1900,' *University of California Irvine Law Review*, Vol. 1 (2011), pp.587-609; Renisa Mawani, 'Law and Colonialism: Legacies and Lineages,' in Austin Sarat and Patricia Ewick (eds). *The Wiley Handbook of Law and Society*, Malden, John Wiley and Sons: 2015, chapter 27; David Ritter, 'The "Rejection of Terra Nullius" in *Mabo*: A Critical Analysis,' 18 *Sydney Law Review*, 1996, 5

The overall effect is one of associating 'good law' and post-colonial legal scholarship with defining elements of the anti-zoom thesis. Legal actants work between different layers in space and time, doing law's peculiar histories, lineages, and creating situated practices. They are defined less by law's authority and more by its multiple and overlapping trajectories, knitted pathways, refractions, and enduring or momentary relations. Their journeys make law and legal practices persistently fluid.

3.

If the work of the 'good lawyer' can be defined along the lines of the anti-zoom thesis, it is the unfortunate consequence of the dichotomous key thereby developed that not all law will fit the good that is classified in this way. Zooming can intrude upon the law's affections, instead. Zooming brings distortive effects with its heady animation of pre-cognitive paths through the space-time of law.

Characterising the zoom lens as distortive appears ironic at first glance. The above analysis of art and law deliberately seeks out disorientation and layers of incongruence as the most meaningful mode by which change occurs and reality is navigated. But, the *productive disorientation* that arises between the different scales of space and time, and that demands inter-relation and 'contact' as actors (like lawyers) cross-check and reconcile their datasets, is distinct from the distortions of the zoom effect.

Consider the treatment of the long and short term in capital markets and corporate governance - two spheres of activity that, together, produce delineations of economic action with compelling force and stability. They are also spheres that would seem to be juridically defined by heterarchical development

in their classic (Hayekian, namely) emphasis on theoretically equal roles, collaborative agencies, and 'spontaneous order' (the 'game of catallaxy').³²

How, one might ask, are different temporalities and timescales for decision-making related by the company's governance process? What level of 'contact' is secured as the company moves from one frame (or scale) to the other? The observer is attentive, after anti-zoom, to any evidence that the company (only) zooms about, moving through the notionally fixed points of one time-line. This is problematic if it means that the company misses opportunities to appreciate particularities of the long and short, and to adjust its activities accordingly.

It is helpful to begin by setting out the problems of corporate short-termism, so that it is possible to understand how the level of the company's contact with different times becomes important. It is possible to learn about the problems for law and policy in the literatures about corporate law and governance (CG), corporate social responsibility (CSR), and socially responsible investment (SRI). However, where it is a potential misunderstanding of multi-scalarity in economics and law that is being investigated, it is useful to inter-mix these readings with materials from other writers and disciplines.

³² Fredrieck von Hayek, *Law, Legislation and Liberty: A new statement of the liberal principles of justice and political economy* (London, Routledge, 1982), 'the market order or catallaxy', pp.107-132. On the corporate governance domain associated with Hayek's thesis of catallaxy and spontaneous order, see Fredrieck Hayek, 'The corporation in democratic society: in whose interests ought it and will it be run?' in Fredrieck Hayek, *Studies in Philosophy, Politics and Economics* (1967), ch. 22

Corporate timescales, broadly speaking, become problematic when they obscure the materials that make up long-range rhythms and thinking, and bear upon future generations, or operate as mechanisms for externalising important social and environmental considerations in the interests of short-term gain.³³

The company, empowered by its governance processes, frames interactions in space and time using the will granted to it by corporate purposes (such as the production of gains for the shareholder). The company uses these purposes to isolate a sellable 'thing' or 'deal' from former users and contributors.³⁴ Time frames are able to shut out materials and affects that are externalisable in the short term as part of this process; costs that materialise over longer temporal frames can be excluded from consideration as part of the drive to secure 'success'. Relevant examples of the impacts that are regularly discounted by companies on this basis include long-term environmental degradation, the augmentation of structural inequalities, firm and infrastructural disinvestments, as well as wider depletions of (the supports of the) tax state.³⁵

³³ Lynn Stout, 'The Corporation as Time Machine: Intergenerational Equity, Intergenerational Efficiency, and the Corporate Form,' *Seattle University Law Review*, 38 (2015), p. 685; David Millon, 'Shareholder social responsibility,' *Seattle University Law Review*, Vol. 36 (2013), pp. 911-940; P. Ireland, 'Financialization and Corporate Governance', *Northern Ireland Legal Quarterly*, 60 (2009) p.15; see also John Kay, *The Kay Review of UK Equity Markets and Long Term Decision Making*, BIS/12/1188 (2012); UN Global Compact, *Coping, Shifting, Changing: Strategies for Managing the Impact of Investor Short-termism on Corporate Sustainability* (UN Docs, 2014), pp. 9-12.

³⁴ Michel Callon, *The Laws of the Markets* (Oxford, John & Wiley, 1998), pp. 244-268

³⁵ Stout, 'Time Machine' at p720, on a major reduction in company spends on research and development in recent years; Klaus Kummerer, 'The Ecological Impact of Time,' *Time & Society*, vol. 5 (1996) pp. 209-235, p.214, on 'short-term economic thinking with long term consequences' and Michelle Bastian, 'Fatally Confused: Telling the time in

Why the 'short' frames? The financialisation and technologisation of present-day economic action embodies a vast array of human and non-human impulses for conversion to quickening rhythms, as well as new horizons for the organisation of productive activity.³⁶ Law's periodization of informational flows about the company, performance benchmarks and macroeconomic conditions, as well as cultural biases towards the meaning and value of the present, reconcile the company to short frames (three to twelve months, say).³⁷ Scalar conflicts arise for the company and investor wherever these frames betray the contrasting time-scales of wider worlds (social, material, ecological, future generations, etc.).³⁸

Close behind the problematisation of short term thinking in corporate governance is a law and policy discussion about how to stop this and transform corporate thinking. This discussion enacts a common

the midst of ecological crises,' *Journal of Environmental Philosophy*, 9 (2012), 23-48; Marie Shippen, *Decolonising Time: Work, Leisure and Freedom* (New York, Palgrave MacMillan, 2014); Wolfgang Streeck, *Buying Time: The Delayed Crisis of Democratic Capitalism* (London, Verso, 2014) on wider economic processes of disinvestment.

³⁶ Martin Held and Hans G. Nutzinger, 'Nonstop accelerate: the economic logic of development towards the non-stop society,' *Time and Society*, Vol. 7, pp. 209-221; Paul Virilio, 'Speed and Information: Cyberspace alarm!' *CTheory.net* (1995) <http://www.ctheory.net/articles.aspx?id=72>; Lisa Adkins, 'Sociological Futures: From Clock Time to Event Time,' *Sociological Research Online*, Vol. 14 (2009) at: <http://www.socresonline.org.uk/14/4/8.html>

³⁷ See Marc Moore and Edward Walker Arnott, "A fresh look at stock market short-termism," *Journal of Law and Society*, Vol. 41 (2014), pp. 416-445; Lynne Dallas, "Short-termism, the Financial Crisis, and Corporate Governance," *Journal of Corporation Law*, vol. 37 (2011), p. 267; Stout, 'Time Machine'; authors citing also low trading costs, high turnover of shares, executive compensation and stock option packages and their alignment with shareholder interests as factors in the contraction of temporal frames for the company.

³⁸ Barbara Adams and Chris Groves, *Future Matters: Action, Knowledge, Ethics* (Brill, 2007)

sense suggestion about moving forward, which involves drawing the eyes of corporate decision-makers towards the temporal horizon of the 'long-term'.³⁹ References to the long term are proliferate in Anglo-American and continental legal systems, across corporate law, financial regulation, and soft-law. One such example is the provision in UK corporate law that directors 'have regard to the likely consequences of a decision in the long term' when pursuing corporate purposes (in the UK, promoting the 'success of the company for the benefit of its members as a whole').⁴⁰

What does it mean to propose, under the gaze of law, that directors and investors 'have regard' for the long term when pursuing the inscribed purposes of their enterprises? Marking out longer frames, it might be argued, encourages the company to pause, to slow down, and to consider the impact on stakeholders in the future (and also past).⁴¹ A perspectival shift is engaged by a longer stretch of time

³⁹ A limited selection from the growing policy literature on this includes John Kay, 'Kay Review'. UN Global Compact, 'Coping, Shifting, Changing', citing the long term *in metrics* including 'ten year economic value added', 'the business cycle (which may be between seven and 10 years depending on the sector)', 'strategic objectives (which may be plus twenty years)' and 'the lifetime of key assets (which may be forty to fifty years),' at pp. 21-22. Oxford Martin School, *Now for the Long Term: The Report of the Oxford Martin Commission for Future Generations* (Oxford, OUP, 2013), and European Commission, 'Long Term Financing of the European Economy: Green Paper,' COM 2013 0150 final*

⁴⁰ Companies Act 2006, c.46, s172 (1)(a); see also the iterative emphasis on the 'long term' in the UK Corporate Governance Code (London, FRC, 2014) and UK Stewardship Code (London, FRC, 2012); see also *OECD Principles of Corporate Governance* (Geneva, OECD, 2015), from the Preface. United Nations-sponsored, *Principles for Responsible Investment*, www.unpri.org (accessed 10 May 2016)

⁴¹ On the role that the 'past' or 'deep time' might play in generating this pause ('resisting the instantaneity of consumer time'), Michael Northcott, 'Caring for the future through ancestral time: Engaging the cultural and

opening up, which draws attention to the number and complexity of affects that might be linked to acts and/or investments. The object of this attention is to increase the caution of corporate actors and their responsiveness.⁴²

For this policy approach to make sense, each stretch of time needs to develop its own materiality, distinct from other frames. This is because the horizons of the short and long term always project differently onto reality after anti-zoom; there is no given transivity from the one to the other. Like the text-to-text, case-to-case, development of a legal narrative, the long term (or the timescales that concern longer periods) is always 'written' in the cast of its lens over social and physical reality.⁴³ Different findings pertain to the different stitchings that make up the short and the long. Particularities define each thread and the position of the writer (doing the writing) who is cast among 'multiple subject and object positions.'⁴⁴

This latter point (concerning the writer) is important because it draws attention to the role of the actor who is interpreting the data set that produces the frame or narrative of the long term (in this case, the company). Responsiveness that arises in relation to a particular frame derives not from the 'law of nature' nor the 'law of time', but rather, a hybrid that flows from an encounter with elements of itself.

spiritual presence of the past to promote a sustainable future,' *Care for the Future: Debating Time Blog*:

<http://careforthefuture.exeter.ac.uk/2014/11/ancestral-time/>

⁴² UN Global Compact, 'Coping, Shifting, Changing', iterative emphasis on 'attention' throughout.

⁴³ Bronislaw Szerszynski, 'The end of the end of nature: the Anthropocene and the fate of the human,' *The Oxford Literary Review*, Vol. 34, pp.165-184, at p.180

⁴⁴ Szerszynski, 'The end of the end,' p. 181

One returns, with this, to Eliasson and the 'charting of your own orbit' and the photographer sampling and deploying technologies, to capture the essence of a 'writing' in which corporations also participate.

The particularity of temporal horizons, in general, and the longer term, in particular, finds suitable expression in a range of social, scientific and also artistic projects, including those that concern the Anthropocene.⁴⁵



Searching among a bed of rocks (*Figure 4*) with time-spans millions of years long in mind, the peculiarity of geological time lying on its own axis is impossible to avoid. The rocks entrance their visitors with stories and experiences from epochs and ages ago.⁴⁶ Projects in art and science usefully capture the specificity of resultant frames, developing techniques for

Figure 4: 'Rocky water' © Herman Ross, reproduced with permission

⁴⁵ Szerszynski, 'The end of the end'; Bruno Latour, 'Agency at the time of the Anthropocene,' *New Literary History*, Vol. 45 (2014), pp. 1-18; Heather Davis and Etienne Turpin, *Art in the Anthropocene: Encounters Among Aesthetics, Politics, Environments and Epistemologies* (London, Open Humanities Press, 2015); and making the corporation an important subject of analysis in this context, see Anna Gear, 'Deconstructing *Anthropos*: a Critical Legal Reflection on "Anthropocentric" Law and Anthropocene "Humanity"' *Law and Critique* (2015), 26, 225-249

⁴⁶ Fritz Hoffman, 'Rock . . . and roll' (Photo Gallery), *National Geographic* (2012), capturing the rocks' stories at <http://ngm.nationalgeographic.com/2012/03/pet-rocks/hoffmann-photography> (accessed May 2016)

drawing different rhythms and temporalities into the realm of consciousness.⁴⁷ But, what of law?

Law, for its own part, marks out the particularity of the long term by its nomenclature and by the guidance that it provides in normative instruments (hard and soft law), which mark the long term (either unspecified or intimated with greater numbers) as a horizon distinct and deserving of 'regard' and 'consideration.'⁴⁸ Sources for this in the corporate context include the many instruments of CSR, SRI, codes of practice in corporate governance, as well as sources that develop the responsibilities of directors on registers that might possess a rhythm apart from the market, such as human rights.

There is, however, a conceptual limit to the law's particularity, attention, and slowness here. It is important to draw attention to this limit as it is essential for assessing the capacity within corporate governance for inscribing and attending to the long term, and countering the risks of companies zooming through space-time.

⁴⁷ Bastian, "Fatally Confused", on the development of new clocks and (long run) social and physical temporalities; Ada Smalbegović, 'Cloud Writing: Describing Soft Architectures of Change in the Anthropocene,' in Davis and Turpin 'Art in the Anthropocene', pp.93-108, drawing imperceptible rhythms into consciousness; Angela Last, 'We are the World? Anthropocene Cultural Production between Geopoetics and Geopolitics' *Theory, Culture and Society* (2015), pp.1-22, on twentieth century 'creative attention' to geophysical processes and (human) relations.

⁴⁸ Unspecified examples in corporate law include the Companies Act 2006, s172 (1)(a) inviting the directors' 'regard'; see also UK Corporate Governance Code, Principle A.1; for an indication of the sorts of numbers and periods indicated, see UN Global Compact, 'Coping, Shifting, Changing' and the details presented at n.39. The focus is on *companies*, for whom the 'writing' of time remains largely a matter for self-governance.

What is this limit? Let us start with this, concerning the limits' source: law is blessed or cursed (depending on how one chooses to look at it) with the scripting of obligations for managing and mobilising the present. Text-to-text, law links the future and the past (so as to 'remember what has been said').⁴⁹ Lawful actors desire certainty in 'the now' as to the appropriate (legal, moral) course of action and seek out law as their guide.

In her discussion of law and time, Karin van Marle captures this commitment of law to the present when she observes law's employment of calculation for the delivery of certainty in judgment.⁵⁰ 'Law, because of its rule-bound nature, and judgments, because of the over emphasis on calculation, excludes the needs of the particular,' she says.⁵¹ Law cultivates forms of arrangement that draw together different planes and temporal horizons; it plots their relation so as to produce a workable present and workable social chronology.

Marle relates the consequent generality of this calculation for presence to the violence that law (often) does to particularity. She calls for a management of past-to-present-to-future relation by lawyers that might expand attention, delay, and slowness, as the ethical basis for better law and interpretation.⁵² Noting the remaining force of empty places and/or journeys that exist beyond one case, or law, 'the

⁴⁹ Latour, 'Making the Law.' See also Latour, 'The strange entanglement' on the law that keeps 'shifting frames connected even though it is impossible to do so.'

⁵⁰ See Karin Van Marle, 'Law's Time, Particularity and Slowness,' *South African Journal of Human Rights*, Vol. 19 (2003) pp. 239-255

⁵¹ Marle, 'Law's Time,' p. 242

⁵² Marle, 'Law's Time,' p. 250

unsaid’ reminds the lawyer of an incongruence that institutes the demand for the law to be read and re-read, for memory and presence, for justice and end. Marle brings us, with this, back to the thesis of anti-zoom: what the law is supposed to provide is the opposite of pure transivity.

Marle joins the others (Eliasson, Latour, Santos) in raising an important question for our present case: does corporate law manage its (legal) responsibility for the present in a positive and sustainable way? The connective work that the company does to relate long and short timescales, in a framework that is based on market-led corporate self-governance, is an important nexus for examination after the above.

One might begin to answer this question by backtracking a little first. The author has already noted the proliferation of the long-term phraseology in law and regulation. She might add the endeavours to give these words gravity and force, through publication, multiplicity and also through their instrumentality (developing economic and policy arguments for the ‘value added’ by sustainable enterprise, say).⁵³ As important as these efforts at multiplicity and publicity are, however, it is the connective work that law does to relate the long and the short - *to give each frame its earthly presence* – that makes for the legal subject’s allegiance with productive disorientation (over distortion). It is essential for us to ask: what kind of ‘contact’ does the company have in corporate law with the demands of the long term?

This is where corporate actors seem to have a problem. Their social interaction (and self-governance) is dependent on a space produced in the liberal political economy for the extension of competitive forces

⁵³ Site of ‘enlightened value maximisation’; see concept development of the ‘long run’ and value maximisation in Michael Jensen, ‘Value Maximisation, Stakeholder Theory and the Corporate Objective Function,’ *European Financial Management Review*, 7, 2001, pp. 297-317

and interests (gain, the protection of the members' interests). The mobility of social actors is preserved across space and time in corporate economy by the calculation centres of economics. Meta-narratives that accompany these centres draw together market outcomes and (entering the sphere of the zoom lens) the effects that these outcomes generate concerning the 'good of all'.

How does zooming intrude here? The answer lies in the relation of corporate law to (neoclassical) economics. The particularity of the way that the long term lies on its own axis, or is stitched together, doesn't so much matter for the economist as the *mobility* of the company between different times and places and the ability of those actors to course through the different space-times at will. This mobility is foundational. It is the essence of meta-arguments for market mechanisms over regulatory approaches to the economy. It means that social action is never lost in pause, particularity or delay.⁵⁴ It also informs the policy approach to gain-orientated corporate (self-) governance, detectable in policy discussions about the role of interests in the delivery of innovation and certainty to enterprise.⁵⁵

By making mobility the priority, however, and presuming transivity between different scales in this way, there is only ever light work done in corporate law on the register of arranging (spatial, temporal) maps

⁵⁴ Hayek, 'Law, Legislation and Liberty' and 'In whose interests'; Jensen, 'Value Maximisation'

⁵⁵ Outlined in respect of the current Companies Act 2006 (UK) in the Government White Paper on *Modernising Company Law* (2002), HC 439, pp. 7-10; see more broadly, UN Global Compact, 'Coping, Shifting, Changing,' noting the role of investors to determine the relevant pressures on corporate directors at p. 21, and European Commission, *Action Plan: European Company Law and Corporate Governance - a modern legal framework for more engaged shareholders and sustainable companies*, COM/2012/0740 final*, soft-law' development of a 'long term' horizon that does not prejudice the short.

and forging their relation, if at all. The game of catallaxy interjects in the company's decision-making process, drawing the short in line with the long as informed by the (total) demands of presence and competition. This is problematic because it makes institutionalised 'regard' for the long term too brief and superficial and, therefore, less likely to bring about long-term thinking and transformative change.

The resultant zooming is easy to see in the certainty with which this economics relates the short to the long, as a frame for action that creates 'good for all'.⁵⁶ It is also possible to spot zooming from the other side of scale, in the movements that are created from the long to the short by corporate acts. The long that is related to the short term in corporate governance creates a path for action, which is limited by the demands of profitability. Long-term courses of action that are not profitable (already) fall by the wayside, as they do not fit the overall path to mobility. A certain level of consistency is then proffered to remain between the long and short term within the demands of this same value maximisation. It hints that the long could meaningfully inflect so as to refine short-term horizons whilst retaining the company's ease, mobility, and (ultimately) transitivity.

It is the argument of this article that *neglect of the particularity of the long-term frame for corporate action emerges within governance arrangements that are based on this assumption of transitivity*. The neglect arises because the long does not contain the short (only) with fewer details. It relates, rather, a completely different story, as peculiar as the rocks that carry the stories of geological time (*Figure 4*).

⁵⁶ Hayek, "Law, Legislation and Liberty, ' p.115. Hayek is clear on this; the game of catallaxy concerns an order that very much increases everyone's chances on the whole.

Plotting the relation of the short to the long only makes sense after an extended amount of 'contact', and after 'putting oneself in the others' place' (drawing, importantly, on Eliasson's earlier explanation).

References to the long term in corporate law and regulation, soft-law and human rights instruments, it could be argued in response, putatively begin the work of writing the long term, inscripting its terms. But, it is the argument of the present article that what they do might never be sufficient insofar as the economic nexus (or machine) remains light, lonely, or empty of (rich) contact. In its interest-led form, the nexus is an engine for zooming (as well as the failure of the company as time-machine).⁵⁷

Zooming occurs here because smooth mechanics and automation define these methods, as captured by Hayek in his description of catallactics as a game, within rules, which allows players to provide for needs of which s/he 'has no direct knowledge'. Actors serve needs that are 'invisible', relying (only) on their own knowledge and purposes operationalized through the contact point of 'price'.⁵⁸ But, 'contact', as it emerges in Eliasson, is a form of inter-relation and social reflexivity *at odds* with this governance model, based on spontaneity and price-led adjustments. There is little to no 'other' in this latter order, because the point of 'contact' between the multiplicity of actors and contributors is so singular (competitive interests), and there is no 'place'.

The short that fits within the long without 'contact', or without mindful (anthropological, political, legal, or even the board's) attention to acts of mapping that surround the narrative relation, elicit problems of

⁵⁷ Stout, 'Time Machine'

⁵⁸ Hayek, 'Law, Legislation and Liberty', pp. 112-118

distortion and zooming. Slotted together like Russian dolls within products on the supermarket shelf, or within the firm's narrative report, it becomes difficult to detect the work that goes on in the company's stringing together layers of reality. It becomes hard to detect possibilities that remain of unwinding corporate actions or of certain stitchings not really being congruent at all, until they burst out of the frame amidst scandal and crisis, as in the cases of sub-prime debt, the car manufacturer Volkswagen, and the sports shoe before them both.⁵⁹

The companies' ease of movement between different times is contra productive disorientation, on this account, because its governance mechanisms iteratively distort and avoid the (Latour) 'multiple entities that have always passed in a different way'.⁶⁰ Mobility precedes engagement with the particularities of the long and short term, replacing 'contact' with a succession of moves to tidy away.

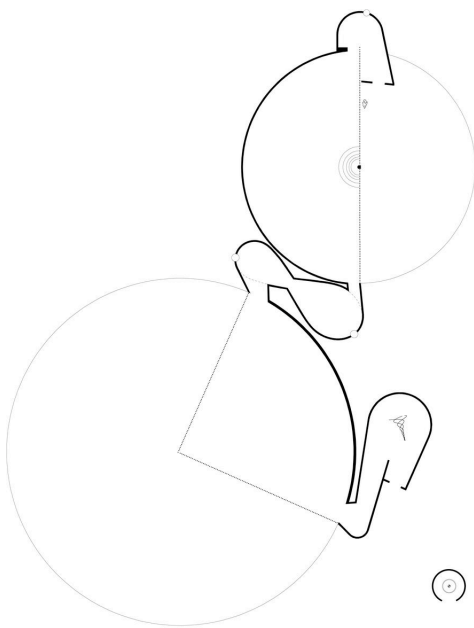
4.

The assumption of transivity is costly, according to the above thesis, if it means that the corporations regularly act in ways that are superficial and counter-factual. Persistent waves of scandal (financial, environmental, and social) that stem from corporate actions suggest that this might often be the case. Society learns about distortion whenever scandal arises, as incongruence seeps back out of the frame.

⁵⁹ Melinda Cooper, 'Turbulent Worlds: Financial Markets and Environmental Crisis,' *Theory, Culture and Society*, Vol. 27, pp. 67-90, on layers and sediments of 'imperialism in the speculative mode' coming apart and re-sedimenting in 'futures methodologies'.

⁶⁰ Bruno Latour, *We Have Never Been Modern* (Cambridge, Mass., Harvard University Press, 1993) p.79

How might one address this distortion and the attendant (pattern of) scandalisation, which reminds the lawyer (director, investor, everyone else) about the problems of pure transivity (anti-zoom)? The thesis of anti-zoom, if further followed, suggests an alternative to the constant immersion in crisis; it concerns mechanisms for helping companies to attend to productive disorientation and incongruence *in situ*.



Let us return to Eliasson to think this out.

Here, in *Figure 5*, the author presents a floor plan for Eliasson's exhibition of *Contact* at Fondation Louis Vuitton.⁶¹ Depicted in this diagram are the two main spaces of the exhibit, partly occluded circular rooms hosting 'Map for unthought thoughts' and 'Contact'); between these spaces are the interconnecting dark passageways, where optical devices are exhibited (opening the gallery visitor to the outside).

Figure 5: floor plan of 'Contact,' by Olafur Eliasson © Studio Eliasson

Now, look to the right of the main rooms, looking past the small spiral staircase (shown as a spiral separate to the other figures) until your eyes catch the array

⁶¹ Pagé, 'Contact', p.104

of triangular shapes dispersed along the line of a curve. The path that the triangles make out differs in density from top to middle, and then, from middle to bottom. The triangles themselves vary in size, dimension, and geometry.

This path indicates another part of the Eliasson exhibition at Fondation Louis Vuitton, in 2014, called 'Inside the Horizon,' one framing of which is shown here in *Figure 6*. The installation is composed of forty-three triangular columns clad in mirror on two sides and one side in painted yellow tiles. The columns are lit from within. Visitors that follow their line are taken from the outside walls of the



museum (where columns are more dispersed) through the interiors (where the densest array of columns is located, see the image in *Figure 6*).

Important for the present analysis, looking at *Figure 6*, are the fragmented reflections of the architecture and surroundings (people, the museum, interiors and exteriors) that emerge on

Figure 6: 'Inside the Horizon' by Olafur Eliasson © Photo by Iwan Baan

the columns; one also thinks about how the light seeps and escapes around and between the pillars. Key words that Eliasson uses to tag and theme the installation on his website include 'inside outside', 'multiple reflections', and 'you only see things when you move.'⁶²

⁶² Olafur Eliasson, *Inside the Horizon* (Paris, Fondation Louis Vuitton, 2014); images and Text available at <http://olafureliasson.net/archive/artwork/WEK108826/inside-the-horizon> (accessed 10 May 2016)

What is the import of 'Inside the Horizon' given our current locus (after the thesis of anti-zoom)?

Without being too clichéd, the author wants to suggest that there is more to learn from the artist's interest in horizons, which might offer reprieve from a world atomised but stitched together in a corporate economy along the temporal and spatial lines of zoom.

Carol Jones helps us with this reading of *Figure 6* when she notes the common refusal of Eliasson's work 'to provide clues to scale; instead, she observes, immersive experiences draw on the visitor. The audience's experience of boundedness, or of the horizon as a 'limiting circle', is contrasted (in the artist's oeuvre) with the horizon as an optical illusion ('the curved earth fooling human eyes') and absorptive experience ('as you approach it [the horizon], it fades or comes into your experience').⁶³

The horizons of the corporate actor, which are extrapolated in Part 3, might be said to stand in stark contrast to Eliasson's world. This is, in one sense, surprising because corporate economy often strikes participants as completely immersive ('there is no outside,' etc.). But, with horizons that concern the *bounds of competitive forces* (a force emergent in corporate governance in the emphasis on gain and interests), there is a sense that everything belongs to the same space and time for the company in a game of catallaxy.⁶⁴ The horizon becomes bold and linear, in this context, and *distinct from the company's more fragmentary impacts*.

⁶³ Caroline Jones, 'event horizon: Olafur Eliasson's raumexperimente,' in Suzanne Pagé, Laurence Bossé, Hans Ulrich Obrist, Claire Staebler (editors), *Olafur Eliasson: Contact* (Paris, Flammarion, 2014), p. 134

⁶⁴ Hayek, 'Law, Legislation and Liberty,' pp. 107-132

How does this occur? Writers in corporate governance identify the rise of shareholder primacy as a force for using *a strong grip of the present* to compare and contrast trading opportunities and to make resource allocations.⁶⁵ Calculative logics mark the surrounding space (territories, jurisdictions, markets, and communities, the places of stakeholders) and time (the short and long, clock-based productivity). The company selects between opportunities in a state of knowledge and, yet, also conditional ignorance, with this ignorance being in particular regard to the place - and *future* - of others.

What might this look like? Hayek plots these competitive horizons on what he calls the 'horizon of catalytic possibilities.'⁶⁶ The relevant passages of *Law, Legislation and Liberty* do not go so far as to include a drawing of the paths projected. Hayek relies purely on textual methods to describe the transformation curve that, for him, illustrates the range of mobilities available for actors in efficient markets.⁶⁷ Using the imagination and after reading Hayek's words, it is helpful to fill the graphic void that lies within this twentieth century classic with a simple drawing of the curve.

The transformation curve is (very basically) presented as Figure 7, with the two axes designed to capture the efficiency trade-offs between the production of two competing goods (Goods X and Y, in this case) in an economy marked by limited resources and inputs (labour and materials, say). Hayek's horizon of catalytic possibilities arises along the curve of 'the greatest possible quantity of the particular combination of goods being produced, which in the circumstances can be produced.'⁶⁸

⁶⁵ Stout, 'Time Machine'; Ireland, 'Financialisation'

⁶⁶ Hayek, 'Law, Legislation and Liberty,' pp. 118-120

⁶⁷ Hayek, 'Law, Legislation and Liberty,' p. 118

⁶⁸ Hayek, 'Law, Legislation and Liberty,' p.118

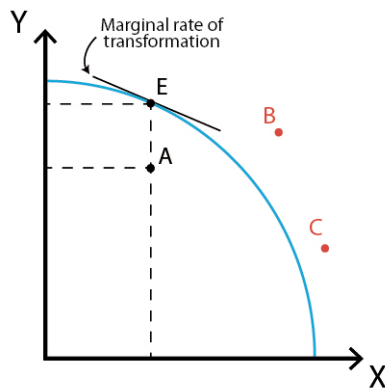


Figure 7: Transformation Curve ©
produced on Policonomics.com

The figure reveals a bounded horizon - a line is drawn in a curve defining the range of possibilities open to the efficiency-seeking actor. Points on the line represent efficient production; those in or beyond the curve suggest a need for adjustments (better efficiencies can be achieved inside, allocations beyond are not attainable within the capacity of current technologies and inputs).

One might usefully compare this bounded horizon, cut by efficiency trade offs, with Eliasson's yellow corridor of reflection, glass, and light (in Figure 6), which is surprising, fragmented, and dispersed in its physicalities. Being 'inside the horizon' is as much about fragmentation and what seeps out of the frame, the light or yellow that escapes, as it is about the line of the curve, which the dispersed but regularized array of triangular columns makes.

The abstract presentation of two alternative horizons (linear and bounded; immersive, always giving way) to the corporation is not part of the usual fare in the study of corporate governance. However, the powerful visual contrast is useful for probing the matter of the company's horizons and for working with lawyers and directors on how to traverse time and space whilst eschewing zoom effects.

Corporate lawyers who deal in competitive forces might be said to work with a horizon of the first kind: linear and bounded. The curve that is drawn by closely defined corporate purposes expresses a linear horizon and projection for mapping social reality: the map produced by efficiency, gain, and interests

over time, with future or past values finding their price in the present via efficiency seeking markets. Competing time frames nest together in this model, creating the problem of zooming as noted above.

Perpendicular to this prospect is the alternative presentation of the horizon presented by the artist. Horizons appear before visitors as prone to 'fading away' or being 'drawn into the realm of experience' in situations of immersion and received multiplicity. This suggests an Eliasson-Latour imbued alternative for the corporate lawyer interested in *attending to relations of scale*. S/he reviews connectivity and the technologisation of temporal intersections that do not offer pre-cognitive transivity, but might still fit together after accounting for the seepages. Action across different scales fits together after the relational work that accounts for the things that 'come into view when the company moves'.

It is by *meaning making* at the intersection of the planes that rub up against each other frictively that corporate law might be *renovated* towards formatting the relations between different scales of conduct, rather than (as now) institutionalising the mechanics of their sliding together.⁶⁹ Crosschecking data, reconciling information sets, and subjecting seepages to something more than market-governed consideration could be the register of a developing 'art' to economic governance, rather than its persistent determination as a matter of science known, mostly, to the company itself.

Attributing this artful or deliberative mode *to law*, of course, might evoke surprise: law usually offers to its visitors a promise of great stability and weight, and of lines of social commitment that are not easy to

⁶⁹ Anna Grear 'Deconstructing *Anthropos*,' p.241 on (corporate, private) *law's* current construction of the corporation as unresponsive to the ethical implications of the vulnerable embedded materiality of living order'.

sway.⁷⁰ This is simultaneously part of the law's problem (in the economic sphere, especially) and appeal (in its determination of supporting rules, principles, and unshiftable respect for basic liberties and public order when the law is on 'your' side).

The critical question is whether it is possible, after what has passed (Eliasson, Latour, Santos, Marle, and the visual work carried out), to address these concerns about the weight of law in the company context. Can we move on from law's capacity to deal (or not) with 'problems of knowledge' to the 'contact' that is made or instituted by the lawyer's reference path with and/or across multiple space-times? *Contact arises in a context where the calculative reasoning employed by the company is set against the wider range of affective experiences that it generates, and which the thesis of anti-zoom and time show up.*

The (final) challenge is how to think more clearly about what it is that law might usefully do (1) to help distinguish the long from the short term in such a way as to not allow either one to sublate under the weight of economic logic (which is operating in a way that is counter-factual) and (2) to enrich not just sight of the long but also the company's *connective and relational work* (actions linking long to short).

The author is thinking here of reforms that address corporate rights-obligation structures. By this, she means reforms that make these structures an integral part of solving collective action problems that

⁷⁰ Marle, 'Law's Time,' on the temporal limitations and violence imbued in law; Mawani, 'Law and Colonialism,' pp.429-430; Stacy Douglas, 'The Time That Binds: Constitutionalism, Museums, and the Production of Political Community,' Australian Feminist Law Journal, Vol. 38, June 2013

concern our planet's future (rather than as adulations of agency theory).⁷¹ Models for the company focused on this view, with the company described as 'commons' or (at least) as benefactor of a less extractable temporal will, open up the possibility of growing 'contact' as they increase the range of contributors and relational work that might go on between different scales (of conduct).⁷²

As a starting (or departure) point for the design of these structures for corporate governance, one might imaginatively return to the bed of rocks that makes the scripting of longer frames impossible to avoid. What, one might ask, are the equivalent 'rocks' and 'minerals' of governance (economic, corporate), which make the writing and the peculiarity of the long term impossible to avoid (for companies and investors, for the rest of us)? What might interaction and relational work look like that seeks this out?

Leaving open the question of content, rocks of this kind might be sites where law and actors improve the 'contact' that companies have with the world and its inscriptions (social, material) of long and short time-frames. As such, corporate law would be a means for making companies exist more like the rest of us - with disorientation, with the ways of time, and with the ways of a world.

⁷¹ Simon Deakin, 'The Corporation as Commons: Rethinking Property Rights, Governance and Sustainability in Business Enterprise,' *Queens Law Journal* (2012) 37:2, pp. 339 - 381; Beate Sjøfjell, 'Regulating Companies as if the World Matters: Reflections from the Ongoing Sustainable Companies Project,' *Wake Forest Law Review* (2012) Vol. 47, p. 113

⁷² Stout, 'Time Machine' and Ireland, 'Financialisation', on 'asset lock in' and 'managerialism' in the mid-twentieth century as starter points for the meaning of 'less extractable' (or liquid to the members) temporal will.

5. (Conclusion)

It is impossible to end without acknowledging that this is all exciting but experimental territory, and that walking around the artworks of Eliasson is distinct in very many respects from walking around the house of law. So it is, so it should be.

But, there is something simple lurking in the effort to bring these different worlds together - art, law, the company and its governance mechanisms - which concerns the appreciation of a world outside the matrices for decision-making and the uncertainties that come with too strong of a grip on the present.

No institution more than the company is defined by the challenge of colliding times and worlds; it is an (world-worn) innovator, enterpriser, and force for change and resolution in the face of global social and ecological heterarchical demands, complex worlds, and temporal multiplicities. Throwing a spanner into this, through the institution of better 'contact', will appear unthinkable to some and risky to most. How else might we manage the demands on our space-time than through the company's dynamism?

This article has used the thesis of anti-zoom to suggest that there are costs as well as benefits to being counter-factual in this call. The costs concern the affects that are cut out by the grooves of short-term thinking in the corporate economy, or are insufficiently considered and attended to by business actors due to the collapse of peculiarities that inform the long and the short. Long-term thinking is eclipsed by hastily putting two time-scales (back) together in the name of dynamism. The resultant appearance of

correspondence is too often short-lived, as our (current) era of economic and financial crises evidence, and the problems that we forgot whilst we prospered simply return to us, if with (many) different faces.

The article uses Eliasson's art to suggest that, in the worlds outside of corporate governance, existing with incongruence, seepage, and productive disorientation is part of everyday experience. Governance of the corporation, which relates to this, is not meant to be heavy or totally destructive of all dynamism, but about meaning making at the intersections, inscriptions, and other doings that stitch law to economics and make up the competing demands of time and space.

This making, of course, is infinitely more difficult than the experience of space-time in the art gallery is able to suggest. It involves, first, widespread social and institutional resistance to the contracting frames of companies and investors that deny wider worlds of meaning, and, second, the exposure of economic policy narratives to the demands of living with the ways of time, with the ways of a world.

But, if one can learn anything from the finesse and refinement of Eliasson's art and his technologised complexes of light and space, for mobilising this plan, it is that this resistance and exposure need to be accompanied in law with the very best of *technique*. This brings the reader back, at last, to the 'good' artist and lawyer, who conjoin in their methodological refusal to believe in, or govern with, zoom effects.

WORD COUNT: 8,458 (without footnotes), 10,445 (with footnotes)

